

UNIVERSITY OF CALIFORNIA

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AVENUES OF INFLUENCE:

A study of domestic constraints on the U.S. national security policy-making process

A dissertation submitted in partial satisfaction of the
requirements for the degree Doctor of Philosophy
in Political Science

by

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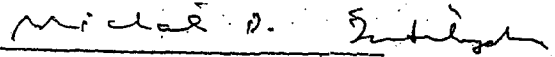
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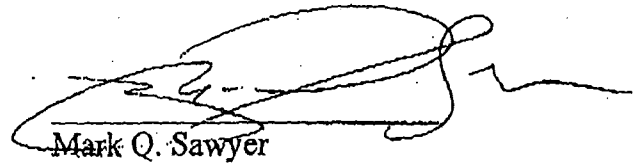
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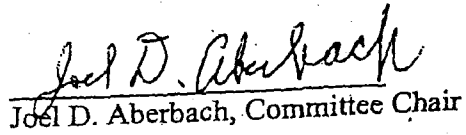
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DEDICATION

I dedicate this project to my Mom, for never teaching me the words

“I can’t.”

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ABSTRACT OF THE DISSERTATION

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A study of domestic constraints on the U.S. national security policy-making process

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Professor Joel D. Aberbach, Chair

This study chronicles the trends in thinking by scholars, experts, and policymakers, about how to adjust U.S. national security strategies to counter international threats in the post-cold war era. It also studies the complex relationships that have evolved around the national security policymaking process. It identifies a number of stakeholders who influence the debate, some of which have not been previously considered in the national security literature. It analyzes their participation (or lack thereof) in the independent advisory commissions established to advise policy-makers on national-security-related issues. The research introduces the “interest alliance” and the “advocate” stakeholder--

concepts that make it possible to examine the informal, temporary, ad-hoc unions formed by interested stakeholders which include: private sector contractors, military officials, agency senior officials, members of Congress, the White House, and others, in order to navigate the advisory commission process.

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Statement of the Problem

The Structure Needs Retooling

A series of national security mishaps since the end of the cold war have aggravated pre-existing doubts about the intelligence community’s capacity to perform its duties in an era of newly emerging asymmetrical threats. For example, an underestimation of the danger posed by international terrorism throughout the 1990’s allowed numerous attacks to occur on American interests abroad--and the soldiers that protect them; the failure of intelligence and law enforcement to effectively connect the

dots resulted in the worst attack on domestic soil in U.S. history in 2001; faulty intelligence exaggerated the ability of rogue states to acquire weapons of mass destruction (WMD), prompting the U.S.-led invasion into Iraq of 2003. Throughout the post-Cold war era, politicians, scholars, serving and former intelligence professionals, and the public, have become increasingly impatient with the U. S. national security apparatus, and have identified a series of structural and organizational problems as key impediments to U.S. intelligence efforts.

Prior to the creation of the National Director of Intelligence (DNI) post in 2005, experts warned that the Director of Central Intelligence (DCI), who served as the principal intelligence adviser to the president, and as the head of the Central Intelligence Agency (CIA), and was charged with directing and coordinating the entire foreign intelligence activities of the intelligence community (IC), lacked sufficient levers of authority to do the job required. Experts still maintain that the current system neglects valuable open sources (OSINT) that are available through the media, diplomacy, public speeches, and the like, and favors a structure whose focus is on secrets and espionage.¹ Institutional barriers between law enforcement agencies such as the Federal Bureau of Investigation (FBI), and intelligence-gathering agencies, like the CIA, keep the agencies from sharing information effectively, making it difficult for analysts to accurately connect the dots. In addition, at the end of the cold war, the community dramatically downsized both its human intelligence (HUMINT) network and the number of analysts

¹ Robert David Steele's *On Intelligence: Spies and Secrecy in an Open World* provides excellent quantitative evidence of the amount of intelligence that can be gathered from outside sources. See also Berkowitz (2001).

employed to examine incoming information. Many feel these were major factors behind the community's failure to protect U.S. interests, both at home and abroad.

The international security environment changed drastically after the end of the cold war, but the intelligence community did not respond adequately. Therefore, a number of independent advisory commissions were established to address such intelligence-related problems. Two commissions were charged with examining the need for a major structural reorganization of the intelligence community. In 1995, Congress established *The Commission on the Roles and Capabilities of the United States Intelligence Community* (dubbed the Aspin-Brown Commission). The commission was made up of private citizens and government officials. Their mandate was to look specifically at the future roles and capabilities of the intelligence community in the post-cold war and make recommendations on how to rewire the entire system to adapt to emerging challenges. *The National Commission on Terrorist Attacks Upon the United States* (the 9/11 Commission) was an independent, bipartisan commission created by congressional legislation and the signature of President George W. Bush in late 2002. It was chartered to prepare a complete account of the circumstances surrounding the September 11, 2001, terrorist attacks, and to provide recommendations on how to restructure the national security apparatus to deny terrorists another such opportunity. Whereas these two commissions were set up to deal with intelligence failures stemming from two major shifts in the national security environment (the end of the cold war and the 9/11 attacks), three additional commissions dealt with the need to address U.S. vulnerabilities to domestic terrorism and expanded the area of study to the wider national

security apparatus including the FBI, State Department, homeland organizations like the U.S. Coast Guard, U.S. Customs, and state and local emergency responders.

Security strategists recognized that the end of the cold war would create a breeding ground for terrorist activity and hostile rogue states that had been restrained by the superpower standoff. In 1998, the Department of Defense established and funded the *U.S. Commission on National Security in the 21st Century* (the Hart-Rudman Commission) to conduct a comprehensive review of trends in the post-cold war era, and to recommend strategies for the new security environment. In 1999, Congress established the *National Commission on Terrorism* (dubbed the Bremer Commission) to review counter-terrorism policies regarding the prevention and punishment of international acts of terrorism directed at the United States. In that same year Congress also established the *Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction* (the Gilmore Commission). The Gilmore Commission released five reports between 1999 and 2003 that assessed U.S. capabilities for responding to terrorist incidents within the homeland at the federal, state, and local levels.

In 2004, the debate returned to questions about U.S. intelligence operations abroad. Intelligence failures leading to the war in Iraq prompted the president to create the *Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction* (the WMD Commission). The commission assessed whether the intelligence community was sufficiently authorized, organized, equipped, trained, and resourced to identify the proliferation of weapons of mass destruction.

Although advisory commissions are frequently created to provide independent outside advice to policymakers, their effectiveness is often called into question. For example, political scientist Bruce Berkowitz, who has looked at intelligence failures, states:

One has to wonder whether this commission--or any commission--can really fix the problems plaguing U.S. intelligence. During the past decade there have been several such commissions. Indeed, there has rarely been a moment when there was *not* a commission investigating U.S. intelligence. ... We are now appointing new commissions to investigate U.S. intelligence faster than the existing ones can publish their findings. This is even more remarkable when one considers how hard it is for any commission to have a significant effect on the intelligence process.²

Berkowitz's concern with the excess of ineffective commissions echoes concerns by other scholars who fall into what I call the "commission skeptic" school of thought. Truman (1971) notes that advisory bodies merely serve as a "safety-valve" function, allowing groups to be heard, but with little in the way of substantive results; Johnson (1985) points out that commissioners are usually experts who are not policy officials and thus lack authority to make decisions; Schattsneider (1960) and Etzioni (1968) contend that commissions are under severe time constraints that weaken the quality of their work;

² Bruce Berkowitz, "Intelligence Reform: Less Is More," Hoover Digest, no. 2 (Spring 2004).

Drew (1968) sees the commission's purpose as ceremonial, comparing its symbolic use to that of the president's State of the Union address, the toss of the ball on baseball's opening day, or the review of the troops in war-time; Gyski (1981) dismisses them as nothing more than a convenient way to demonstrate the appearance of action, allowing officials to delay making decisions on difficult or controversial issues.

Still other scholars belong to a "commission optimist" school of thought. They contend that advisory commissions should not be measured by their ability to provide instant results, but should be evaluated more for their incremental effects on the policy process: (Baumgartner and Jones 1993) and (McFarland 2004). They are also valuable for their ability to bring the debate more sharply into focus (Adler 1992); and for providing an educational forum, which offers policymakers important technical background information on complex topics (Halperin 1961). Such scholars argue that while recommendations may not produce immediate changes, ideas developed in the advisory commission often become the conceptual foundation upon which future assumptions about policy are based. For example, the 2002 Department of Homeland Security, 2003 National Counterterrorism Center, and 2004 Office of the Director of National Intelligence were all entities whose structural and procedural designs were carefully deliberated over in several of the aforementioned advisory commissions.

In this study I argue that both schools of thought are partly right--the advisory commission does play a role in the decision-making process, but its message is sometimes clouded by a variable that is rarely studied in the national security literature: interest-based politics. Findings suggest that interest-based politics may impede the

ability of commissions to produce effective outcomes. Despite the paucity of literature on the influence of interest-based politicking on the process of making intelligence or related national security policy, the relationship does exist and is visible in the strong presence of interest-based stakeholders in the independent advisory commission process. This politicization of the national security process deserves more attention because the prospect of economic, political, and personal gain by the commission's members, the staff, and witnesses, may cause commissions to design sub-optimal recommendations for the U.S. national security apparatus.

In examining the six aforementioned cases, there are several questions I would like to answer. First, what was the underlying historical context leading to the establishment of each commission? Second, what did each commission recommend? Third, did public access/interest in the commission's work influence the decision-making process? Fourth, who were the major players and how did they gain access to the commission process? And finally, were stakeholders able to steer the agenda of the commission to secure personal, political, or professional gains by serving on the commission?

Analysis of the National Security Literature

Traditional Assumptions Are Dangerous

Existing national security literature has yet to fully acknowledge the extent to which a powerful set of stakeholders have influenced the structure and process of intelligence and other national security-related policymaking. The problem is essentially a fourfold one. First, national security scholarship relies too heavily on assumptions about

the *isolated nature* of the intelligence community. It presumes that the intelligence community is protected from the types of interest-based politicking commonly found in domestic politics. Second, the literature *lacks a sound definition* of an intelligence interest group. Instead, it borrows simplistic definitions of “interest group” or “lobbyist” from the Domestic Politics literature, which are overly narrow and miss much of the action. Consequently, scholars overlook the effect of an important set of interest-based interactions (what I will define as “interest alliance” activity) that influence intelligence policy. Third, the literature has provided students of national security very *little empirical evidence* to corroborate its story. Fourth, and perhaps most critically for the field, there is *no methodological path* to test such assumptions. As a result, the literature focuses on the intelligence community itself without accounting for potential obstacles created by interest-based politics. A closer look at these patterns in the literature clarifies the point that *assumptions about the IC’s isolated nature, problematic definitions* of what constitutes an interest group, and the *lack of both empirical evidence* and a *methodological path* to resolve the problem have left students of national security with very little theoretical foundation upon which to build.

The literature largely dismisses the notion that interest groups influence the decision-making process, arguing that the *isolated nature* of the security apparatus leaves national security agencies isolated from outside interests: Milbrath (1963), Edwards (1989), McCormick and Wittkopf (1990), Fenno (1990), Zezart (1999), Drezner (2000); and that such sensitive “high politics” issues are above the petty bureaucratic in-fighting typically found in non-crisis situations: Spanier and Uslander (1982). Milbrath (1963)

argues that the interest group universe is minimal because they lack access to information. This presents a challenging environment for establishing focused lobbying efforts. Lowi, Ginsberg, and Shepsle (2006) discuss the issue in broader terms, contending that foreign policy interest groups in general are usually weak because they lack a strong enough consensus on policy issues to rally solid support from their members. They contend that foreign policy interest groups are only powerful if they narrowly specialize and are devoted to a “single-issues,” like ethnic lobbies or the tobacco industry. Zegart (1999) finds that at the end of the cold-war foreign policy interest groups accounted for just 10 percent of the interest group universe.³ She also argues that those that do exist are not as focused, organized, or informed as their counterparts whose focus is on domestic issues. She also observes that membership numbers in foreign policy lobby groups are significantly smaller than those of domestic interest groups.⁴ A deeper analysis, however, finds these facts troubling, misleading, and dangerous for scholars interested in studying the actors who exert influence over the making of national security policy.

Another theoretical problem is that *defining an interest group* or its lobbying faction is a difficult task in itself. In The Governmental Process, Truman (1951) warns scholars not to believe self-classifications of a group because “many groups stray far

³ For a detailed graph of percentages see Zegart (1999), 23.

⁴ Zegart (24) finds, for example, that the single largest campaign contributions from foreign policy lobbyists organizations ranks 43rd—behind such domestic groups as the Plumbers/Pipefitters Union and the National Beer Wholesalers Association.

from the concerns which we should expect them to have.”⁵ They are likely to choose public names that benefit their own private agenda. This holds especially true for national security-related interest groups as numerous unidentified businesses that deal with the intelligence community go undetected, often occupying office space in the nation’s capitol under different “front” or cover names. In addition, some private sector businesses would rarely be suspected of having direct ties with the intelligence community. Polaroid and Kodak, for example, are household names that hardly seem synonymous with the intelligence community, yet both played a critical developmental role in the nation’s first successful spy satellite technology.⁶

Truman maintains that “an excessive preoccupation with matters of definition will only prove to handicap.”⁷ To this end, he uses a relatively vague definition of political interest group “a shared attitude group that makes certain claims upon others in society. If and when the group makes claims through or upon any of the institutions of government, it becomes a political interest group.”⁸ He later adds “It makes no difference that we cannot find the home office or executive secretary of such a group.”⁹ The national security literature would benefit from similarly relaxing its definition of an interest group as it pertains to groups attempting to influence the process of making intelligence or other national security-related policy.

⁵ Truman (1955) cites the Farmers State Rights League as an example of self-classified group with a hidden agenda. The group hid behind the term “farm” organization in order to oppose child labor laws that kept them from attaining badly needed cheap labor. P.65.

⁶ For a detailed discussion of the involvement of these and other private businesses, see Spy Capitalism, by Jonathan Lewis (2002).

⁷ Truman (1955) p. 23.

⁸ Truman (1955) p. 37.

⁹ Truman (1955) p. 51.

Little empirical data exists because attempting to produce an accurate tally of the number of interest groups in any area of politics is like shooting at a moving target. Milbrath (1963), for instance, argues that counting only registered lobby groups ignores a critical amount of groups that do not necessarily need to register under law. The Federal Lobbying Regulation Act of 1946, unchanged until the mid-1990s, required only lobbyists concentrating on legislative activity to register. Closing these large loopholes in registration and reporting requirements has proven a difficult undertaking. For example, in 1995, the General Accounting Office found that almost 10,000 of the 13,500 individuals and organizations listed in the lobbying directory, Washington Representatives, were not registered under the Lobbying Regulation Act.¹⁰ This in itself makes analyzing the amount of contributions by documented lobbyists an inaccurate measure of interest group influence.

Some written work has briefly acknowledged interest group activity in intelligence in recent years. Johnson (1996) devotes one paragraph to newly emerging “pork-barrel politics” in the intelligence arena. He argues that because the post-cold war era has left private industries with diminished military contracts they have turned their attention toward servicing the intelligence community. Johnson (2000) offers a few more paragraphs, acknowledging constituents that pressure their congressional representatives to limit intelligence budget cutbacks.¹¹

¹⁰ Report of the Commission on Governmental Affairs to accompany S. 349 (Report 103-37), 103rd Congress, 1st session, to provide for the disclosure of lobbying activities to influence the federal government, 1995.

¹¹ Johnson, Bombs, Bugs, Drugs and Thugs, (2000) p.146

Post-9/11, a small body of literature has begun to emerge dealing with how domestic interests specifically influence the independent advisory commissions that make recommendations regarding national security policy. Preble (2005) recognizes that the “people matter.” In particular, the bureaucratic interests and personal ideologies of decision makers often outweigh the incoming information received during the commission process. A working group paper by Chyba, Feiveson, and Victor (2005) further contends that agency interests often largely determine a commission’s decisions regarding terrorism threat assessments. In 2005 Zegart refined her earlier position to acknowledge bureaucratic interests in the presidential commission. Robert Jervis (2006) notes the potential for commissions investigating intelligence failures to be mired in partisan politics and political compromises.¹² Although scholars are finally recognizing the possibility that outsider groups have accessed the intelligence process through the advisory commission, the available work begs for empirical validity.

There are anecdotal resources that explore the influence of specific groups on intelligence policy specifically. John Mintz (1995) reports on Lockheed Martin’s efforts to save its satellite technology in the 1990s. Baer (2001) notes the influence oil companies had over intelligence policy in the 1980s and 1990s. Although anecdotal evidence provides some specifics, it is often perceived as being biased in coming from disgruntled former intelligence employees. This type of literature fails to command scholarly respect as it also lacks the rigor essential to qualify as empirical evidence.

¹² “Reports, Politics, and Intelligence Failures: The Case of Iraq,” *Journal of Strategic Studies*, 29, no. 1 (February 2006): 3-52.

Baumgartner and Leech (1996) note that fragmented research designs will lead researchers down *incomplete methodological paths* in detecting interest group activity and influence. As of this writing, the Federation of American Scientists (FAS) has produced the only empirical attempt at identifying and creating a database for an intelligence private industry web in its “Intelligence Contractor Guide,” but the task proved too daunting and “was taken offline because it was hopelessly out of date and [FAS] didn't have time to maintain it properly.”¹³

Even if they could be counted and were found to be only a small number, the quantity of groups involved cannot wholly determine the ability of the group to influence policy. As far back as scholars such as E.E. Schattschneider (1935; 1960) Truman (1951), C. Wright Mills (1956), and Ornstein and Elder (1978) it has been noted that the most influential interest groups in Washington are determined not by the number of groups nor members in a group, but through groups’ abilities to access policymakers through insider connections. Groups with substantial financial resources more readily establish these connections, which often slant the political advantage in the direction of a narrow group of powerful interests. As this study reveals, decades later, such relationship dynamics persist in what I term the “interest alliance.”

Given the challenge of tracking interests empirically, how might scholars study the interest-based relationships that exist in the inherently secret world of intelligence? My research attempts to remedy the problem by offering a new methodological approach to studying the interest groups that influence intelligence and national-security-related

¹³ Personal email communication with senior research analyst Steven Aftergood, of the Federation of American Scientists, May 18, 2004.

policy. It focuses on the independent advisory commission as an avenue of influence for stakeholders whose personal and professional interests depend on decisions made about intelligence, and whose representatives can be identified by examining their activity in the advisory commission process.

Research Design

The Players

This research design will first define a number of concepts and terms in order to be more systematic in generating empirical evidence. The term *stakeholder* refers to persons, groups, and institutions that have an interest in the activities and outcomes of a policy sufficient to draw their participation and attention to the commission process. The research distinguishes *interest alliance* stakeholders from *advocate* stakeholders. Interest alliance participants possess enough asymmetric information, political influence, and financial clout to become formidable players in the process of shaping policy. Advocate stakeholders may possess expertise, but usually lack political connections and financial resources. They often must rely heavily on media attention to galvanize public support for their policy objectives.

The interest alliance is a by-product of interest politics. The concept describes the collective interests of elite stakeholders who represent different institutions, but whose interests often converge over specific policy decisions. Stakeholders will form alliances with other stakeholders when it advances their individual desires to protect turf, increase financial assets, or secure political advancements. Alliances might also form when stakeholders share an ideological affinity based on institutional or cognitive biases. In

other words, though some individuals may not directly benefit personally or professionally, they might still defend or protect their former agencies or affiliations. Thus they may serve as useful allies for stakeholders seeking to shape the agenda. Because the interest alliance is an informal, loose, transient grouping of stakeholders, the veiled nature of their relationships often makes it difficult to detect their unified presence in the policymaking process.

Studying collective action bodies like the interest alliance is not a new approach for domestic politics scholars. Bureaucratic theorists such as Schattschneider (1960), Shepsle (1986), Weingast and Marshall (1988), Baumgartner and Jones (1991), Weingast (2002), and Moe (1990; 2005) have all discussed the ways actors can control the policy question by appealing to institutional venues whose structure and participants will most likely be conducive to their interests. Lowi Ginsberg, and Shepsle (2006) discuss interest groups' ability to affect the early stages of the decision-making process by gaining access to legislative committees that control the agenda before it hits the floor of the House or Senate. And there is indeed a burgeoning number of terms given to such actors. C. Wright Mills (1956) uses the phrase "power elites" to describe a close-knit circle of citizens from public and private life whose financial clout and political prowess allow them to dominate the decision-making process. McCubbins, Noll, and Weingast (1987) discuss the formation of "enacting coalitions," which allow legislators and interest groups to dominate the policy process. Others use the terms "clientelism," "subsystems," and "subgovernments"—Cater (1964), Lowi (1979), Walker (1991)—to depict the relationship between the limited cluster of executive branch agencies, congressional

subcommittee members, and interest groups. Political scientists suggest that these interest groups control a range of domestic policy decisions including federal public works construction (Bernstein 1955); agricultural policy (McConnell 1966); the regulation of insurance (Orren 1974); airline, trucking, and railroad policy (Stigler 1975); and nuclear energy policy (Baumgartner and Jones 1991).

National security theorists have examined the “iron triangles” that develop between defense contractors, the Pentagon, and congressional subcommittees. However, unlike iron triangles, whose membership is permanent and fixed (members of Congress, the Pentagon, and defense contractors), interest alliances are temporary in nature, include a variety of interchanging stakeholder groups, and utilize alternative institutional venues, like independent advisory commissions to exert influence on decision-making. At any given time, an interest alliance might include not only stakeholders from the defense sector, members of Congress, and the military, but also various national security agencies, White House officials, and other private sector industries not usually identified in the literature (e.g., banking, aviation, or insurance industries).

Neither the interest politics literature in the domestic politics literature nor the security literature has adequately extended the research to study a much wider range of domestic sources of intelligence-related policy. Nor have the fields combined to create a fuller picture of how the independent commissions that focus on intelligence community reforms might be impeded by interest group politics. As a result, each discipline has provided part of the puzzle, but neither has connected the dots entirely.

The interest alliance dynamic reveals the underlying politics that influence national security policymaking and extends the analysis to include a wider group of actors. The interest alliance might include: (1) the **private sector**, seeking lucrative contracts to produce the highly sophisticated gadgetry used by national security agencies or other financial rewards; (2) **congressional commission members**, serving a constituent base made up of these private sector players; (3) the **Department of Defense (DoD)**, which controls over 80 percent of the intelligence budget, houses the majority of intelligence agencies, but still competes with other national security agencies for funding and clout with policymakers; (4) **agency officials** themselves, vying for benefits for their own agency, often at the expense of other agencies; and (5) **White House officials**, under pressure from the American people in general, during national security crises.

Interest alliance members might become acquainted through overlapping personal and professional connections. Stakeholders interact by studying at the same universities, attending academic conferences, participating in the same business associations, serving as board members in the same company, or by developing joint business ventures.¹⁴ Stakeholders might also intermingle socially through church affiliations, athletic clubs, or from their children attending the same schools. In these ways stakeholders not only meet people with similar ideologies or institutional commonalities but also cultivate personal ties that might be beneficial in a professional setting.

Once relationships are established, stakeholders from diverse backgrounds realize that their individual goals are linked to a common policy domain, and that these goals

¹⁴ See Truman (1951); Salisbury (1984); Adler (1992); Heinz et al. (1990).

might be better achieved by forging temporary, informal alliances. Interest alliances then seek out the most favorable institutional structure or “venue” (in this case the advisory commission) to get their policy preferences to be considered.

The advisory commission forum offers ample political space for an interest alliance to dominate the process. Alliance participants invite each other to testify as technical experts, lobby fellow congressional alliance members on the commission, or serve as staff or commission members. All of which allows alliance participants to determine who participates, the agenda to be discussed, and subsequently the type of information parlayed to policy-makers.¹⁵ These strategies not only ensure that their preferences are embedded into recommendations but also serve to institutionally legitimize their own parochial interests through legislative mandates.

The Private Sector

A spy satellite silently drifting across suburban Virginia and Maryland would count hundreds of buildings that are part of the vast and mostly hidden "intelligence-industrial complex." It is a network that stretches from coast to coast and around the world, reaching far into space and deep under the oceans.

Although administered by government officials, this complex is engineered, manufactured, deployed, and maintained by private industry. Around Washington, from Reston and Tysons Corner, Virginia, to Columbia and Fort Meade, Maryland, the intelligence-industrial complex generates tens of billions of dollars

¹⁵ Schatteschneider (1960), Edelman (1964), and Bachrach and Baratz (1962) find these processes at work in their studies of U.S. interest group activity.

a year in profitable government contracts that go to a handful of big contractors and scores of smaller subcontractors--with a grateful flow-back of campaign funds from industry to compliant congressmen.¹⁶

Although the intelligence community is centered in a constellation of government agencies, private contractors conduct a substantial fraction of the work. Since the mid-1950s, the intelligence community has become an important consumer of high-tech systems developed by such private industry defense contractors as Raytheon, Boeing, and Lockheed Martin. From satellite technology to spy cameras, the business dealings of such relatively unknown companies as Itek, Photostat, and Hycon, as well as classified contributions by household names like General Electric and Bausch and Lomb have been key ingredients of the intelligence apparatus.¹⁷

What is more, the end of the cold war has forced companies to find creative ways to influence the national security debate. Significant decreases in military procurement budgets have left companies accustomed to winning contracts to build high-end ticket items such as the B-2 bomber scrambling to find new technologies to develop and new markets to exploit. Such stakeholders have recognized the utility of the advisory commission in promoting their interests, and due to the highly technical aspects of their field, are often called upon to serve as advisory commission members or expert witnesses. A former clandestine CIA officer contends:

¹⁶ Robert Dreyfuss (1996), p.1.

¹⁷ Lewis (2002).

There was a time when contractors were not allowed to talk to the [intelligence] commissions, by those of us in the government. When I was working on this stuff, I would not have allowed one of my contractors in there. ...Now, every contractor in the world goes down there and tells his story--and guess what? An awful lot of those stories don't have to do with the national need.

The officer continues:

If you allow the contractor to write the statement of work, you are allowing the contractor to sell you whatever it is they can do, rather than meeting your needs. And that is happening every day throughout the intelligence community.¹⁸

The former clandestine officer highlights the type of personal or professional interests that frequently usurp the commission process to steer the agenda toward recommendations that favor their industry. Participating in the advisory commission promises direct access to the officials who award the private sector contracts for implementing those policies. There is serious potential for conflicts of interest when allowing industry representatives--natural profit seekers--to be involved in the policy process.

Congressional Commission Members

¹⁸ See Dreyfuss (1996) p. 1.

At least prior to 9/11, most congressional studies argued that there was very little political incentive to paying attention to national security, considered an abstract concept for which it is difficult to take full credit, nor reap direct rewards.¹⁹ A Senate staff member explains:

It has no political benefit. In fact, it is a vast political detriment. The time it takes up. You get no benefits from serving on the intelligence commission. There are no pork-barrel benefits to be obtained and no state issues involved.²⁰

Nevertheless, congressional members that deal with intelligence policy are still subject to influence from well-organized and focused groups and must contend with the concerns of these constituents. Just as a member of Congress on an agriculture committee, for example, will typically raise much more from farmers and other agricultural interests than the average member of Congress, members of Congress whose districts include private sector industries that benefit from decisions made about national security will also look for ways to influence the policy-making process in favor of their constituents. Dreyfuss (1996), for example, has tracked the steady stream of campaign contributions to members of Congress with jurisdiction over the intelligence budget. Examining Florida's Tenth Congressional District, he finds that the region encompasses a thriving base of intelligence-industrial firms, including Lockheed Martin, E-Systems, and

¹⁹ See Smist (1990); Johnson (Summer 1980; November 1980); and Zegart (1999). For a more general view of congressional members' interest in credit claiming see Fiorina (1977) and Mayhew (1974).

²⁰ Smist, (1990), 33.

Honeywell. The district's congressional representative, Republican C.W. "Bill" Young, is a senior member of the House Permanent Select Commission on Intelligence (HPSCI), who, since 1989, has pulled in more than \$135,000 from the political action committees (PACs) of the relatively small number of companies that make up the industrial base of the intelligence community. That total includes \$29,000 from Lockheed Martin and another \$24,750 from E-Systems, a Texas-based firm that derives about 80 percent of its \$3 billion in annual sales from contracts with the U.S. intelligence community.²¹

Members of Congress (and national security scholars) must pay attention to these well-organized constituents who both serve the intelligence community and support future congressional election campaigns.

Moreover, elected officials were not born into office. Most have spent time in the private sector and will return to that line of business once leaving public service. As such, what they accomplish in office might have an effect on their personal prospects once out of office. The Center for Responsive Politics notes this "revolving door"²² phenomenon in the interest taken by major corporations and their lobbying firms in recruiting former members of Congress, who can be lucrative acquisitions for private firms that benefit from the relationships established while members served in office.²³

Additionally, more than forty authorization committees and appropriation subcommittees have responsibility over national-security-related issues. Each entity

²¹ See Dreyfuss (1996) p.2.

²² Robert H. Salisbury, Paul Johnson, John Heinz, Edward Lauman, Robert Nelson "Who You Know Verses What You Know: The Uses of Government Experience for Washington Lobbyists," *American Journal of Political Science* 33, no. 1 (February 1989).

²³ Salisbury (1989) note, however, that the personal connections former government officials have to offer are not always deemed that important. They find that a lobbyist's knowledge of a subject matter, and the legislative and legal process, often outweighed the "hearty talents of jolly ol' comrades" (177).

jealously guards its control over pet projects, and often resists any shift in the structure that would diminish such power.²⁴

Whether used as currency for re-election, to advance political favors for well-connected individuals or businesses, or as a forum to fortify committee turf, the independent advisory commission may not be exempt from the interests of members of Congress.

The Military

The military branches also have much at stake when it comes to security policy. Just as the military held sway over the creation of the intelligence community in 1947,²⁵ these branches still benefit from involvement in the decision-making process. Like any other bureaucracy, the military must fight to maintain budgets and autonomy over such resources as weapons systems and personnel.

Reform legislation that improves some aspects of IC performance might be seen as an encroachment upon areas the military prefers to maintain. In late November, 2004, for example, the *New York Times* reported that President Bush had set up an interagency group to study whether it “would best serve the nation” to give the Pentagon complete control over the CIA’s elite paramilitary unit, which has operated covertly in trouble

²⁴ For a detailed description of the organizational structure of the congressional intelligence committees, see Daniel J. Kaniewski, “Create a House Select Committee on Homeland Security and Terrorism,” *Homeland Security Journal* (February 2002). See also, Helen Fessenden, “The Limits of Intelligence Reform,” *Foreign Affairs* (November-December 2005), Robert Dreyfuss, “Orbit of Influence: Spy Finance and the Black Budget,” *American Prospect*, vol. 7, Issue 25, (March-April 1996).

²⁵ See Zegart (1999).

spots around the world for decades.²⁶ In addition, the Pentagon is reportedly planning to establish its own intelligence collection agency to conduct covert operations (known as “black reconnaissance”), potentially circumventing existing IC authority and jurisdiction.²⁷ In 2006, former military official, Gen. Michael V. Hayden, was appointed the next director of the CIA. Critics worry that the appointment of a former military official to the post will weaken the CIA and allow the Pentagon to further broaden its own global spying network.²⁸ More recently, in 2007 a *New York Times* article exposed the military’s expansion into domestic intelligence. The Pentagon has been gathering banking and other financial records of American citizens in its own counterterrorism efforts, expanding its historical and legal turf into an area traditionally reserved for the FBI.²⁹ The military can be a clear beneficiary of particular intelligence policy decisions. Participating in the advisory commission provides an important avenue of influence.

Agency Insiders

Access to the commission might also serve the personal and parochial interests of an agency’s employees. Just like any other bureaucratic agency, national security bureaucrats look for ways to enhance their standing within the agency. They try to “win” for their own agencies by lobbying for recommendations that increase resources allotted

²⁶ *The New York Times* reported that the Pentagon is seeking a cadre of operatives for global reconnaissance and the fight against terrorism, further supporting the idea that the military seeks to usurp the authority given to the Intelligence Community. See Greg Miller, “Military Wants Its Own Spies,” March 4, 2003. An article by Seymour Hersh in the *New Yorker* corroborates the story, January 31, 2005.

²⁷ See Seymour Hersh, “The Coming War,” the *New Yorker*, January 31, 2005.

²⁸ See for example, “Clash Foreseen between C.I.A. and Pentagon” *New York Times*, May 10, 2006; “Shuffling Spies Around,” the *New York Times*, May 9, 2006; “White House Begins Push for C.I.A. Pick” the *New York Times*, May 9, 2006.

²⁹ “Military Is Expanding Its Intelligence Role in U.S.,” *New York Times*, January 14, 2007.

the agency or, at the least, minimize potential losses.³⁰ Loch Johnson (2001) provides evidence of agency leaders attempting to secure special favors in a behind-the-scenes account of the 1996 Aspin-Brown Commission:

Aspin had dinner with [John] Deutch on the eve of his confirmation hearings and the would-be-DCI, an old friend, asked for changes in the Commission's "scope paper"...Deutch wanted the Commission to focus more on the kinds of technical improvements in intelligence gathering of interest to the director. Clearly, he intended to take an active role in intelligence reform and, drawing on his cordial ties with Aspin, was not going to be reticent about trying to shape the Commission's recommendations.³¹

By making important technology gains for the intelligence community and thus establishing himself at the outset of his DCI career as a true advocate for (certain sectors) of the community, the newly appointed Director stood to benefit from taking an active role in the reform process and utilized similar methods used by traditional interest groups to influence the debate.³²

³⁰ See Fiorina (1977), Gryski (1981), Wilson (1975), Woll (2006).

³¹ Johnson (2001), 20.

³² John Deutch was known to favor the high-tech side of intelligence. Before becoming CIA director, Deutch, a chemist from the Massachusetts Institute of Technology who had been appointed to a number of U.S. intelligence advisory boards, served on the boards or corporate commissions for a wide range of defense and intelligence contractors. They included Martin Marietta, TRW, United Technologies, the MITRE Corporation, and SAIC. The Director's previous earnings were enough that upon taking his Pentagon job in 1993, Deutch had to receive a special conflict-of-interest waiver from then Defense Secretary Les Aspin.

Senior and mid-level national security officials also utilize their interest alliance connections to win high-paying jobs with private-industry contractors when they leave their agencies. Intelligence expert Robert Steele explains, "When I was at the CIA ten years ago, it was understood that if you played ball with the contractors, you would get a \$250,000 job when you left."³³ Future-minded agency employees stand to reap substantial personal gain from establishing such interest alliance relationships while still working in government.

The White House

Traditionally, the interests of the White House have not been directly affected by decisions made about intelligence policy. Before 9/11, re-election-minded presidents did not win or lose elections on issues like intelligence reform. As Zegart (2005) explains:

Presidents almost always prefer to focus their efforts on policy issues that directly concern (and benefit) voters, rather than on the arcane details of organizational design and operation. Tax cuts and Social Security lockboxes win votes, but no president ever won a landslide election by changing the CIA's personnel system. Moreover, presidents are especially reluctant to push for agency reforms in the absence of a crisis or in the presence of anticipated resistance. Presidents are thus loath to reform existing agencies through executive action or legislation.³⁴

³³ Robert Dreyfuss "Orbit of Influence," *The American Prospect* vol. 7 no. 25, March 1, 1996-April 1, 1996.

³⁴ Amy Zegart, "September 11 and the Adaptation Failure of U.S. Intelligence Agencies" *International Security*, 29.4, 2005, 97.

In times of crisis, however, the American people look first to the president not only for leadership to safeguard against occurrences in the future, but also to cast blame. Influencing the independent advisory commission process might help the White House shield itself from criticism. Doing so may afford the president an opportunity to legitimize a prior policy decision or to shift responsibility onto another sector of government. With the prospect of re-election, or their presidential legacy, on the line, more than the national interest might also motivate the president.

From private sector industries seeking financial rewards; to the congressional member whose constituents make up those private sectors, and whose careers outside of government might benefit from friendly relations with possible future employers; to the military that competes with the intelligence community for funds and resources; to the bureaucratic self-interest of the intelligence community agency senior official; and the electoral future and legacy interests of the president--these players are frequently present and accounted for in an intricate web of interest alliances that often dominate the advisory commission process.

What Is an Advocate Stakeholder?

Commissions might also invite advocate stakeholders to participate in the advisory process. This category includes human rights and civil liberties activists, journalists, or victims of a national security-related incident, who also have an interest in a commission's activities and outcomes. Such advocate stakeholders do not seek

professional gains, and the influence they yield fluctuates because they often lack the political and financial influence necessary to directly affect the policy-making process. Nevertheless, advocate stakeholders might possess knowledge or even expertise on the subject, and may be directly affected by a particular national security policy outcome.

The advocate stakeholder concept is akin to research found in the domestic policy literature. Hugh Helco (1974) finds that the pluralist nature of democratic policymaking creates “accidental collisions” between different groupings of actors and that “the interaction tends to take on a distinctive group-life of its own in the Washington community.”³⁵ Heclo coined the term “issue network” to describe the undercurrent of associations between think tank experts, journalists, scholars, and other interested actors that may have different opinions on a subject, but whose common interests in social or ideological issues such as health care, the environment, or Social Security helps them become a collective voice in the policy domain. Similar to the issue network, advocate stakeholders come together over social or ideological objectives, not financial or political gain. This differs from the interest alliance, which might use ideological goals (e.g., national security) as justification for political, economic, and bureaucratic dividends (lucrative contracts, promotions, and so forth).

Heclo’s issue network nevertheless needs revamping for two important reasons: (1) his theory tends to limit the theoretical scope to domestic policy, and (2) while he recognizes that the goals of individual stakeholders in an issue network are not always completely identical, he fails to take this fact to its logical conclusion: that such internal

³⁵ See Heclo (1978) p.97.

conflict can weaken advocate stakeholders' ability to challenge policymakers from a unified front. This study reveals that such groups might resort to galvanizing the media in order to successfully access or influence the debate. Thus, the advocate stakeholder term picks up where the issue network leaves off in two key ways. First, it expands the scope of research to national security policy. Second, it further explores the way such groups utilize the media in order to overcome weaknesses caused by internal conflict.

Public Scrutiny

Enlisting the support of the media is an important strategy that advocate stakeholders employ. Senior Federation of American Scientists analyst Steven Aftergood explains that advocate groups like his must use such alternative methods to influence the intelligence debate:

There is little chance that I could get a meeting to discuss my personal agenda with the President or the National Security Adviser. But there is a reasonable chance that I could get an op-ed placed in the *New York Times* that will end up in their media digest. (It has happened.) There is an even better chance that I could help shape an editorial expressing a view that I favor. For someone in my position, this is the best way of "sending a message" to senior policymakers.³⁶

Researchers have long acknowledged that the media is a significant factor in influencing political actors on foreign policy matters. As early as 1956, Gabriel Almond

³⁶ Personal email communication with Steven Aftergood, September 13, 2004.

argued that the more publicized the national security issue, the less likely elite groups would be able to dominate the process:

If there is a well-publicized discussion of the security issue....and if the media of communication can bring these issues to the general public, then the irrational and special impact of interest groups can be kept within proportions. If there is no live public discussion reaching to the grass roots, special groups working largely without publicity can bring effective pressure to bear on Congressmen in their own constituencies, and on members of the Executive.³⁷

The role played by the media in the national security policy-making process cannot be underscored enough. But it is also important to recognize that the media must be met by the commission's willingness to open up the process and allow access to a broad range of stakeholders. Interest alliances may be less willing or able to dominate the advisory commission when the spotlight of the media illuminates this otherwise opaque part of the intelligence policy process, and a broader range of voices participate in the discussion and help frame the debate. This not only encourages public interest but also reinforces democratic accountability in the decision-making process.

³⁷See Gabriel Almond, "Public Opinion and National Security Policy," *Public Opinion Quarterly*, Vol. 20, no.2 (1956): 375.

Methodology

This study examines a series of six cases studies reported in separate chapters. It examines the six major independent advisory commissions asked to address national security-related issues in the post-cold war era: the *Commission on the Roles and Capabilities of the United States Intelligence Community* (the Aspin-Brown Commission); the *U.S. Commission on National Security in the 21st Century* (the Hart-Rudman Commission); the *National Commission on Terrorism* (the Bremer Commission); the *Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction* (the Gilmore Commission); the *National Commission on Terrorist Attacks Upon the United States* (the 9/11 Commission); and the *Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction* (the WMD Commission).

The study is divided into two separate chapters for each commission. The first chapter of each case study provides a summary of events. It describes the security climate that initially prompted the establishment of the commission. It then examines the commission's mandate and subsequent recommendations to determine how well the commissions followed its enabling legislation. Interest alliance participants who dominated the discussion might have unduly influenced a commission that veered off its original course.

The first chapter also determines "winner" and "loser" stakeholder groups in each of the commission's primary recommendations. The purpose is to first spotlight groups whose interests would likely be served by the implementation of a commission's

recommendations, before determining whether these stakeholders were actually able to gain access to and influence the commission process. The study hypothesizes that stakeholder groups that manage “wins” in the commission’s final outcomes will typically have had significant access to the commission process. This has important implications if interest politics, and the interest alliance partnerships that subsequently form, control participant access to the commission process.

Hypothesis #1

Stakeholder groups with significant access to the commission process will likely emerge as winners in the commission’s final recommendations.³⁸

A stakeholder group might be designated a “winner” if proposed recommendations would allow the group to protect its turf, budget, or other resources. For example, the Aspin-Brown Commission had two clear “winners,” as its recommendations protected DoD turf and promoted high-technology private industry stakeholders. The study would thus predict that both DoD and private sector defense contractors had significant access to the debate. A stakeholder group might also be considered a winner if recommended changes would boost the agency’s ability to play a lead role in the implementation of a particular national security policy. By recommending that state agencies take the lead role in the event of another terrorist attack on domestic soil, state agencies emerged as winners in the Gilmore Commission’s recommendations.

³⁸ It is important to note that significant access does not necessarily mean a large number of participants. Significant could also mean a strong alliance between a few participants. Here the measure is substantive rather than quantitative.

Here, the study would predict that state officials had significant access to the Gilmore Commission.

The study also determines groups whose interests might suffer if a commission's recommendations are implemented. The study hypothesizes that stakeholder groups that emerge with a "loss" did not have significant access to the commission process. Thus,

Hypothesis #01

Stakeholder groups without significant access to the commission process will likely emerge as losers in the commission's final recommendations.

Stakeholder groups are designated "losers" if they are unable to protect their turf, budgets, or resources. For example, homeland agencies like U.S. Customs and the Immigration and Nationalization Service (INS) stood to lose significant ground if the Hart-Rudman's recommendation to consolidate agencies in a new National Homeland Security Agency was implemented. State and local officials would lose authority over domestic counterterrorism efforts if the Bremer Commission's recommendation to give the DoD lead authority in the event of an attack on U.S. soil was implemented. The hypothesis would predict that the Hart-Rudman Commission largely excluded participation from homeland agencies, while state and local officials did not have significant access to the Bremer Commission.

If a stakeholder group is included in the mandate, but ultimately overlooked in the commission's findings, that stakeholder group can be categorized as a winner or loser, depending on what effect its exclusion has on the stakeholder group's turf, resources, or budget. For example, the WMD Commission noted mistakes within both the Clinton and

Bush administrations, yet the White House largely escaped criticism in the commission's final recommendations, and thus emerges a winner.

Not all stakeholder groups are dealt with in each particular commission, however. For example, the Gilmore Commission focused on domestic counterterrorism response capabilities, thus for the most part its mandate excluded the State Department. The WMD Commission focused on intelligence community activities abroad, and thus did not cover local emergency responders. If a stakeholder group is excluded from a commission's mandate, it is designated "not applicable" in the chart.

It is important to note that the previous hypotheses will hold only when a commission operated in the absence of public scrutiny. A commission whose activities are transparent will not develop a consistent trend between stakeholder status (win/lose) and the level of access granted the groups. In addition, if a commission experiences public scrutiny, it is likely that advocate stakeholders played an active role in the commission process.

Hypothesis #2

A transparent commission process will not produce a consistent relationship between access and outcomes.

Thus the second chapter of each case study examines the amount of public scrutiny afforded the commission, measured by public interest and public accessibility. Using the media as a proxy for public interest, I examine the amount of media references to each commission in major newspapers. I primarily use the major newspapers used by

the web-based search engine LexisNexis, which include print news outlets such as the *New York Times*, the *Washington Post*, and the *Chicago Tribune*.

To determine public accessibility, I examine the commission's own efforts to open the process for outside review. This might include the number of public hearings allowed, financial disclosures of commission participants, the availability of transcripts, official commission websites established, and so forth. In addition, when available I include personal observations regarding media interest from commission participants interviewed in the study. Both public interest and public accessibility might help indicate the range of experiences and views afforded the commission.

The second chapter then seeks to test the previous hypotheses. It charts the background affiliations of commission participants to determine whether a relationship exists between access and outcomes. I first compile and categorize a list of commission participants including commissioners, staff members, and witnesses. I classify participants in one of the following categories depending on how each was represented in the commission's official biographies:

Department of Defense—The DoD controls 80 percent of the intelligence budget and houses the most of the intelligence agencies including the National Security Agency (NSA), which conducts signals intelligence (SIGINT); the National Reconnaissance Office (NRO), responsible for reconnaissance satellite technology; the National Geospatial Intelligence Agency (NGA),³⁹ responsible for geo-spatial data collection for intelligence mapping and charting; the Defense Intelligence Agency (DIA), whose

³⁹ The NGA was formerly known as the National Imagery and Mapping Agency (NIMA).

mission is to provide intelligence support for military operations; and the Joint Chiefs of Staff and their military intelligence services, Air Force, Army, Navy, and Marine Intelligence.

Central Intelligence Agency—CIA employees and the members of the agency's National Intelligence Council (NIC) are members of the intelligence community, but they operate outside the jurisdiction of the DoD and are thus classified separately.

Department of State—State participants include ambassadors, employees from the Bureau of Intelligence and Research (INR), and other diplomacy-related agencies.

Department of Justice—The DoJ includes employees from the Federal Bureau of Investigation (FBI) and the offices under the jurisdiction of the attorney general.

Homeland Agencies—Participants include the U.S. Border Patrol, U.S. Customs, the U.S. Coast Guard, U.S. Immigration and Naturalization Service, Secret Service, among others. (Most homeland agencies were consolidated into the new Department of Homeland Security in 2002.)

Congress—Participants include members of Congress, their staffs, and representatives from the General Accounting Office (GAO).

White House—Participants include the president, vice president, members of the National Security Council (NSC), and the Office of Management and Budget (OMB).

Private Sector—Participants include industry professionals whose business interests rely on decisions made regarding intelligence policy.

Academic—Consists of university professionals, national security think tank employees, journalists, and other experts outside government.⁴⁰

Advocates—Includes ethnic lobbies, human rights and civil liberties groups, as well as individuals personally affected by a national security crisis who lack political clout to affect change on their own.

Other—This category serves as a catchall for participants who do not fit into one of the previous classifications.

It is important to note that participants frequently have worked in positions within several of the categories. In this case I include each career position held by the participant. For example, a commissioner might have had career experience at the Pentagon, later moved to Congress, and then served on the President's Foreign Intelligence Advisory Board (PFIAB) before retiring from public life. In this case, the participant's experience would include three categories: DoD, Congress, and the White House.

Categorization by the type of experience officially listed by each commission may not fully capture the underlying interests held by participants. Participants might also be looking ahead toward future employment. Thus I also examine participants' background affiliations up to two years after their participation in the commission process. I draw on a number of publicly available biographical resources including a web-based search of individuals' affiliations with the Department of Defense, private industry, universities,

⁴⁰ This study considers academics as neutral participants, though it can be argued that this group also has interests at stake.

non-profit organizations and so forth; financial disclosure reports from the Senate Ethics Committee, and the following biographical databases:

- The Almanac of American Politics: the President, the Senators, the Representatives, the Governors: Their Records and Election Results, Their States and Districts
- Who's Who in American Politics, 1997/98.
- Washington Representatives, 1995/1999.

Who's Who in Congress, (Washington, D.C.: 1994-2005).

Federal Regional Yellow Book: Who's Who in the Federal Government's Departments, Agencies, Courts, Military Installations, and Service Academies Outside of Washington, D.C., 1994-2005.

I do this in order to determine whether participants' involvement might have been influenced by the prospect of future employment with a particular agency, organization, or private sector business.

Though an examination of political or professional affiliations might provide potential for conflicts of interest, it is difficult, if not impossible, to determine conclusively whether such motives interfered with the decision-making process. To fill in the gaps, I conducted personal interviews with participants including both commissioners and staff members.⁴¹ The purpose is to identify potential alliance type

⁴¹ See appendix A for a detailed description of the personal interview format.

activity, which may not be detected in public documents. The list of interviewees includes a number of prominent, high-profile government officials. Though the limitations of this study require that the identities of interviewees remain confidential, the list includes former members of Congress, a former director of Central Intelligence, a former deputy director of Central Intelligence, senior-level state officials, and respected academics, all of whom served on one or more of the commissions under study.

The following is a breakdown of the major questions I hope to answer by a closer examination of each commission:

- What was the mandate of each commission? Did the Commission stay on track?
- Which stakeholders appear to have won/lost in the commissions?
- Did the commission receive public scrutiny?
- How well were their participants represented in the commission process?
- Does an affiliation background examination reveal potential interest alliance activity?

Thus, Chapter 2 offers an extensive historical analysis of events leading up to the establishment of the Aspin-Brown Commission, examines the commission's final recommendations, and determines which stakeholder groups emerged as winners and losers. Chapter 3 determines the level of public scrutiny surrounding the Aspin-Brown Commission. It then provides an in-depth biographical study of the commission's participants and investigates their participation in the commission process and their

personal and professional affiliations. If the Aspin-Brown Commission lacked public scrutiny, then the study predicts that its recommendations were geared toward gains for the stakeholder groups who were able to dominate the commission process by taking advantage of interest alliance relationships. If the Aspin-Brown Commission enjoyed public scrutiny, it is unlikely that a consistent pattern will emerge between stakeholder status as a winner or loser and the amount of access afforded the stakeholder group. Additionally, advocate stakeholders likely managed to play a more prominent role if the commission process was transparent.

Chapter 4 begins with a brief historical overview of the domestic security environment that prompted the establishment of the three counterterrorism commissions under study. It then summarizes the first of the three commissions, the Hart-Rudman Commission. As with the Aspin-Brown case, it lays out the commission's mandate and recommendations, and categorizes stakeholder groups as winners or losers. Chapter 5 measures the level of public scrutiny afforded the Hart-Rudman Commission, categorizes participant backgrounds, identifies personal and professional affiliations of those involved, and investigates stakeholder participation in the commission process. If the Hart-Rudman Commission lacked public scrutiny, it is likely that its recommendations were geared toward the personal and/or professional interests of interest alliance participants who accessed the debate. If the Hart-Rudman Commission enjoyed public scrutiny, recommendations would likely not be geared consistently toward interest alliance preferences, and advocate stakeholders likely played a more prominent role.

Chapters 6 through 13 extend the methodology and test the previous hypotheses in the three remaining commissions--the Bremer Commission, the Gilmore Commission, the 9/11 Commission, and the WMD Commission. Chapter 14 concludes with a summary of the study and discusses the potential implications of the research findings.

Conclusion

Even if we assume that the people who have signed up to advise on how best to defend the nation's security actually do want the best system possible, the question arises as to who determines what the "best" system should look like? What issues are appropriate issues to tackle? The answer: it depends. It depends on whom you ask, when you ask, and why you're asking. It also depends on who has access to the intelligence or related national security policymaking process.

There is indeed an interesting link between intelligence policy, advisory commissions, and a list of stakeholders—a link not previously researched in the national security literature. By identifying the ways in which these groups have been able to shape the national security agenda, scholarship takes an important step in measuring the affect that interest group politics has had in making U.S. security policy. This has far-reaching policy implications: restricting the type of information parlayed to policy-makers inhibits their ability to make sound decisions, to predict future enemies, and to acquire the appropriate tools to combat such dangers.

Chapter Two

The Aspin-Brown Commission: Case Study Summary

In the early 1990s policymakers fretted over ill-defined goals for the post-cold war era, bloated Intelligence budgets, the Somalia crisis, and the Aldrich Ames espionage case, in which a high-level CIA agent was able to pass secrets to the Soviet Union as a result of lax CIA internal oversight. In 1995, Congress decided the time was ripe for a “credible, independent, and objective review of the Intelligence Community.”⁴²

Therefore, it established a commission pursuant to the Intelligence Authorization Act for FY 1995 (PL 103-359) of September 27, 1994. It chartered the bipartisan Commission on the Roles and Capabilities of the United States Intelligence Community to “review the efficacy and appropriateness of the activities of the United States Intelligence Community.”⁴³ President Clinton further described the new commission’s goal:

The foundation for this support must begin with a thorough assessment of the kind of intelligence community we will need to address the security challenges of the future. Our objective is to strengthen U.S. intelligence, to ensure it has the management, skills and resources needed to successfully pursue our national security interests through the next decade and beyond.⁴⁴

⁴² House Permanent Select Committee on Intelligence: U.S. Congress. House. Intelligence Authorization Act for Fiscal Year 1995, 2d sess., 103d Congress, Report 103-753, Sep. 27 1994.

⁴³ “Preparing for the 21st Century; an Appraisal of US Intelligence.”

⁴⁴ President's 2 February 1995 Statement, “Intelligence Reform, 1990’s, Commission on Roles and Capabilities of the U.S. Intelligence Community.”

This chapter provides a brief overview of the four major crises that together prompted demands for intelligence reform. First, it lays out what the commission's mandate aspired to accomplish. Second, it examines how well the problems were addressed in the report's final recommendations. Third, it determines whether stakeholder groups emerged as "winners" or as "losers" in the commission's final outcomes.

The Agency Is Adrift

During the early 1990s, policymakers especially criticized the intelligence community's failure to predict the fall of the Soviet Union. The very reason for the establishment of the U.S. intelligence community (IC) in 1947 was to contain Communist encroachment. For over forty years the IC allocated most of its budget to monitor every aspect of Soviet political, military, economic, and social life: from the Soviet possession of the atomic bomb, to its relations with China and North Korea, to monitoring its rubber supply and foreign propaganda broadcasts.⁴⁵

Despite such concentrated efforts, the IC failed to forecast that drastic changes occurring behind the Iron Curtain during the late 1980s signified the demise of the Soviet empire. In 1989 the Berlin Wall crumbled, the Baltic states claimed sovereignty, Poland held its first partially-free elections, and riots in Romania resulted in the overthrow and summary execution of its Communist leadership. Additionally, Soviet forces began to

⁴⁵See ORE 2 "Analysis Of Soviet Foreign Propaganda Broadcasts," July 23, 1946. National Intelligence Estimate, doc.#NN3-263-92-005.

ORE 6-49 "Rubber Supply Situation in the USSR", March 23, 1949. National Intelligence Estimate, declassified August, 1992, doc# NN3-263-92-005 24.

withdraw from Hungary, Czechoslovakia, and Afghanistan. By 1990, six Soviet republics had also claimed sovereignty.⁴⁶ The military's voracious appetite for spending created high enough food shortages, inflation, and unemployment rates to prompt mass demonstrations in the streets of Moscow. All were critical signs of a collapsing state, yet no National Intelligence Estimate (NIE) analysis predicted that the sum total of these events equaled the disintegration of the Soviet empire.⁴⁷

Scholars, journalists, and policymakers alike criticized the intelligence community's failure to link Soviet economic problems to its ultimate demise. Nicholas Eberstadt's *The Tyranny of Numbers* blamed the CIA's over-reliance on spurious statistical data, which amplified its miscalculations.⁴⁸ In his memoirs, former Secretary of State George Schultz declared that he had "no confidence" in the CIA's estimates and warned the White House that the agency was "unable to perceive that change was coming in the Soviet Union."⁴⁹ *The Wall Street Journal* opined that despite readily available information to the contrary, the CIA "continued to endorse the myth that the communists had transformed an agricultural backwater [the USSR] into a mighty industrial power

⁴⁶ Belarus, the Ukraine, Turkmenistan, Tajikistan, Kazakhstan, and Kirghizia. Georgia claimed independence on April 1991. Armenia and Azerbaijan would follow in 1991 after the official collapse of the Soviet Union.

⁴⁷ Defenders of the IC argue that it did effectively track the Soviet decline. See Douglas J. MacEachin, "CIA Assessments of the Soviet Union: The Record Versus the Charges; An Intelligence Monograph," Center for the Study of Intelligence Central Intelligence Agency, 2001. See also "At Cold War's End: U.S. Intelligence on the Soviet Union and Eastern Europe, 1989-1991," Center for the Study of Intelligence, Central Intelligence Agency, 1999. It nevertheless at the least failed to adequately convince policymakers of the significance of such information. See Melvin Goodman, "Ending the CIA's Cold War Legacy," *Foreign Policy*, March 1997.

⁴⁸ Nicholas Eberstadt, *The Tyranny of Numbers: Measurement and Misrule*, (Washington D.C.: American Enterprise Institute Press, Washington, D. C. 1995).

⁴⁹ George Shultz, *Turmoil and Triumph: My Years as Secretary of State*, (New York: Charles Scribner's, 1993), 864.

capable of ever higher levels of economic development.”⁵⁰ Intelligence scholar and former CIA analyst Melvin A. Goodman (1997) further captures the essence of reactions by policymakers:

President George [H.W.] Bush stated that he had no idea that the Berlin Wall was coming down and was surprised by the coup attempt against Mikhail Gorbachev in 1991. His national security adviser, Brent Scowcroft, could not recall receiving any CIA warning about the Soviet demise. President Ronald Reagan's last national security adviser and Bush's chairman of the joint chiefs, General Colin Powell, recorded in his memoirs that CIA specialists "could no longer anticipate events much better than a layman watching television.”⁵¹

If the IC could not perform its primary function during the cold war, skeptics wondered whether it was even worth maintaining the apparatus. In search of reasons for its continued existence, the IC undertook its own analysis of its purpose in the post-cold war era. Under the leadership of John Duetch (1995-96), the clandestine service of the CIA, the Directorate of Operations (DO), developed an assessment of future threats, *A New Direction: A New Future*.⁵² The briefing accurately predicted the post-cold war list of threats including widespread terrorism, rogue states such as Iran, Iraq, and North Korea, and the proliferation of weapons of mass destruction. The report was based on a

⁵⁰ “Damned Statistics,” *Wall Street Journal*, (July 27, 1995,) A9.

⁵¹ Melvin Goodman, “Ending the CIA’s Cold War Legacy,” *Foreign Policy*, 106, Spring 1997, p. 135.

⁵² “The CIA's Most Important Mission: Itself,” *New York Times* (December 10, 1995), Sec. 6-62.

series of disastrous events: the November 1995 Hezbollah-linked car bombing in Riyadh, which killed five Americans outside of a Saudi-U.S. joint military training facility; a truck bombing seven months later, which killed nineteen American servicemen housed at the Khobar Towers in Dhahran, Saudi Arabia; and reports that Osama bin Laden sought to kill on a mass scale and had paid \$1.5 million to a former Sudanese official for enriched uranium (which bin Laden's scientific experts later determined to be bogus material). However, these reported events were not enough to force the intelligence community to prepare for the threat posed by terrorism. In the absence of a "9/11-like" catastrophe, and facing significant decreases in national security spending due to the shift in the international balance of power, the IC found itself adrift. With the creation of the Aspin-Brown Commission, officials hoped to refocus the intelligence community by redefining its role and purpose in the post-cold war era.

Black Budgets

The community's lack of vision in the post-cold war era was not the only impetus for the creation of the Aspin-Brown Commission. The IC's problems were further compounded by a scandal in August 1994 that revealed the penchant of the National Reconnaissance Organization (NRO) for accumulating and mismanaging millions of dollars in its classified budget. The NRO was created in 1961, but its intelligence work was deemed so sensitive that its name and existence were not officially revealed until 1992. Hidden within the Department of Defense, the nation's premier spy satellite agency did not have a permanent facility of its own. Consequently, the agency eventually decided to use over \$300 million from concealed accounts to build its new permanent

headquarters in northern Virginia.⁵³ One year later, DCI Deutch discovered that the NRO had ultimately procured a surplus of \$1.5 billion in secret money for use at its own discretion.

The House Permanent Select Committee on Intelligence said it had been advised of the project, but members of the Senate Select Committee on Intelligence (SSCI) contended they had not been adequately informed. In any event, the misappropriation of funds raised concerns over the IC's ability to circumvent accountability measures. The perception was that of an intelligence agency that had acted in secret and without adequately informing Congress, building a costly headquarters for itself at a time when the rest of government was drawing down. The discovery placed added pressure on an intelligence community dealing with increasing scrutiny in the post-cold war era. The scandal also further highlighted the IC's increasingly blurred purpose in an era when citizens were positioned to reap the benefits of the post-cold war peace dividend.

Somalia

One of few insiders to write about his experience on the Aspin-Brown Commission, staff member Loch Johnson (2004) argues that personal motives largely drove the commission's creation. It was a direct result of Secretary of Defense Les Aspin's desire to pinpoint blame on the intelligence community, and in turn defend the decisions he made during the 1993 crisis in Somalia--decisions that critics argued led to the death of eighteen soldiers in the streets of Mogadishu.

⁵³ INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 1995 (Senate - August 12, 1994) [Page: S11393] Congressional Record.

Under Secretary of Defense Les Aspin's leadership, over twenty-six thousand troops had been sent to Somalia to join the humanitarian efforts of about thirteen thousand other soldiers from more than twenty nations working under the United Nation's Unified Task Force (UNITAF). The principal mission: to serve a peacekeeping role, to help restore order and aid victims of the civil war that had engulfed Somalia since 1991. By May of 1993, however, the American public had grown weary of continued U.S. military involvement in Somalia in what was seen as a domestic problem between opposing ethnic clans. In response, and largely due to relatively benign intelligence reports of the enemy's capabilities, Secretary Aspin withdrew over twenty thousand troops, keeping less than four thousand soldiers in the country to help stabilize the Somali capital.

To strengthen the impact of the reduced number of troops, the lead U.S. commander in Somalia requested tanks, AC-130 gunships, and other tactical reinforcements. The new mission focused on eliminating Somali warlord Mohammed Farah Aideed, whose ethnic faction was seen as the primary obstruction to UN humanitarian efforts in the capital. Incoming intelligence reports, however, had cast doubt on Aideed's military capabilities. Subsequently, Aspin, who served as Secretary of Defense at the time, denied the request for additional tactical resources. Shortly thereafter, Aideed's rebels attacked U.S. forces in Mogadishu, killing eighteen and wounding more than seventy-five soldiers. Rebel forces drug the body of a helicopter pilot killed during the attack throughout the streets of the capital. The media captured the incident live on tape, broadcasting it throughout the world. The shocking and

demoralizing defeat had a devastating psychological impact on the American public, and put tremendous pressure on the Clinton administration to get to the bottom of what had gone wrong.

A Senate Armed Services Committee report released in October of that year sharply criticized Aspin's role in the incident, finding that he had rejected sending needed tanks and armored vehicles to Somalia because he feared a political backlash. Senator John Warner, a Virginia Republican who co-authored the report argued that

only compelling military--not diplomatic policy--reasons should ever be used to deny an on-scene commander such a request. Those officials who advocated and approved this policy must bear the ultimate responsibility for the events that followed.⁵⁴

Such reactions ultimately triggered Aspin's resignation as secretary of defense.

"To soften his fall,"⁵⁵ Johnson (2004) argues, Clinton appointed Aspin to chairman of the President's Foreign Intelligence Advisory Board. In this capacity, Aspin felt compelled to form an independent commission to conduct an investigation of the Somalia crisis in order to defend his actions and highlight intelligence failures that put his military forces in harm's way. Aspin, however, died in the first few months of the

⁵⁴ Report of Senate Armed Services Committee: Investigation on Battle of Mogadishu.

⁵⁵ Loch Johnson, "The Aspin-Brown Intelligence Inquiry: Behind the Closed Doors of a Blue Ribbon Commission." *Studies in Intelligence* 48, no. 3 (2004): 1-20, 14.

commission's work, and, as a result, most of the intelligence failures in Somalia were left largely unexplored.

However, according to Britt Snider, the only other staff member to publish an account of the commission process, Somalia was not the driving force for the commission's creation. "The principal motivation," he argues, "was the Ames spy case, which broke in February 1994."⁵⁶ The incident was the most damaging spy scandal in U.S. intelligence history.

Aldrich Ames

In February of 1994, just eight months before the establishment of the Aspin-Brown Commission, FBI agents arrested Aldrich Ames, a thirty-one-year veteran of the CIA, who had spent the last nine years of his employment spying on the United States on behalf of the Soviet Union. At his trial, Ames admitted having compromised "virtually all Soviet agents of the CIA and other American and foreign services known to me" and having provided to the Soviet Union a "huge quantity of information on United States foreign, defense, and security policies."⁵⁷ His activities not only resulted in the death of ten U.S. intelligence agents and compromised over one hundred ongoing intelligence operations in Eastern Europe, the "rolling up" or execution of U.S. spies by the Soviets also hurt future recruiting efforts by putting out a clear and discouraging message to anyone considering a career in spying for the United States that they too might be compromised.

⁵⁶ Snider, L. Britt, "Commentary: A Different Angle on the Aspin-Brown Commission," *Studies in Intelligence* 49, no. 1 (2005), p.1.

⁵⁷ "Aldrich Ames—An Assessment of the Aldrich H. Ames Espionage Case and Its Implications for U.S. Intelligence Senate Select Committee on Intelligence," November 1, 1994, Part One, p.2.

Ames's conduct was under suspicion as early as 1989, yet the insular, ol' boy school culture of the Directorate of Operations kept him protected, allowing him to continue to spy right up until his arrest five year later in 1994. As chief of the Soviet-East European (SE) Division of the Directorate of Operations, the office in charge of Soviet counterintelligence, Ames had access to every Soviet source and method available to the CIA. He made use of his position by selling secrets to the Soviets in return for \$2.5 million--more money than any other spy known to date.⁵⁸

In his testimony Ames explained that what initially prompted him to contemplate espionage was looming financial pressures due to a pending divorce from his first wife. But what was to be a one-time encounter with the Soviets to pay off less than \$15,000 in debt evolved into a nine-year spending spree: expensive cars, extravagant vacations, the purchase of stocks and securities, real estate in his wife's home country, Colombia, a \$540,000 home purchased in northern Virginia with cash. Ames's yearly salary was just under \$70,000, yet such large acquisitions failed to raise eyebrows within the agency. The Directorate of Operations had in fact overlooked a series of red flags that should have placed Ames under suspicion.

The Ames case revealed an officer whose sloppy spy work, problems with alcohol, and outright disregard for the rules had placed the nation's security in jeopardy on more than one occasion during his three-decade long career in the CIA. As a clandestine officer, his performance reviews frequently noted his inability to recruit and develop new assets and his tendency to procrastinate in submitting his financial

⁵⁸ Coming in second would be John Anthony Walker, who after eighteen years of spying for the Soviets, from 1968 to 1986, accumulated just over \$1 million in compensation.

accountings. One superior judged Ames to be a "terminal GS-14," "middleweight" case officer.⁵⁹ Other supervisors dealt with his lackluster performance by promoting him away, or transferring him out of their divisions.

Ames's dismal performance ratings were punctuated by a series of security breaches--few of which received adequate attention by senior managers. Although required by all CIA officers, Ames regularly failed to report foreign travel or meetings with foreign contacts, including his relationship with a recruited Colombian cultural attaché, Rosario Casas Dupuy, whom he eventually married. On at least two occasions he took his new wife to agency "safe houses," threatening the secret identity of clandestine officers and assets who were present. Although some officers complained to higher-ups, no disciplinary actions were taken.

At a conference in Turkey, an officer who had borrowed Ames's personal laptop noticed Ames had stored a large amount of unauthorized classified information on his personal computer. The officer reported it to both the CIA and FBI security, but again, there were no significant repercussions.

Ames received nothing more than verbal reprimands for leaving TOP SECRET communications equipment unsecured in his office and for accidentally leaving his briefcase containing classified information on a New York subway train. Nor did supervisors adequately monitor Ames's drinking problem, despite one of his supervisors describing Ames to a colleague as "one of the worst drunks in the outfit."⁶⁰

⁵⁹ "Aldrich Ames—An Assessment," p.19.

⁶⁰ "Aldrich Ames—An Assessment," p. 20.

Ames's problems with alcohol were evident early on in his career. Within the first two years of service he had been arrested twice for alcohol-related driving incidents. Later, he was caught in a "compromising position" with a female CIA employee after becoming inebriated at an office Christmas party; he was often found sleeping off his drinking habit at his desk after long lunch breaks; and he left behind his wallet after drinking heavily at a CIA-FBI softball game. The wallet not only contained his alias identity but also a series of cryptic notes and classified documents.

Ames instigated shouting matches with foreign diplomats at formal embassy receptions first in Rome, then in Mexico. The latter confrontation was the only incident that prompted actionable response by his superiors. His supervisor recommended he seek alcohol counseling back in Washington. He attended one session, where he convinced the counselor that he was merely a bit "overly enthusiastic" when he drank.

Despite a career fraught with poor working habits and destructive personal conduct, despite the fact that colleagues noticed Ames frequently showed interest in information unrelated to his immediate assignments, and despite giving what were interpreted as "deceptive" answers on two polygraph tests, officials failed to aggressively inquire about Ames's peculiar behavior until well after significant damage had been done. His superiors had become suspicious of Ames's conduct as early as 1989, yet no manager within the DO ever revoked his security clearances or took any other formal action against Ames. In fact, Ames continued to receive promotions and was given access to even more sensitive information even after a joint FBI-CIA investigation starting in 1992 had found enough information to suspect him of his espionage activities.

What is even more troubling is that senior managers were not overlooking minor discretions of an ordinarily stellar career officer. These were perilous transgressions by a “generally unenthusiastic,”⁶¹ mediocre performer.

How could such behavior go virtually undetected for such an extended period of time? A 116-page report by the Senate Select Committee on Intelligence concluded that the CIA's handling of the situation was symptomatic of an agency inundated by bureaucratic inertia, whose employees clung to an ol' boy school network guilty of “gross negligence [sic] in creating and perpetrating the environment in which Ames was able to carry out his espionage activities for nine years without detection.” The CIA was “excessively tolerant of serious personal and professional misconduct among its employees,”⁶² and reluctant to admit that one of its own could be a mole. This was further evidenced by the fact that no senior agency officer in a supervisory role over Ames was fired, demoted, or forced to resign under DCI James Woolsey. Nor did Woolsey support a Senate bill giving the FBI greater authority to conduct investigations of CIA employees once the scandal was revealed.

The political blowback from the counterintelligence failure raised serious doubts about not only the agency's past but also its future as an effective intelligence body. Critical lawmakers such as Senator Patrick Moynihan (D-NY) called for the complete dismantling of the agency, submitting legislation proposing the “Abolition of the Central Intelligence Agency Act of 1995.” The legislation would have effectively transferred the

⁶¹ “Aldrich Ames—An Assessment,” p. 6.

⁶² *Ibid.*, p. 2.

nation's intelligence collection activities to the Department of State.⁶³ It was under this type of pressure, argues commission staff director Britt Snider, that the Commission on the Roles and Capabilities of the U.S. Intelligence Community was created.

Nevertheless, when the commission completed its work, it largely sidestepped the Ames debacle. In a public statement about the commission's work, Chairman Brown claimed that other commissions had examined counterespionage reform and that his panel was not set up in response to the Ames case: "We mention it, but we declined to make it the centerpiece of our examination."⁶⁴

If the IC had failed to predict the collapse of its most significant target in the cold war, how might it improve and refocus its capabilities in order to identify and combat challenges in the post-cold war? If its budgets are shrouded in secrecy, how do American citizens ensure public accountability mechanisms are working? If Somalia offered a window into the new terrorist threat environment, why did the intelligence community fail to peer into it? If the ol' boy network insisted on protecting its own, could we be assured that it was still capable of protecting the rest of us? These are just a few questions that might have been answered by the Aspin-Brown Commission's report. Nevertheless, as the recommendations reveal, the commission failed to establish a clear path for the community gone astray. Instead, it largely shielded national security stakeholders from encroaching reform, while it instead sought to boost morale within the

⁶³ Abolition of the Central Intelligence Agency Act of 1995 (Introduced in the Senate) S 126 IS104th Congress, 1st Session S. 126, January 4, 1995.

⁶⁴ "No Big Changes Sought in Spying; Panel Finds U.S. Needs Agencies," *Washington Times*, March 2, 1996.

wayward community, and supported the private sector stakeholders reliant upon intelligence contracts.

Recommendations of the Aspin-Brown Commission

The commission pinpointed the mounting danger posed by “global crime” as the next major threat to the United States in the post-cold war. It noted the potential danger posed by rogue states and their interest in trafficking weapons of mass destruction. It drew on testimony from counterterrorism experts who warned that terrorism would also pose a substantial threat as “its perpetrators grow more sophisticated and take advantage of new technologies.”⁶⁵ One CIA counterterrorism expert testified that he expected more to come: “aerial terrorism seems likely at some point...filling an airplane with explosives and dive-bombing a target.”⁶⁶ The Aspin-Brown report noted that the deep divide between law enforcement and the intelligence community had hampered their ability to conduct a coordinated intelligence effort in response to such threats. The report further warned that despite major changes in the international security environment, the core missions of intelligence had “remained relatively constant.”⁶⁷ Yet, as the following recommendations reveal, the Aspin-Brown Commission offered little substantive recommendations to improve the situation.

White House: “*Winner*”

⁶⁵ Aspin Brown, chap. 4, p. 37.

⁶⁶ Johnson (2004), p. 9.

⁶⁷ Aspin-Brown, chap. 2, p. 15.

The Aspin-Brown Commission recommended that “each administration should set the guidelines for intelligence activities and, within these guidelines, establish in a timely fashion specific requirements and priorities for the conduct of those activities.”⁶⁸ It did not criticize the administration for failing to do so thus far, nor did it suggest what sort of guidelines should be established or what would be considered “timely fashion.” Though the commission’s recommendation for timely guidelines was vague, it did propose specific and favorable structural changes for the National Security Council and the Presidential Foreign Intelligence Advisory Board. The commission proposed strengthening the National Security Council structure by establishing two internal committees, a “Committee on Foreign Intelligence” and a “Consumers Committee,” to provide consistent advice to the president, and guidance to the Director of Central Intelligence. It also supported the continuance of the PFIAB and recommended enhancing its role in policy guidance.

The commission’s reform suggestions for the White House were subtle. They addressed the president’s daily duties in guiding intelligence policy, and emphasized minor organizational changes, all of which highlighted the president’s role in establishing a clearly articulated intelligence policy for the post-cold war era, while sidestepping the administration’s failure to do so thus far. As such, the White House emerged a winner in the commission’s final outcomes.

Congress: “*Winner*”

⁶⁸ Aspin-Brown, chap. 2, p. 16.

Congress managed to avoid major reform of its oversight mechanism. While the report recognized that the insular nature of intelligence made accountability difficult to manage, it offered no guidance for improved regulation. Despite reports that the Senate's oversight committee was unaware of the NRO's mishandling of funds, the commission expressed confidence in the process, concluding that the Senate and House Intelligence Committees added "practical leverage needed to make oversight effective...by most accounts, the committees provide rigorous and intensive oversight. They have grown increasingly knowledgeable and have remained appropriately skeptical."⁶⁹

By favoring the status quo, the commission balked at the chance to make recommendations to improve congressional accountability measures, therefore allowing Congress to emerge victorious in the final outcomes of the commission.

Department of Defense: "*Winner*"

The commission's tendency to avoid criticism extended into the area of military intelligence. In particular, by not engaging the problems that allowed the Somalia incident to occur, the commission missed an important opportunity to delve more deeply into military intelligence that underestimated the increasing threat of non-state terrorist organizations. The Aspin-Brown report described the critical role played by military intelligence agencies in providing tactical, operational, and strategic support in situations like Somalia by collecting information on the size, capabilities, location, and threat projections of foreign adversaries for use in military operations on the battlefield. The report, however, did not investigate further Aspin's original claims that intelligence

⁶⁹ Aspin-Brown, chap. 14, p. 143.

agencies were largely to blame for underestimating the sophistication of Aideed's firepower and training in guerilla-style warfare.

Aspin's instincts about the intelligence community's shortcomings in Somalia were found to have merit, however. Findings ten years later during the 9/11 Commission revealed that Aideed's fighters had received both training and resources from Osama bin Laden's al-Qaeda network. And that bin Laden had issued a fatwa against the United States in 1992 demanding the eviction of U.S. troops in Somalia. The terrorist network attempted to make good on their threat by exploding two bombs in Aden, a frequent stopping point for U.S. troops en route to Somalia. The attack killed two people, neither of them American troops.⁷⁰

While the Aspin-Brown Commission might have drawn important lessons from the Somalia crisis, it stopped well short of making a deeper inquiry into faulty intelligence that underestimated the threat posed by terrorism. Instead, it recommended little more than moving boxes around on the organizational chart: The J-2 position (Joint Staff Intelligence director) subordinate to the director of the Defense Intelligence Agency and responsible for day-to-day military-related intelligence reporting, should become a permanent intelligence staff officer as part of the Joint Chiefs of Staff. Clandestine recruitment duties carried out by military personnel should be transferred to the CIA. The report shied away from the opportunity to propose substantive improvements,

⁷⁰ See the *9/11 Commission Report*, Staff Statement No. 6-Military.

ultimately concluding that “the Commission had neither the resources nor the time to make a detailed evaluation of these issues, but believes such an assessment is needed.”⁷¹

The Somalia incident offered an important but missed opportunity to shed light on the increasing threat posed by terrorist organizations. Instead, the commission yielded to the office of the secretary of defense, suggesting the office do its own self-examination of its military intelligence agencies: “the Secretary of Defense [should] undertake a comprehensive examination of the analytical and production organizations within DoD.”⁷² “The Commission believes that the decision to continue the present arrangement or to create a separate Assistant Secretary of Defense for Intelligence should be left with each Secretary.”⁷³

The DoD also won the turf battle between its secretary of defense and the CIA’s director of Central Intelligence. Although the report acknowledged some of the major organizational obstacles that challenged the role and authority of the director of Central Intelligence, it largely left the structure in-tact. The commission noted the relatively weak authoritative levers provided the DCI in relation to the secretary of defense, but it rejected proposals that would enhance the position’s authority. It rebuffed suggestions to give the DCI stronger authority over such intelligence community agencies as the National Security Agency, Central Imagery Office (CIO), and the National Reconnaissance Office. Instead, the commission argued that in times of war or crisis, the capabilities are essential to the Department of Defense. Additionally, it would reduce the

⁷¹ Aspin-Brown, chap. 10, p. 110.

⁷² Ibid.

⁷³ Ibid., 111

DCI's authority over the NSA and CIO by elevating the leaders of these agencies to "Assistant Directors" that would report directly to the secretary of defense while offering the DCI little more than an advisory role. The report stated that "both of these Assistant Directors should be given expanded program and budget responsibilities...the DCI should have an opportunity to comment upon their performance."⁷⁴

The commission further recognized the DCI's inability to control budgetary decisions. Intelligence agencies could easily choose to ignore the law requiring them to get DCI approval for budgetary changes. It noted that the "DCI's only remedy is to complain to the President or Congress, hardly a position of strength."⁷⁵ Nevertheless, it recommended against giving the DCI stronger control over the intelligence budget process. Arguing rather that as the majority of intelligence agencies reside within the DoD, and the DoD is the largest single user of national intelligence, the DoD should maintain budgetary control.

The reports also largely overlooked budget improprieties at the DoD's satellite intelligence agency, the NRO. In fact, the report further encouraged conduct like that revealed at the NRO by suggesting giving agency heads *even more* discretion over their own budgets. For example, where the program manager for Imagery Intelligence had control of just 3 percent of its discipline activity, under the commission's plan it would increase to 100 percent control; the NSA director's budgetary authority would increase from 52 percent to 100 percent.⁷⁶ What is more, it seemed to specifically endorse the

⁷⁴ Aspin-Brown, chap. 5, pp. 56-57.

⁷⁵ Aspin-Brown, chap. 5, p. 51.

⁷⁶ Aspin-Brown, chap. 7, p. 76, table 7-1.

conduct that led up to the NRO headquarters scandal in the first place by recommending that individual agencies have more control over how funds are spent: “The DCI should allow for agency-oriented infrastructure programs to fund activities that provide general support to the disciplines (e.g., *CIA Headquarters building*).”⁷⁷

In sum, the commission protected the interests of an already powerful Department of Defense. Its recommendations sidestepped Somalia, defeated the DCI, and essentially supported the potential for scandal in the future. The commission’s failure to adequately confront the issues meant the DoD would secure a win in the final outcomes.

Department of Justice: “*Loser*”

The commission acknowledged that international terrorists, drug traffickers, and organized crime cartels were not inhibited by national boundaries. The increasingly global nature of crime made the Department of Justice (DoJ) a critical element of the national security strategy. It noted the need to establish a “single spokesperson” responsible for law enforcement and stood by the attorney general as the appropriate authority to fulfill the responsibility. Nevertheless, the commission prioritized an intelligence community response over a law enforcement solution in global crime matters. It argued that “the U.S. Government has relied too heavily on law enforcement as the primary response to international wrongdoers.”⁷⁸ Because law enforcement focuses on compiling proof beyond a reasonable doubt, the commission argued, it is difficult, if not impossible, to rein in global criminals who can seek sanctuary abroad. It therefore suggested limiting the attorney general’s role in combating global crime by supporting an

⁷⁷ Aspin-Brown, chap. 7, p. 76. Emphasis added.

⁷⁸ Aspin-Brown, chap. 4, p. 38.

NSC-led Global Crime Committee to direct government actions against national security threats by transnational actors.⁷⁹ Additionally, it rejected a unilateral law enforcement role for the FBI overseas. Instead, it suggested limiting FBI activities abroad to joint operations with the host government, directed by the new NSC-led Global Crime Committee, monitored by the resident U.S. ambassador, and coordinated through the appropriate intelligence agency.

The Aspin-Brown Commission recognized the increasing relevance of the DoJ in combating global crime. Yet it preferred to keep a tight leash on the law enforcement body, and one that was firmly handled by authorities other than the attorney general. As a result, the DoJ emerged as a loser in the Aspin-Brown Commission's final outcomes.

Central Intelligence Agency: *"Mixed"*

The commission produced a mixed bag for the CIA. It offered some minor adjustments to strengthen the office of the DCI. The report suggested the DCI be "consulted" about DoD and other senior official appointments. It recommended giving the DCI increased administrative support by splitting the position of Deputy Director of Central Intelligence into two positions: one explicitly for the intelligence community as a whole, and the other whose primary responsibility would rest solely with managing the CIA. While admitting its recommendations were mild, the report nevertheless concluded that little needed to change: "while not the most dramatic of option available, it was the most sensible one. The Commission believes that the DCI's existing legal

⁷⁹ Aspin-Brown, chap. 4, p. 39.

authorities...are, on the whole, sufficient.”⁸⁰ But sufficient for what? By advising against major structural changes, the commission maintained an office it had already acknowledged was sorely lacking in the authority to command.

The commission also recommended extracting the National Intelligence Council from the CIA. It contended that the current NIC structure inhibited input from experts outside the CIA (e.g., think tank experts, academia) and that a new entity, a National Assessment Center, be established outside the purview of CIA headquarters that could more easily incorporate all sources of information.

As for problems within the CIA’s bureaucratic culture revealed by the Aldrich Ames scandal, the commission barely skimmed the surface. It concluded that the Ames scandal was in large part due to lapses in judgment by senior management at the CIA. It recommended improvements in the selection process and training of management-level employees. Additionally, it suggested that management establish better guidelines for determining what information points to internal breakdowns, and when it needs to be relayed to senior managers.

But the commission heavily downplayed the CIA’s insularity problems. Despite the enormous damage caused by Ames, it largely dismissed the issue, blaming the counterintelligence failure on a few rogue elements that were inevitable within such an agency:

⁸⁰ Aspin-Brown, chap. 5, p. 54.

There have been problems, especially at the CIA, some of which have been substantial. While these episodes are deplorable, using them as an excuse to justify cutting back or eliminating intelligence capabilities is a leap the Commission is unwilling to make. Problems are, to some degree, unavoidable where intelligence activities are concerned. ...Operations will, on occasion, be compromised despite reasonable precautions being taken.⁸¹

Confident this sort of security breach was not the norm, the report recommended rotating employees out of the DO and into other sensitive areas of intelligence within the CIA and beyond. It argued that encouraging DO officers to interact with other elements of intelligence would mitigate the insularity problem that allowed Aldrich Ames to pass secrets to the Soviets for nine years.⁸² Though increased interaction might encourage more understanding and tolerance between branches of the CIA in addition to other national security agencies, the commission's suggestion did little to address the fact that rotating employees such as Ames could also risk increasing the level of penetration by one successful mole.

Further allegations of wrongdoing were revealed during the commission's tenure including claims that the CIA was working with governments that engaged in human rights abuses, that the agency lied to Congress, and that the agency had engaged in economic espionage against French private sector companies. Nevertheless, the commission worried more about the effect such claims would have on the IC's

⁸¹ Aspin-Brown, chap. 1, p. 3.

⁸² Aspin-Brown, chap. 6, p. 67.

increasingly battered reputation: “These incidents color the public’s perception of U.S. intelligence overall.”⁸³ It further defended the agency:

Criticism of the CIA’s performance must be assessed in the overall context of its work. The DO has recruited numerous human sources over the years who have provided unique and significant information for the U.S. Government.Despite some prominent exceptions, the great bulk of the CIA’s collection operations have not been compromised. In short, the CIA has had, and continues to have, important successes in an extremely difficult, highly risky, business.⁸⁴

Its findings did not probe far into problems with CIA’s bureaucratic culture that allowed this behavior to flourish. Instead, it emphasized numerous intelligence successes:

Over the last five years conflicts have been avoided, wars shortened, agreements reached, costs reduced, lives saved as a result of the information produced by U.S. intelligence. ...While [the intelligence] apparatus is expensive and will from time to time be a source of embarrassment, even consternation, the Commission has no difficulty reaching the conclusion that it is justified.

⁸³ Aspin-Brown, chap. 6, p. 61.

⁸⁴ Aspin-Brown, chap. 6, p. 63.

The commission praised the achievements of most intelligence employees and further recommended that employees in the analysis section be offered more travel and educational opportunities, as well as rotational assignments in the policy offices for the departments they serve.⁸⁵ Notably, however, it did use this opportunity as a way to rid the IC of poor performers. The commission acknowledged that pressures to reduce intelligence spending would affect the future roles and capabilities of the community and targeted personnel as a way of trimming the budget. It proposed a one-time “right-sizing” of the IC writ large, which included pruning the employee roster and the infrastructure that supported these employees (e.g., warehouse space, communications, security, and training). Though it did not specify the CIA, the agency would no doubt face reductions at the expense of the increasing technological procurement at the DoD.

Cutting the employee roster could kill three birds with one stone: it would purge the IC of its ‘sources of embarrassment’ like Aldrich Ames; reduce intelligence spending; which would in turn allow the costly technological side of intelligence (largely DoD agencies) to remain in-tact. The commission argued that if the IC did not trim its workforce, agencies’ missions would be seriously jeopardized because “growing amounts allocated to meet the payroll have crowded out investments in new technologies and limited operational flexibility.”⁸⁶

The Aspin-Brown Commission’s conclusions about the CIA were decidedly mixed. On the one hand, the recommendations allowed the agency to shield its “old boys” network from reform, as the commission downplayed the effect of the Ames spy

⁸⁵ Aspin Brown, chap. 8, p. 87.

⁸⁶ Apin-Brown, chap. 9, p. 94.

scandal. Recommendations also acknowledged the need to improve on the skills of its cadre of analysts. On the other hand, the fact that the DCI gained little ground with respect to the secretary of defense, would lose control of the NIC, and that CIA would be subjected to personnel purges to accommodate technical budgets meant that the agency would be increasingly vulnerable in the new post-cold war environment.

Private Sector: “*Winners*”

Aspin-Brown advocated trimming employee rosters as a way to lower spending, yet it avoided cuts to technological programs--an area that absorbs billions of dollars of the intelligence budget and is largely serviced by the private sector. The report highlighted space technology as a major, though admittedly expensive, component of the intelligence apparatus. It suggested creative ways to fund the technological side of intelligence by sharing the cost burden with U.S. allies. The commission suggested increased coordination and sharing of satellite technology, which it argued would also enhance intelligence gathering by expanding the scope of imagery coverage. Yet the commission noted an obstacle to its proposal. Under Presidential Decision Directive 23 (PDD-23), the federal government maintained “shutter control” over commercial imagery systems, meaning that in the interests of national security, any private sector technology sold to foreign entities was still partially regulated by the United States. The commission argued that this policy impeded the commercial technology sector’s ability to remain competitive in the global market and recommended a “re-examination” of PDD-23. It further supported commercial technology by recommending increased reliance on private sector firms for the IC’s imagery needs:

There is apt to be a wider range of imagery products available by the end of the decade, given the ability of industry to build lower cost satellite systems using off-the-shelf components in assembly-line fashion. While the quality of the products cannot, as of yet, be determined, it appears their costs will be lower than the products derived from intelligence systems.

Additionally, the report promoted the private sector by recommending government support for the industry:

U.S. firms contemplating entry into the market for commercial imagery systems will be driven by potential profitability. Whether or not the U.S. government is a customer will be a significant factor in their business decisions.⁸⁷

Few would argue that spy satellites and high-tech encryption systems are unnecessary elements of the intelligence gathering process. Yet while the commission pointed out limitations and problems plaguing the human element of intelligence, it ignored technological challenges. The nation's spy satellite intelligence agency, the NRO, for example, had been criticized for failed leadership, bungled technical assessments, repeated engineering and testing failures, and massive cost overruns that

⁸⁷ Aspin-Brown, chap. 11, p. 120.

cost taxpayers billions of dollars and jeopardized national security.⁸⁸ It was also well known that the nation's communication intercept intelligence agency, the NSA, suffered from lack of leadership and accountability.⁸⁹ Furthermore technological mishaps in the private sector were a problem, like that in August 1993, where a Martin Marietta Titan rocket carrying an \$800 million Parcae satellite blew up seconds after liftoff.⁹⁰ The commission made no mention of such incidents in its final report. Instead, it recommended increased tech budgets, throwing money at an area plagued with its own set of problems.

State Department: "*Loser*"

U.S. embassies and consulates are at the forefront of the national security apparatus. Herman Cohen, a representative from the American Foreign Service Association, and one only seven witnesses allowed to testify in public, lamented that while over half of intelligence is gathered by standard Foreign Service reporting, because they are not national security agencies the embassies and consulates responsible are subject to deep budget cuts. The commission, nevertheless, excluded the State Department altogether. Chairman Brown largely dismissed Cohen's concerns, saying, "I am not sure we can make any recommendations that will be terribly useful in solving [deep budget cuts]. But we will pay some attention to it."⁹¹ In fact, if Brown had made reform recommendations for the State Department, he likely would have proposed

⁸⁸ See Jeffrey Richelson, "America's Secret Spy Satellites Are Costing You Billions, But They Can't Even Get Off the Launch Pad" U.S. New & World Report, August 11, 2003.

⁸⁹ Policy and Oversight Report, Intelligence Review Directorate Final Report on the Verification Inspection of the National Security Agency Report Number IR 96-03 February 13, 1996.

⁹⁰ Richelson (2003).

⁹¹ Testimony of Herman Cohen, Hearing on the Roles and Capabilities of the United States Intelligence Community, January 19, 1996, p.3.

placing yet another source of intelligence under DoD control: “It is too bad, in some ways, that the State Department budget cannot be hidden away in the defense appropriation process that has been so useful for the CIA.”⁹² Though State Department officials provide vital information about threats abroad, the Aspin-Brown Commission largely overlooked the department as a critical tool in the U.S. intelligence arsenal.

Advocate Stakeholders: “Losers”

Both the Ames spy case and the intervention in Somalia produced casualties and subsequently would have been of concern to advocates who were family members of the victims. However, the commission’s recommendations largely defended the CIA during the Ames case and bypassed military intelligence failures in Somalia.

Though the commission did recommend the disclosure of the intelligence budget, fiscal watchdog groups who monitor policymaking for potential corruption would have been disappointed by the commission’s failure to the lackadaisical approach by Congress to the NRO budget scandal and its tendency to favor the defense industry. As a result, advocate stakeholders would be considered losers in the Aspin-Brown Commission’s final outcome.

In sum, the Aspin-Brown Commission’s recommendations signified key wins and losses for stakeholders interested in intelligence policy outcomes. The following chart summarizes each stakeholder group’s win/lose status:

Chart 2.1 Aspin-Brown Win/Lose Chart

Stakeholder Group	Status

⁹²Ibid.

Congress	Win
DoD	Win
White House	Win
CIA	Mixed
DoJ	Lose
State Department	Lose
Private Sector	Win
Advocates	Lose

If the Aspin-Brown Commission operated without a significant amount of public scrutiny the study predicts the following trend of access by the stakeholder groups under study:

Chart 2.2 Aspin-Brown Win/Lose Chart Predicted Access

Stakeholder Group	Status	Predicted Access
Congress	Win	High
DoD	Win	High
White House	Win	High
CIA	Mixed	Medium
DoJ	Lose	Low
State Department	Lose	Low
Private Sector	Win	High
Advocates	Lose	Low

Conclusion

The commission was charged with establishing a comprehensive review of the entire intelligence apparatus in an effort to transform an ailing vestige of the cold war. Few of the commission's recommendations, however, focused on the problems that had motivated the commission's creation in the first place. The commission acknowledged that the lack of a clear, coordinated vision hampered effective intelligence gathering and that the IC had not kept pace with a changing national security environment. Yet the

final report offered little in the way of specific recommendations that would address the emerging threat environment. Instead, it largely recommended maintaining the cold war relic for fear that admitting weakness might justify calls by lawmakers to dismantle the intelligence apparatus altogether.

The commission broached the subject of intelligence abuses and noted the existence of an organizational structure that allowed for the misappropriation of funds. It promised systemic changes to reduce the number of such episodes. Its recommendations not only failed to offer substantial solutions, they seemed to almost further encourage such behavior, and largely treated the discovery of such scandals as reason to defend the demoralized security apparatus instead of an opportunity to induce change.

Instead of focusing on structural problems endemic to the IC, which impeded the DCI's capabilities to effectively manage the community, the report pandered to the interests of the secretary of defense. It also avoided addressing problems endemic in the agency's bureaucratic culture that allowed counterintelligence breaches to occur, by instead supporting deep cuts in personnel. By doing so it encouraged transferring spending from human efforts to reconnaissance satellite programs that cost taxpayers billions of dollars and whose value is frequently questioned.⁹³

After so much time, money, and effort, why did the Aspin-Brown Commission produce such lackluster results? One possibility is that the commission was co-opted by interest alliance participants who sought parochial gains at the expense of real reform. I

⁹³ Experts question the value of imagery intelligence, for example, in detecting chemical and biological weaponry as the facilities used for developing such programs can exist inside commercial buildings with no suspicious signatures. An accurate intelligence analysis would require the on-the-ground intelligence (HUMINT) be used in conjunction with imagery intelligence.

argue that in the absence of public scrutiny, interest alliance participants, who largely desired the status quo, dominated the process. Stakeholder groups seeking substantive reform failed to achieve adequate access and were thus unable to focus the agenda on other relevant issues of concern. The following chapter tests this hypothesis by first examining the level of public interest in and access to the commission process. It then analyzes participant activity to determine whether the personal and professional interests of a select few might have shaped the debate.

Chapter Three

The Aspin-Brown Commission: Case Study Analysis

The official mandate of the Commission on the Roles and Capabilities of the United States Intelligence Community aimed at looking for ways to reform the ailing national security apparatus with the help of a “credible, independent, and objective review of the Intelligence Community.”⁹⁴ The “unofficial” mandate, however, seemed to be anything but objective. In this chapter I use three sources of data to examine the Aspin-Brown Commission’s decision making process: (1) published insider accounts of the commission; (2) personal interviews with four commission participants (one commissioner and three staff members); and (3) an examination of the biographical affiliations of those involved in the commission process. I conclude that, at least to some degree, interest alliance participants, who were not focused on proposing significant

⁹⁴ House Permanent Select Committee on Intelligence: U.S. Congress. House. Intelligence Authorization Act for Fiscal Year 1995, 2d sess., 103d Congress, Report 103-753, September 27, 1994.

intelligence reforms, dominated the roster of commissioners. Additionally, some stakeholders focused on achieving career advancement by supporting weak recommendations that largely maintained the intelligence status quo. Others sought the preservation of their political and bureaucratic power by proposing recommendations that, for the most part, promoted high-technology solutions and shielded the Department of Defense from DCI encroachment.

In reviewing intelligence practices, the commission initially aimed for a thorough examination of the intelligence community's organizational structure and its future role in the nation's national security apparatus. The commission's seventeen members received formal testimony from eighty-four witnesses in closed session and its eighteen-member staff interviewed over two hundred other individuals, most of whom had backgrounds or expertise that were to some extent related to intelligence policy.⁹⁵ Members of the commission also visited intelligence agencies and military commands in Australia, Canada, Great Britain, Europe, Israel, and the Far East, and reviewed a large number of written opinions and past studies on intelligence issues. At the end of its deliberations it selected seven of its witnesses to testify during the panel's sole public hearing.

One year later and after over two million dollars had been spent, the Aspin-Brown Commission nevertheless failed to impress. The chairman, Harold Brown, boasted to officials on Capitol Hill that the commission's recommendations would make a significant impact: "By significant, I refer to the number of persons who will be upset:

⁹⁵ The staff also included four others, three from the RAND Corporation and one from the President's Foreign Intelligence Advisory Board, who served in an advisory capacity on a periodic basis.

the more outcry the more significant the recommendation.”⁹⁶ The only outcry, however, was from critics of the report who complained that it did not go far enough. They found its recommendations to be “underwhelming”⁹⁷ and lacking in imagination. They argued that the commission’s report was a “cosmetic touchup” that offered precious little new information about the community’s blemishes.⁹⁸ The report acknowledged weaknesses previously signaled as impediments to better intelligence gathering, such as the need for stronger authoritative levers for the Director of Central Intelligence, and badly needed improvements for human intelligence activities. However, the bulk of the commission’s recommendations focused on “soft” targets, such as minor adjustments to the office of the DCI, improving the public’s view of the intelligence community, the sale of private industry spy satellites to foreign nations, and cutting costs by closing underutilized warehouse facilities around the D.C. area. Critics argued that such modest recommendations did not get to the core of the problem.

A 1996 *New York Times* op-editorial piece by intelligence critic Tim Weiner complained that, by avoiding the difficult issues, the commission had “the spine of a rag doll.”⁹⁹ Tellingly, one of its own staff members interviewed for this study opined that its legacy was to be “a footnote to history at best.”¹⁰⁰ After so much time, money, and effort, why did the commission produce such lackluster results? Understanding the

⁹⁶ Loch Johnson, “The Aspin-Brown Intelligence Inquiry: Behind the Closed Doors of a Blue Ribbon Commission,” *Studies in Intelligence* 48, no. 3 (2004), 14.

⁹⁷ Tim Weiner, “Presidential Commission Recommends Shrinking Intelligence Agencies,” *New York Times* (March 1, 1996), A17.

⁹⁸ “I Spy a Makeover; The Problem Is That U.S. Intelligence Needs More Than a Cosmetic Touchup,” *Washington Post*, March 24, 1996.

⁹⁹ “Spy Pabulum,” *New York Times*, March 2, 1996, E14.

¹⁰⁰ Personal interview with commission staff member, November 18, 2005.

amount of public scrutiny afforded the Aspin-Brown Commission might help elucidate how the commission drew its conclusions by first discerning who had access to the debate.

The Aspin-Brown Commission did not attract significant public scrutiny, as few major newspapers covered the commission. If a Lexis Nexis search of major newspapers serves as any indication of the level of public interest, a search for the term “Aspin-Brown Commission” generated just three “hits” from the time of its establishment in 1995 to the day before the September 11, 2001 attacks. A search of its formal title, the “Commission on the Roles and Capabilities of the United States Intelligence Community,” produced just twelve more major newspaper articles. While admittedly a quick and dirty assessment, in terms of the total number of articles released by all major newspapers, the number is significantly minimal. For example, a 2002 Harvard study estimated that in any given year, the *New York Times* and the *Washington Post*, just two of the major news outlets included in the LexisNexis search, produce some 26,000 combined articles. With just fifteen articles referencing the Aspin-Brown Commission between 1995 and 2001, it is clear that the commission was not on the front burner of American public interest stories.

Further supporting the point, a staff member interviewed for this study observed that although the stature of the commission’s members perked the interest of academics and experts, the lack of media attention kept out the general public.¹⁰¹ The lack of media

¹⁰¹ Personal interview with staff member, May 8, 2006.

attention drawn to the Aspin-Brown Commission supports the contention that the commission failed to adequately capture the public's interest.

The commission itself did little to open its forum to public debate.

Commissioners kept an assistant on staff specifically for media releases in order to keep the media up-to-date on commission activities, yet only one of fourteen hearings was held in public. Out of over two hundred witnesses and interviews, the testimony of only seven individuals was widely released, making it difficult for the media to monitor and provide commentary on the proceedings. Nor did the commission release any other documents, transcripts, or details of the decisionmaking process.

The commissioners seemed to have preferred minimal attention to their activities, and only that which offered the *appearance* of interest in public accountability. This is further supported by comments made by commissioners themselves. According to Loch Johnson's insider account, commissioner Warren Rudman would remind his colleagues during deliberations that "we have to sell this report to the public and the media," but he also considered press releases merely a "self-protective exercise" so the commission could claim a certain degree of openness to outside views.¹⁰² Additionally, a commissioner interviewed for this study stated that Aspin-Brown had a specific constituency--Congress and the intelligence community. This further supports the point that the commission's focus was not on attracting the interest of the general public.

The commission, however, cannot be fully blamed for the relatively low level of public scrutiny, as the issues that prompted the establishment of the commission in 1995

¹⁰² Johnson (2004), 12.

did not directly affect most Americans. First, although the end of the Communist threat was a defining moment in geopolitical history, the cold war went out in a whimper, not a bang. Instead of a global nuclear holocaust, the Soviet Union had silently (and relatively neatly) imploded. And while the crisis in Somalia and the NRO and Ames scandals initially made front-page news, these incidents did not tend to resonate long in most minds--save watch-dog advocate groups and those most directly affected (e.g., victim's family members). Testimony by former National Security Advisor Brent Scowcroft supports the point that the commission suffered from a lack of public urgency:

There was another commission on defense management during the Reagan years that attracted little public interest, because the subject didn't seem urgent. Your commission suffers from the same lack of interest.¹⁰³

Like Reagan's defense management commission, the Aspin-Brown Commission was working in the absence of a sense of crisis that might galvanize public interest.

Second, the general public was disinterested in the arcane organizational aspects of intelligence dealt with by the commission. Although such details were crucial for sustaining an effective intelligence apparatus, commissioners recognized that the topics discussed in the commission's deliberations would fail to get noticed. Commissioner Wyche Fowler noted:

¹⁰³ Johnson (2004), 11.

These people [commissioners] don't understand that the press and the public are going to be interested mainly in accountability, covert action, and counterintelligence, not dry, sterile treatises on bureaucratic changes-- moving boxes from here to here.¹⁰⁴

Furthermore, a staff member interviewed observed that "timing is everything,"¹⁰⁵ and the fact that the commission's report was released in the middle of a budget cycle and during a domestic policy-focused election year meant few would be interested in its findings. A combination of these factors no doubt led to the dearth of significant public interest.

As the commission was free to work in relative isolation, it may have created an opening for interest alliances to influence its outcomes. The hypotheses presented in chapter 1 contend that if the commission process occurs out of the public's eye, the commission participant roster will likely be dominated by winner stakeholder groups. The following section thus examines commission members and witness participation for potential interest alliance activity. It identifies individuals by the expertise for which each was chosen for the commission, and their affiliations both during the commission and up to two years after its end. When available, it also analyzes published comments made by participants during deliberations. In addition, it incorporates insights from the four commission participants who agreed to be interviewed for this study.

¹⁰⁴ Ibid., 16.

¹⁰⁵ Personal interview with staff member, May 30, 2006.

The chapter also seeks to determine whether a stakeholder group’s status as a winner or loser in the final report corresponds with stakeholders’ ability to access the commission process. If the hypothesis is correct, we would expect to see that the winning stakeholder groups categorized in the previous chapter (the DoD, private sector, White House, and Congress) were well represented, while loser stakeholder groups (the DoJ, State Department, and advocates) did not have adequate access. The previous chapter determined that the CIA produced a mixed result: recommendations largely defended the agency instead of criticizing it, yet maintained a weak director of Central Intelligence compared to the secretary of defense. We might thus predict that agency stakeholders were able to penetrate the process to some degree, though not enough to counterbalance a strong showing by the DoD. The following chart revisits access predictions:

Chart 3.1 Aspin-Brown Win/Lose Predictions Revisited

Stakeholder Group	Status	Predicted Access
Congress	Win	High
DoD	Win	High
Executive	Win	High
CIA	Mixed	Medium
DoJ	Lose	Low
State Department	Lose	Low
Private Sector	Win	High
Advocate	Lose	Low

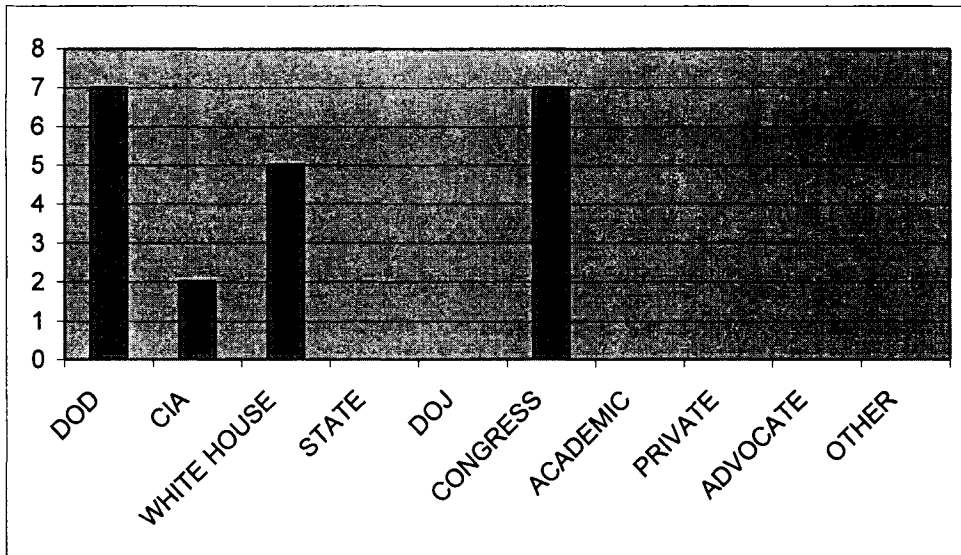
The Selection Process

The Aspin-Brown Commission's authorizing legislation required that the member roster be bipartisan and balanced by perspectives from intelligence experts and from individuals who did not have intelligence experience.¹⁰⁶ The commission's seventeen members consisted of eight congressional appointments and nine presidential appointments. Of the congressional appointments, four were to be appointed by the House and four by the Senate. 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. Who were the participants? How were they selected? In what industries did they work during and after the Aspin-Brown Commission? And what personal or professional interests might have been served by their involvement?

The commission member roster can be grouped into four categories: (1) congressional commission members seeking gains for intelligence-related constituents; (2) former members of Congress who no longer needed to protect constituents, but who might have had private careers to consider; (3) former "techies" from the Department of Defense, who may have been influenced by calcified institutional biases, and who may also have promoted policies that rewarded their private sector careers; and 4) commission members seeking political paybacks as presidential appointees.

¹⁰⁶ See the Aspin-Brown Commission, appendix E.

Chart 3.2 Aspin-Brown Commissioner Credentials



According to the commission's official list of biographies, the majority of commissioners had expertise based on their service in Congress, the Department of Defense, or the White House. Seven members (39%) had congressional experience. The four incumbent Congress members were the only participants currently serving in government; the seven DoD representatives (39 %) included three former NSA officials; though two members (11 %) had CIA experience, the experience was early on in both careers; five (28 %) served on President Clinton's Presidential Foreign Intelligence Advisory Board and thus possessed significant political ties to the president. A brief biographical sketch of these members during and up to two years after their involvement shows that the bipartisan roster was packed with both private and public citizens whose professional and/or political goals were met by serving on the commission.

Congress Members

Seven out of eighteen commission members had extensive congressional backgrounds. The incumbents were Senators John W. Warner (R-Virginia) and J. James Exon (D-Nebraska) and Representatives Norman D. Dicks (D-Washington) and Porter Goss (R-Florida). Former members included Senator Warren B. Rudman (R-New Hampshire), Representative Anthony Coelho (D-California) and Senator Wyche Fowler Jr. (D-Georgia). This might explain in part why the commission chose to exclude congressional oversight reform in its final report. What is more significant is that these members might have utilized the independent advisory commission to support interest alliance relationships with the private sector. Data compiled by the Center for Responsive Government indicates that at least two incumbents--Senator John Warner and Representative Norm Dicks--had constituents that would be directly affected by decisions made about intelligence reform.¹⁰⁷

Published insider accounts and personal interviews with participants conducted for this study support the point that as a Virginia-based senator, John Warner had two political bases to keep in mind while serving on the Aspin-Brown Commission: the intelligence community and the defense contractors that serve them. Having close ties to the intelligence community, Warner made no attempt to hide the fact that his primary interest was “‘to rebuild the political consensus’ in support of the CIA.”¹⁰⁸ Britt Snider’s insider account also recalled Warner’s objective: “our goal is to sell intelligence. We

¹⁰⁷ See the *Center of Responsive Politics*, a non partisan, non profit research group based in Washington, D.C., that tracks money in politics and its effects on elections and public policy. The center conducts computer-based research on campaign finance issues for the news media, academics, activists, and the public at large; www.opensecrets.org.

¹⁰⁸ Johnson (2004), 3.

have to establish a political consensus in this country favoring intelligence.”¹⁰⁹ A staff member interviewed for this study further volunteered the opinion that “Warner needed to support the intelligence agencies for his own political interests.”¹¹⁰ Loch Johnson also notes that Warner

had an agenda in mind rather different from Aspin’s...the senator looked to...buoy up the CIA (based in Langley, Virginia and part of his constituency), whose morale had dipped dramatically with the revelation of Ames’ treachery.¹¹¹

Senator Warner’s agenda did not exactly match the commission’s formal mandate. Instead, Warner wanted to steer the commission’s agenda away from addressing the initial problems (the IC’s lack of vision, the NRO scandal, the Somalia crisis, and the Ames spy scandal) that had led to the commission’s creation. He frequently commented about the importance of boosting the IC’s image: “Remember the underlying reason for the commission--to restore confidence in intelligence.” To further boost the IC’s morale, Warner sought to protect the community from drastic budget cuts:

A few of us were desperately concerned that someone was going to go in and cut up the intelligence budget. This commission was meant to stop that—and it has

¹⁰⁹ Britt Snider, “Commentary: A Different Angle on the Aspin-Brown Commission,” *Studies in Intelligence* 49, no. 1 (2005): 16.

¹¹⁰ Personal interview with staff member, May 30, 2006.

¹¹¹ Johnson (2004), 3.

succeeded. Our mission is to explain to the American people that intelligence is important.¹¹²

Warner was not only looking out for the IC but also for his defense industry constituents. Data compiled by the Center of Responsive Politics reports significant campaign contributions to Warner from the defense industry during the two election cycles during which the commission was active.

Figure 3.1

**John W. Warner (R-VA)
Contributions by Sector
1994 Election Cycle**

¹¹² Ibid., 9.

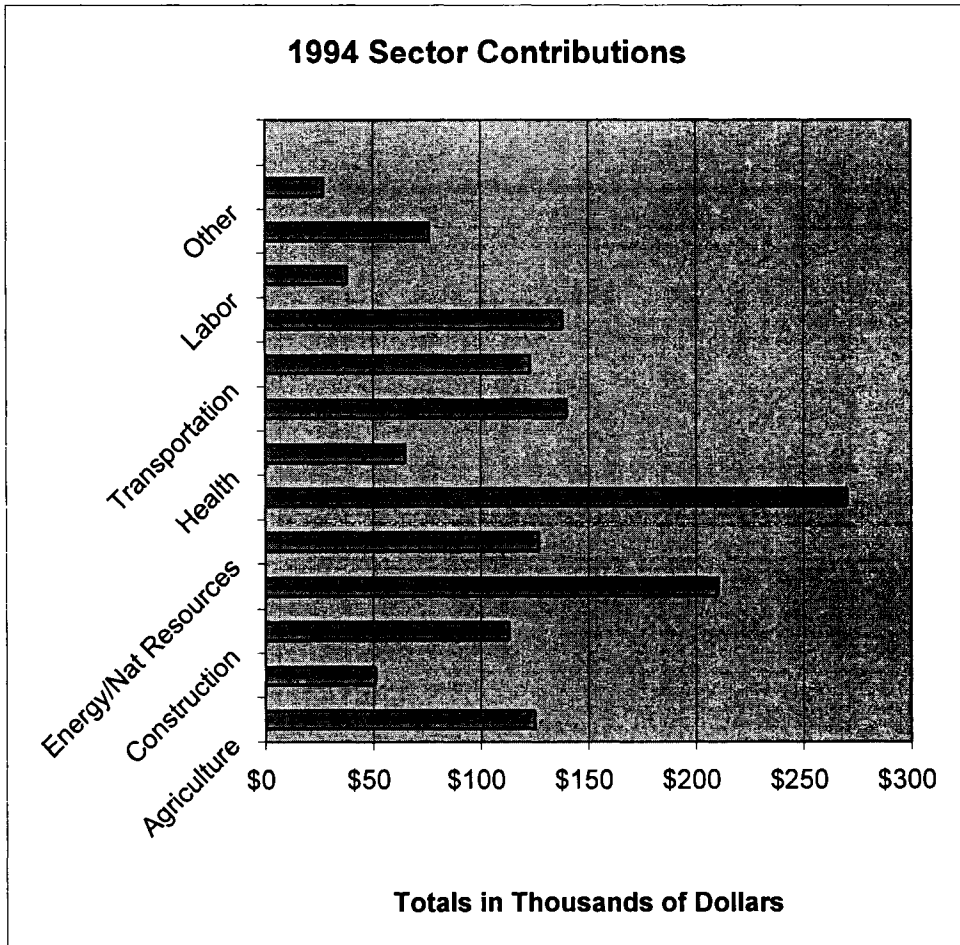
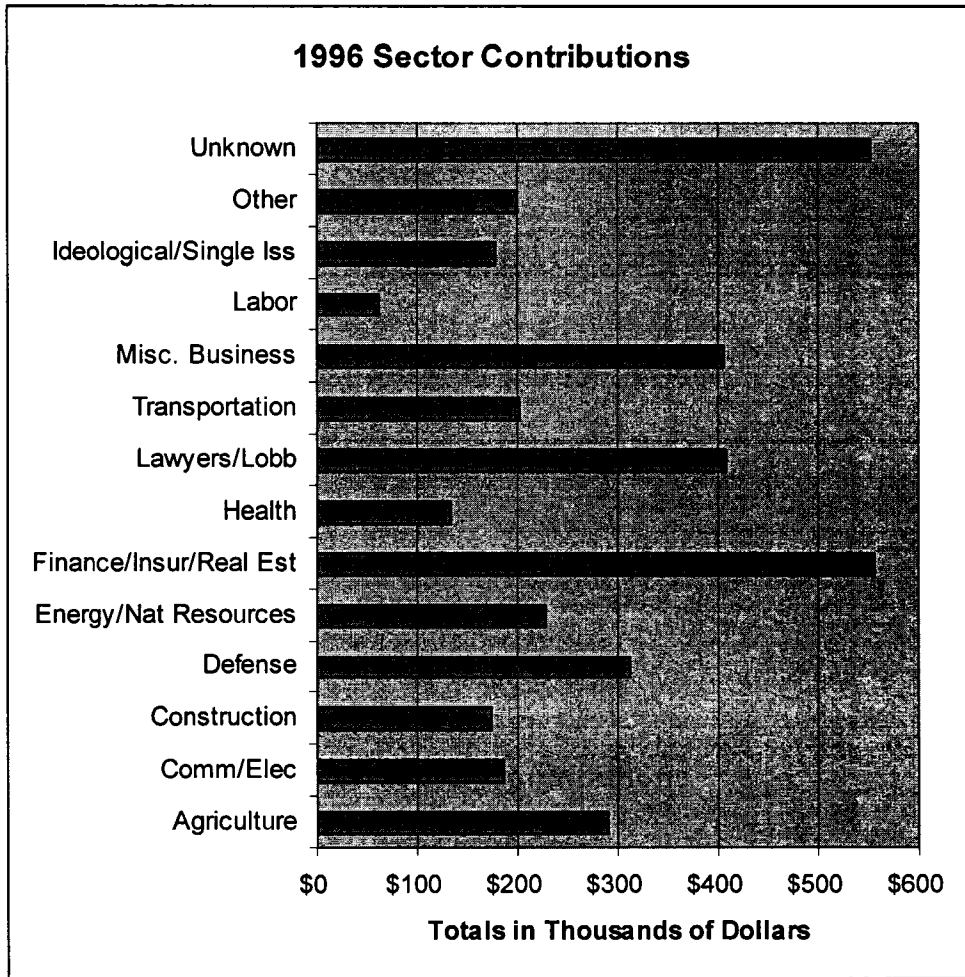


Figure 3.2
John W. Warner (R-VA)
Contributions by Sector
1996 Election Cycle



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¹¹³ See the Center for Responsive Politics, <http://www.opensecrets.org/1996os/sector>. The totals on these charts are calculated from PAC contributions and contributions from individuals giving \$200 or more, as reported to the Federal Election Commission for that particular election cycle.

At over \$200,000, the defense industry was Warner's second largest contributor in the 1994 election cycle. Organized Political Action Committee (PAC) contributions from the defense industry topped all other contributions from PACs. Defense sector contributions increased to over \$300,000 in 1996. PAC contributions by such powerhouses as Boeing, Lockheed Martin, and Northrup Grumman--all active in developing products for the intelligence community--tied the top tier of Warner's list of PAC donors. The amount contributed by the defense industry in 1996 by individuals was overshadowed by contributions from individuals from the financial sector, lobbyists, and miscellaneous business.

It cannot be ruled out, however, that the large amount of "unknown" contributions came from intelligence-related companies. According to the Center For Responsive Government, data compiled includes contributions from those with no information about the donor's occupation or employer, or information so vague--like "businessman" or "self-employed"--that no code could be applied. It also includes contributions where the employer is listed, but there was not enough information about the business's economic interests to categorize it as well as others that may not be listed in any phone books, business guides, or other resources, so their economic interests remain unknown. While admittedly speculative, intelligence is an area notoriously difficult to track, as companies or individuals dealing in national security products might easily have utilized "front names" in order to do business.

Senator Warner was not the only Congress member with constituents directly affected by intelligence policy recommendations. Johnson notes that congressional

commission member Norm Dicks “represented a district in Washington where spy satellites were built.”¹¹⁴ As the following figures indicate, Dicks relied heavily on such relationships and thus also may have looked for ways to protect the industry’s interests during the commission process.

Figure 3.3
Norman Dicks (D-WA)
Contributions by Sector
1994 Election Cycle

¹¹⁴ Johnson (2004), 15.

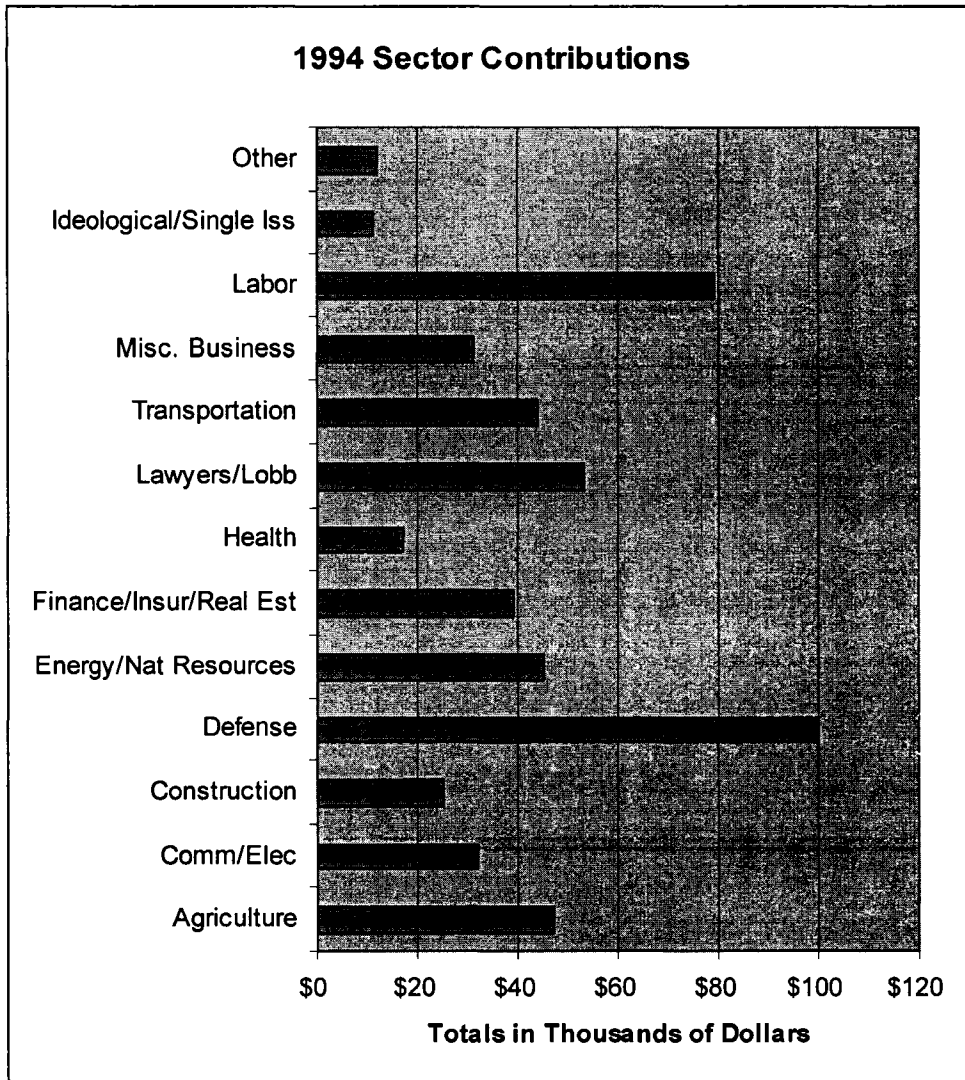
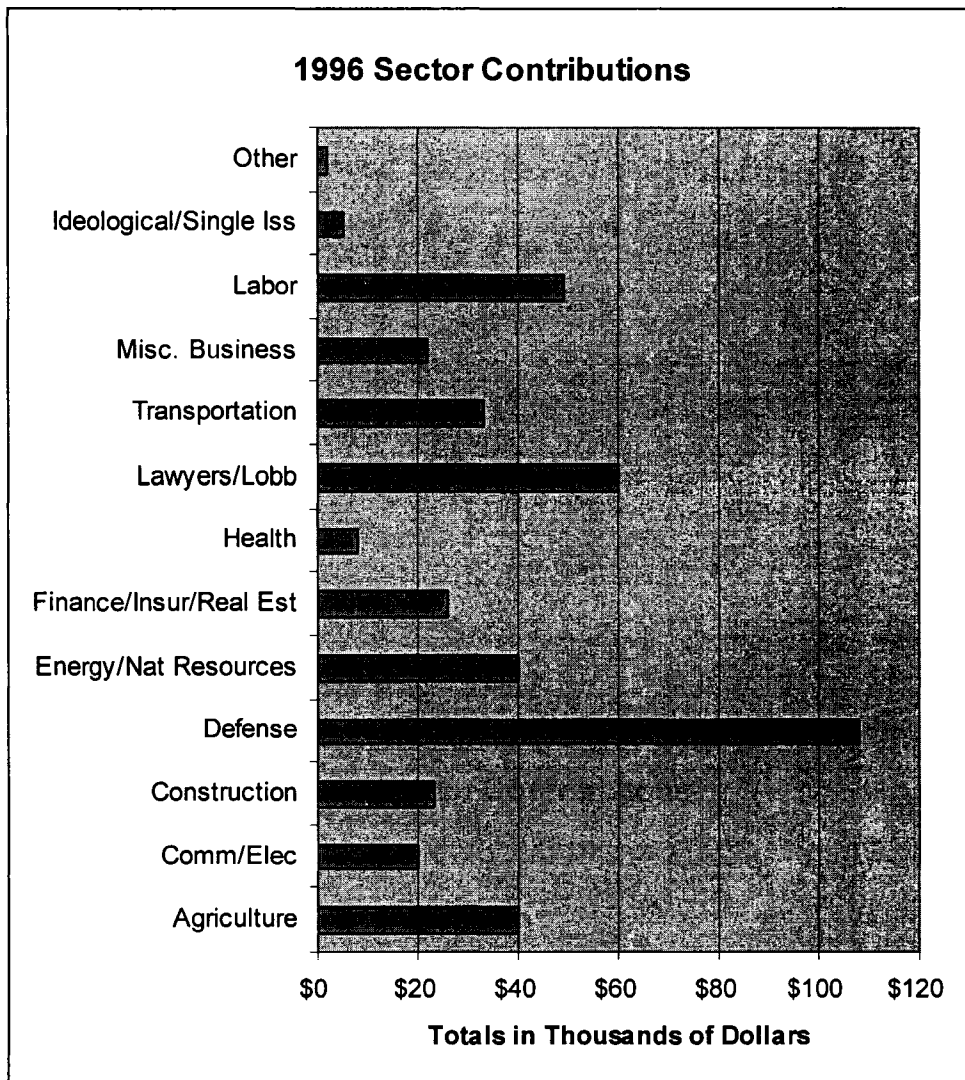


Figure 3.4
Norman Dicks (D-WA)
Contributions by Sector

1996 Election Cycle



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Defense sector money far surpassed any other contributors to Dick's election campaigns during the two election cycles in which the commission was active. And like Warner's campaign donor profiles, space technology firms such as Boeing, Northrup Grumman, and Lockheed Martin were at the forefront. A major recipient of defense sector contributions, Dicks might have recognized that decreased intelligence spending

¹¹⁵ See The Center for Responsive Politics, <http://www.opensecrets.org/1996os/sector>. The totals on these charts are calculated from PAC contributions and contributions from individuals giving \$200 or more, as reported to the Federal Election Commission for that particular election cycle.

would translate into empty coffers for his constituents. As might be expected, the representative's commentary on intelligence budget cuts coincided with that by Warner: "[W]e ought to stabilize intelligence, not cut it."¹¹⁶ Like Warner, Dicks was aware that IC budget cuts might cut funds needed to maintain the sophisticated hardware developed by such private contractors.

While the data show that the political stakes were high for incumbents Warner and Dicks, it is difficult to make the same argument for Representative Porter Goss. At first glance, Goss does not appear to be a major recipient of campaign contributions from the defense sector during either election cycle.

Figure 3.5
Porter Goss (R-FL)
Contributions by Sector
1994 Election Cycle

¹¹⁶ Johnson (2004), 15.

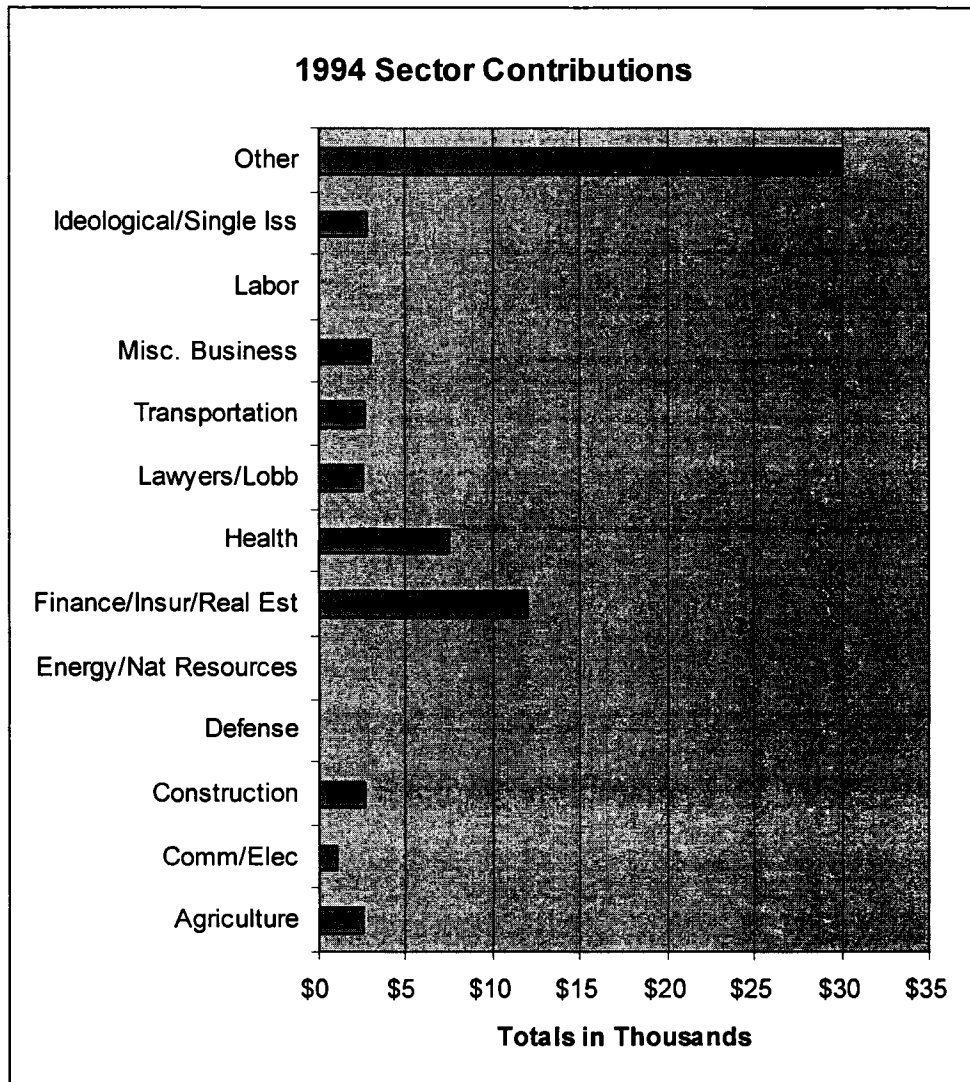
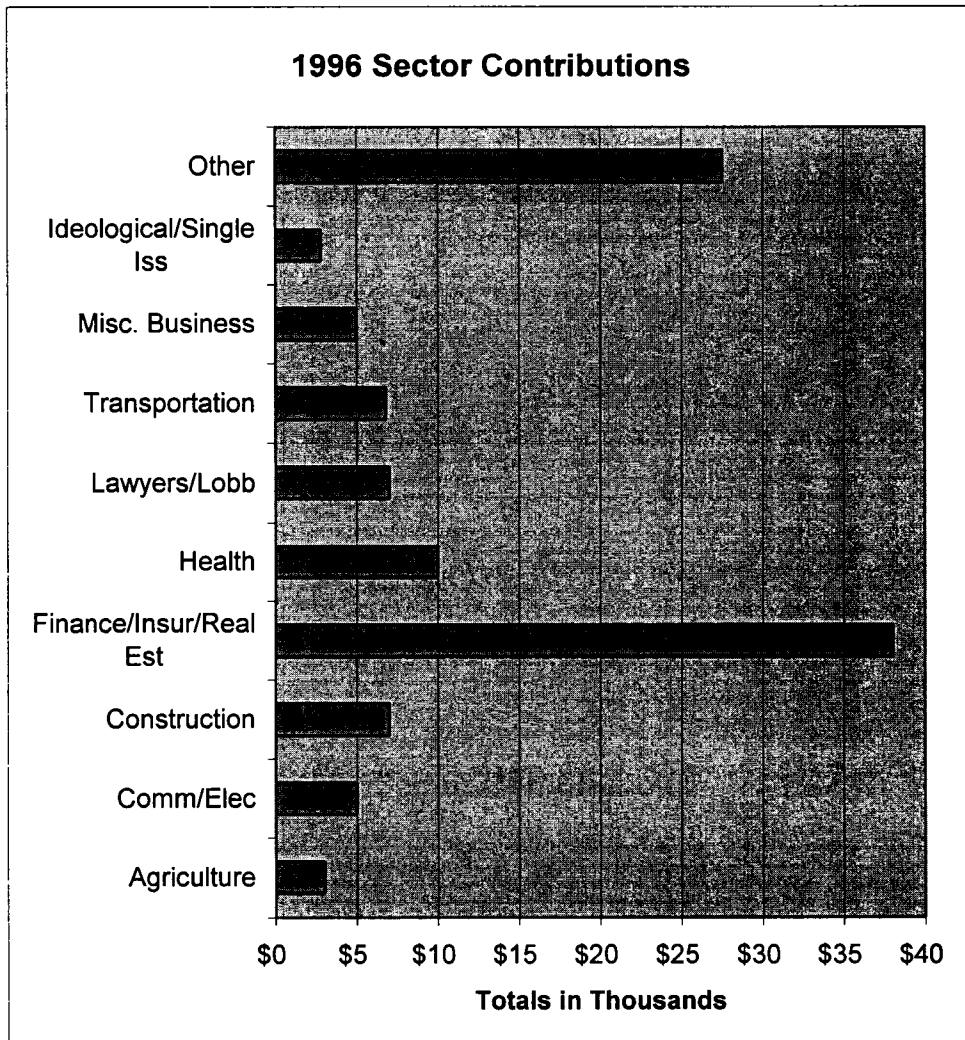


Figure 3.6
Porter Goss (R-FL)
Contributions by Sector
1996 Election Cycle



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¹¹⁷ See The Center for Responsive Politics, <http://www.opensecrets.org/1996os/sector>. The totals on these charts are calculated from PAC contributions and contributions from individuals giving \$200 or more, as reported to the Federal Election commission for that particular election cycle.

The defense industry does not appear to have directly given a significant amount in campaign contributions. It is impossible to rule out this sector, however, as, like Warner, a large number of contributions--in fact the highest percentage during both election cycles--came from "other" or unknown" sources. The obscure source of such contributions leaves at least the opportunity for intelligence-related "front" companies to influence the Congress member's position.

Additionally, Goss's home state relied heavily on national security research and development funding. According to the National Science Foundation, Florida was one of the top recipients of billions of dollars in federal research and development (R&D) funding in FY 1994, 1995, and 1996, placing Florida seventh among the fifty states and the District of Columbia. Not coincidentally, some of the state's defense industry giants include Northrop Grumman, Lockheed Martin, and Boeing.¹¹⁸ Goss, whose comments during the commission's deliberations, also reflected concerns over intelligence budget cuts,¹¹⁹ would have had a significant interest in the recommendations ultimately proposed by the advisory commission. Decisions about whether to increase human intelligence collection or to develop more spy satellites, for example, would have a direct affect on billions of dollars of state income.

It may also be important to note that Goss's credibility regarding his ties to defense contractor deals has recently been called into question. Upon leaving Congress in 2004, Porter Goss was appointed to serve as the Director of Central Intelligence.

¹¹⁸ See "Highlights" in "The Future of Science and Technology in Florida: Trends and Indicators" American Association for the Advancement of Science, September 1997.

¹¹⁹ Johnson (2004), 15-16.

However, Goss stepped down in the spring of 2006 amid speculation regarding his role in promoting the interests of defense contractors during his tenure as DCI.¹²⁰ Although no formal charges have been brought against Goss, it nevertheless raises serious questions about his prior decision-making motives. It is worth mentioning that the Aspin-Brown Commission's closed-door policy might have served as another avenue of influence for contractors with interest alliance partners who could influence policy with little or no oversight.

The defense industry contributed over \$160,000 to Senator Exon (Nebraska) in 1994 (his fourth largest industry contributor).¹²¹ However, Exon missed virtually every commission meeting and according to data compiled by staff member Johnson, contributed just eleven questions or comments throughout the entire lifespan of the commission (compared to 957 by commissioner Rudman for example).¹²² Part of the reason for Senator Exon's lack of participation might be explained by the fact that he did not seek reelection the following election cycle, and thus felt that protecting such constituents was no longer necessary.

Avoiding intelligence budget cuts served the political interests of congressional incumbents whose future electoral success relied on private industry clients that served

¹²⁰ The CIA executive director appointed by Goss, Kyle Foggo, resigned in 2005 due to an FBI investigation into allegations that he was "steering contracts toward a boyhood friend," and current defense contractor, Brent Wilkes, who is also under investigation as a co-conspirator. Former member of Congress, Representative Randy Cunningham (R-California), was also a co-conspirator, pleading guilty to receiving millions of dollars in bribes for winning major defense contracts within the "black" world of intelligence, where there is little or no oversight. See "Earmarks Became Contractor's Business," *Washington Post*, February 20, 2006; "Prosecutors May Widen Congressional-Bribe Case Cunningham Is Suspected Of Asking for Prostitutes; Were Others Involved?" *The Wall Street Journal*, April 7, 2006.

¹²¹ <http://www.opensecrets.org/1994os/osdata/exonjim.pdf>.

¹²² Johnson (2004) provides a unique compilation of commissioner participants during the Aspin-Brown Commission process in a second article regarding his experience on the commission. The data shows in fact that congressional incumbents in general were not the highest contributors, 13.

the intelligence community. Even former members of Congress on the panel recognized that the commission process was subject to constituent pressure. Former Senator Warren B. Rudman acknowledged the heavy hand of the defense industry, offering a small concession, “We better try to cut 5 percent if we are going to have any credibility--except with the defense contractors.”¹²³ Former Representative Anthony Coelho and former Senator Wyche Fowler Jr. criticized members who opposed budget cuts, contending that they were politicizing the process: “Coelho and Fowler countered that the commission should do what is right, not what might be politically palatable and cuts were the right thing to do.”¹²⁴ These former members of Congress might not have been as compelled as incumbents were to adhere to the demands of constituent politics. Nevertheless, both Rudman and Coelho might have benefited from recommendations that focused on space-based solutions for the intelligence community. Coelho served on the board of at least one aerospace company, Kistler Aerospace Corporation. The company develops reusable space launch vehicles for commercial, civil, and military clients.¹²⁵ Rudman had been on the board of directors at defense contractor Raytheon since 1993. The fact that the majority of current and former members of Congress on the commission had political and/or professional ties to space-based defense firms coincides with the commission’s tendency to focus on space-dominated capabilities for the future of the intelligence community.

¹²³ Johnson (2004), 16.

¹²⁴ Johnson (2004), 15.

¹²⁵ See <http://www.kistleraerospace.com>.

The commission's membership roster consisted of seven DoD stakeholders, including its two chairmen, former Secretaries of Defense Les Aspin and Harold Brown. This corresponds to the DoD's ability to emerge as a winner in the turf battle between the DoD and the DCI. As a former secretary of defense, Aspin recognized and respected the DoD's traditional strong hold over the office of the Director of Central Intelligence. During the commission's deliberations, for example, one commission member suggested putting the entire intelligence budget under DCI control. Aspin immediately rebuffed the idea because recommendations that supported DCI budget authority would mean a "major heart attack at the DoD!"¹²⁶ Aspin's replacement, Harold Brown, also balked at treading on DoD territory:

It is really like telling the Secretary of Defense how to run his shop; so as a member of the club, I'm of two minds about that....I would not want to write this into legislation, but rather urge the Secretary of Defense to make those changes.¹²⁷

As former secretaries of defense, Aspin and Brown were members of an elite group of officials who knew first hand that the office of the secretary of defense would not voluntarily relinquish budgetary control. Both avoided endorsing reform proposals that would encourage the Pentagon to hand over more authority to the director of Central Intelligence. Instead, suggestions did little more than "urge" the secretary of defense to make changes--a suggestion that had little chance of realization. As staff member

¹²⁶ Johnson, (2004), 8.

¹²⁷ Ibid, (2004),14.

Johnson quips in his personal account of the Aspin-Brown Commission, “While the commission was at it, it could urge Saudi Arabia to give away its oil to Texas.”¹²⁸ Under the watch of two former secretaries of defense, recommendations that might strengthen the DCI stood little chance of survival.

Additionally, the fact that private sector defense firms specializing in space technology secured a win in the final report coincides with the fact that a large number of commissioners were former DoD stakeholders who also had significant space-based expertise. Chairman Brown was also considered a “techie” with a strong interest in spy hardware systems like satellite technology and imagery.¹²⁹ A scientist by trade, Brown held positions in a series of private sector companies during and after the commission ended its work, including serving on the board of directors of Evergreen Holdings, an aviation technology company, as well as being a trustee of the California Institute of Technology.¹³⁰ His partiality for technology might have influenced the commission’s careful attention to proposals that protected technology-based agencies within the community.

Other “techie” experts on the commission included three former National Security Agency officials who were well versed in the types of problems that plagued the space-based intelligence agencies in particular. Ann Caracristi was a retired SIGINT expert

¹²⁸ Loch Johnson, “Inside the Aspin-Brown Commission on Intelligence,” paper, annual meeting, American Political Science Association, (2002) 29.

¹²⁹ Johnson, (2004), 12.

¹³⁰ See

www.Forbes.com/finance/mktguideapps/personinfo/FromMktGuideldPersonTearsheet.jhtml?passedMktGuideld=73669.

from the NSA.¹³¹ Robert Hermann was a retired NSA *and* NRO man, who, at the time of the commission, was senior vice president at aerospace giant United Technologies,¹³² a major recipient of outsourcing contracts from the DoD.¹³³ And while Gen. Lew Allen supported intelligence budget cuts, he was still protective of his former agency, the NSA.¹³⁴

A staff member interviewed for this study commented that a glaring weakness of the report was that it said very little about the NSA.¹³⁵ The commission's staff recognized that the NSA faced major structural problems: "The NSA is like a huge vacuum cleaner," opined one staffer at a meeting, "it collects way too much information. Which is to say it sucks."¹³⁶ Yet the NSA-stacked commission made it unlikely that the agency would be targeted for reform. When the subject of consolidating technical intelligence agencies was broached, Johnson noted a resounding negative reaction from the commission's tech-dominated membership: "One thing was certain: with three NSA commissioners on the panel the agency was unlikely to lose its control over signals intelligence."¹³⁷

After the release of the commission report, the press confronted Caracristi about recommendations that maintained DoD budgetary control over intelligence. The commissioner considered this a "phony issue":

¹³¹ During and after the commission Caracristi was in retirement, though also serving on Clinton's PFIAB.¹³¹

¹³² "United Technologies Appoints Dr. John F. Cassidy Senior Vice President Science and Technology," www.utc.com/press/releases/1998-11-03.htm.

¹³³ See Department of Defense Directorate for Information Operations and Reports, Procurement Statistics, Annual Report 1994-1998. <http://www.dior.whs.mil/peidhome/procstat/procstat.htm>.

¹³⁴ Allen retired from the California Institute of Technology in 1991, and like Caracristi, was serving on Clinton's PFIAB.

¹³⁵ Personal interview with staff member, May 8, 2006.

¹³⁶ Johnson (2004), 7.

¹³⁷ Johnson (2004), 13.

[M]ost of the capabilities that you need to support Defense at the higher levels are the same capabilities you need to support other departments. Having come from NSA, I may come with a distorted view of life, but we satisfied heavily military requirements. I do not believe we did so by shortchanging the nonmilitary requirements in that process.¹³⁸

Caracristi was defensive of her potentially biased perspective as a former NSA official, as well as the commission's decision to keep budgetary control with the NSA's parent department, the DoD. The press also questioned Caracristi about the commission's decision to make recommendations that favored military technology over intelligence employees:

Are we downsizing or are we just reducing the total of staff employees and replacing them with contractors? Are we investing in new technology or are we simply investing in contractors? Some people are probably skeptical about that.

Caracristi responded: "I do not know why. If that is the way you can get the kind of people you need, what is wrong with that?"¹³⁹ In a sense, Caracristi's frank response is fair. If private industry can provide better resources more efficiently than government, it

¹³⁸ "The Brown Commission and the Future of Intelligence; a Roundtable Discussion," *Studies in Intelligence*, vol. 39, no.5, March 26, 1996, 1.

¹³⁹ *Ibid*, 2.

makes economic sense to outsource for the nation's technology intelligence needs. But two issues of concern must be raised: First, this strategy allows the influence of these powerful contractors to crowd out the voices of other areas of intelligence that are just as, if not more, crucial to effective intelligence (e.g., human intelligence officers, the State Department, advocate stakeholders). Second, by protecting agencies known to have committed their fair share of intelligence blunders, it is to a degree, rewarding failure. Two years after the commission's release, for example, the NSA would commit what intelligence scholar John Pike of the Federation of American Science considered "the intelligence failure of the decade" when it failed to detect and adequately warn about an imminent nuclear test by India.¹⁴⁰

Political Paybacks

More than substantive reform might have been on the minds of some of the commission members appointed by President Clinton. Clinton's picks included two fundraisers heavily involved in his election campaign, Stephan Friedman and Anthony Harrington--neither of whom had had substantial knowledge of intelligence reform before their tenures as commissioner, both of whom were appointed to prominent intelligence-related positions in government shortly after the end of the commission.¹⁴¹ Clinton's decision to select Zoe Baird to the commission might have had to do more with the fact that he felt partially responsible for an earlier scandal that had damaged her chances of becoming attorney general. Clinton and his staff knew that Baird had hired

¹⁴⁰ See "India Blasts Take U.S. Intelligence by Surprise," <http://www.globalsecurity.org/intell/library/news/1998/05/980512-wt.htm>.

¹⁴¹ Clinton appointed Harrington, a private attorney, as vice chair of the President's Foreign Intelligence Advisory Board in 1998 and named him the ambassador to Brazil in 1999. In 1999 Friedman, a former partner at the investment firm Goldman and Sachs, was also named to the PFIAB.

undocumented workers but reassured her (incorrectly) that it would not be an issue in her confirmation as attorney general. Her appointment to the commission might have been more of a political payback by the president.¹⁴²

A commission member interviewed for this study defended the selection of members with no prior intelligence service, arguing that it provided the commission with an unbiased view of the problem. A staff member further pointed out that members without intelligence experience were nevertheless successful in their own fields, and they might be capable of transferring their knowledge-bases to the field of intelligence. The staff member commented that any “intelligent, objective American citizen had every right to be there.” Yet the staff member’s final recollection was that “one or two appointees did not meet that standard.”¹⁴³

As presidential selections, what, if any type of presidential agenda might have been served by the involvement of these commission members? The commission’s presidential appointees were serving as representatives of a president who was not particularly interested in achieving major intelligence reform. Though Clinton publicly claimed the commission was of the utmost importance, his actions spoke louder than his words: Two months went by from the initial establishment of the commission before Clinton selected his appointees, worrying some that by the time the members were named, the commission would be dead on arrival; After Aspin’s death, over a month passed before the president named his replacement, Harold Brown; and when the

¹⁴² Clinton apparently knew about Baird’s hiring of undocumented workers, but reassured Baird that it would not be an issue in her nomination as attorney general. Her appointment to Aspin-Brown may have been in part to make up for the strain on her political career due to the scandal.

¹⁴³ Personal interview with commission participant, May 30, 2006.

commission ultimately presented its findings to the Oval Office after over a year of labor, Clinton not only arrived late (forty five minutes) but left early, leaving vice president Al Gore to listen to the full briefing. Furthermore, a participant interviewed for this study, who personally served on the President's PFIAB, acknowledged that "Clinton had very little interest in intelligence at the time."¹⁴⁴

It was well known in policy circles that Clinton demonstrated a general lack of interest in intelligence issues.¹⁴⁵ Clinton's own pick for director of Central Intelligence, James Woolsey, remarked on the president's disinterest in intelligence: "Clinton was interested in balancing the budget, health care, NAFTA. He did not want to accomplish much in the foreign policy arena."¹⁴⁶ This was evidenced in part, by the fact that Clinton not only excluded Woolsey from daily CIA briefings, but had also discontinued all CIA briefings just six months into his first term. Woolsey expressed frustration, claiming, "I didn't have bad relations with Clinton...I just didn't have any relations with him."¹⁴⁷ As anecdotal evidence, when a small plane crashed onto the White House lawn in 1993, the running joke in Washington was that it was just Woolsey trying to get an appointment with the president.

Clinton's indifference to intelligence issues reflects the political climate surrounding the beginning of the 1990s, when policymakers were beginning to focus on domestic issues after over 45 years of policy determined by the Superpower standoff (a.k.a. it's the economy stupid!). The first administration to serve in office entirely

¹⁴⁴ Ibid.

¹⁴⁵ Personal interview with commission participant, May 30, 2006. See also Kessler (2003), 9.

¹⁴⁶ Kessler, 9.

¹⁴⁷ Kessler, 9.

outside of the dangers of the cold war, intelligence reform was far down the list of priorities for the re-election minded president. As a result of Clinton's lukewarm interest, commission members were not under significant political pressure from the administration to achieve much in the way of change. By supporting the status quo regarding intelligence policy, it seems that commission members who were presidential appointees could not only gain political currency for their future professional careers, but also serve the political (dis)interests of the president.

Having a number of relatively passive players on board meant that commission members who had substantial professional or political interests at stake could shape the agenda virtually unchallenged. In fact, Rudman and Brown were two of the most active members of the commission, contributing 957 and 1,278 comments respectively during the commission's yearlong process (compared to Exxon's 11 comments).¹⁴⁸ These were members who had vested interests in intelligence reform and whose presence clearly dominated the direction of the commission's outcomes.

In sum, in the absence of public scrutiny, it appears that interest-based politics and professional career advancements might have obstructed commissioners' responsibility to recommend tough choices in intelligence reform. Current and former congress members inundated the membership roster. This factor served the interests of Congress, which successfully avoided reform recommendations regarding its oversight role, and private sector stakeholders who contribute to incumbent campaigns and serve as lucrative career transitions for congress members leaving public office. With eight

¹⁴⁸ Johnson (2004), 42.

appointees chosen by the White House, the president emerged a winner as the commission's weak recommendations would largely maintain the status quo. The CIA stakeholder group emerged with mixed results. The agency's losses may be explained in part by the fact that, members with DoD experience outnumbered members with CIA experience. The fact that the CIA managed to protect itself from major criticism was more so due to Commissioner Warner and his desire to boost the image and morale of his constituent. The fact that the DoJ, State Department, and Advocate Stakeholders were not represented in the Aspin-Brown membership corresponds to these stakeholder groups' status as losers in the final outcome of the report. As the next section demonstrates, the trend appears to continue in the type of witnesses invited to participate during the commission.

Commission Witnesses

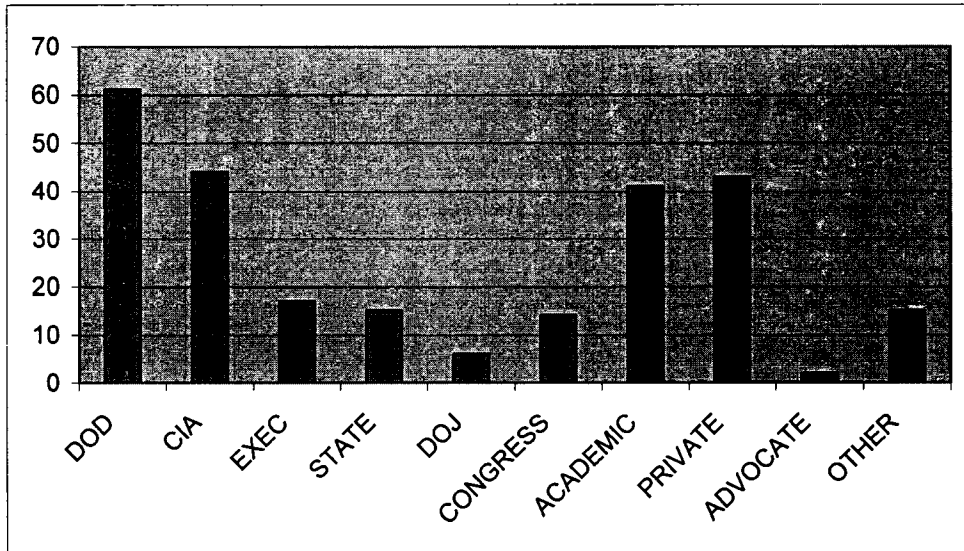
To elicit additional opinion, the Aspin-Brown Commission received formal testimony from eighty-four witnesses in closed session and its eighteen-member staff interviewed over two hundred other individuals, most of whose particular backgrounds/expertise were to some extent related to intelligence policy.¹⁴⁹ According to a commissioner interviewed for this study, commissioners selected all participants without input from their staff.¹⁵⁰ Who were the participants? In what areas did they demonstrate expertise? And what affiliations did they possess at the time of the

¹⁴⁹ Members of the commission also visited intelligence agencies and military commands in Australia, Canada, Great Britain, Europe, Israel, and the Far East, and reviewed a large amount of written opinion and past studies on intelligence issues. The staff also included four others, three from the RAND Corporation and one from the President's Foreign Intelligence Advisory Board, who served in an advisory capacity on a periodic basis.

¹⁵⁰ Personal interview with commission participant, May 15, 2006.

commission and shortly thereafter? The following chart list participant affiliations, based on the official biography lists provided in the commission's final report.

Chart 3.3 Aspin-Brown Witness Credentials



It is not surprising that Department of Defense officials ranked the highest, with sixty-one (30%) among witnesses invited to participate, as the Department of Defense houses the majority of intelligence agencies. What is striking, however, is the substantial number of private sector participants invited to testify about intelligence reform. At forty-three (22%), private sector participants rivaled the number of CIA participants and academic experts. There were more private sector participants than participants from Congress, the Department of Justice, and State Department officials combined. Most importantly, almost 70 percent of the private sector participants came from defense industry giants like Lockheed Martin, Boeing, and Hughes, which might have played a significant role in guiding the agenda toward recommendations that favored the technical

side of intelligence. While these numbers provide a glimpse, relying solely on the commission's official biography list is problematic. They do not take into account that participants' careers often spanned government, business, and academia, making their true allegiances difficult to trace.

By overlooking participants' other professional affiliations, the official biography lists fail to fully depict the range of motives that might have interfered with the commission's promise to conduct an independent and objective review. A background analysis of commission witnesses up to two years after their participation on the commission reveals that a witness roster not dominated by active DoD officials, but instead by *former* DoD officials who were at the time of the commission, working in high-tech industries serving the intelligence community. For example, while the commission lists witness William Perry as Secretary of Defense,¹⁵¹ it fails to mention that during the time of the commission, Mr. Perry served on numerous boards including defense contractors Boeing and United Technologies. Furthermore, Mr. Perry was also under congressional scrutiny during the time of the commission for his relationships with individuals from other high-tech companies reaping enormous profits from the policies he has championed during his own tenure as secretary of defense.¹⁵²

Numerous officials moved from the DoD to high-tech private sector jobs within two years of their involvement with the Aspin-Brown Commission. Among the ranks

¹⁵¹ Aspin-Brown, Appendix c (c-3).

¹⁵² During his February 1994 confirmation hearing as Secretary of Defense, Perry tried to convince critics that his long-standing relationships with some of the nation's largest and most secretive defense firms would not be a factor in his decision-making. He ultimately sold off his interests in his start-up company, Technology Strategies and Alliances, and resigned from the boards of TRW and consulting giant SAIC. (Three other SAIC board members had by then joined him at the Pentagon, including the DCI, John Deutch.) "The Peking Pentagon: China's Military Loves Bill Perry," *American Spectator*, April 1996.

were: former Secretary of Defense Melvin Laird, who sat on the board at Martin Marietta and the Communications Satellite Corporation; former NRO Director Jeffrey Harris, and deputy Director Jimmie D. Hill (both officials were forced out of the NRO financial scandal in 1996). In 1996 Harris joined private sector Space Imaging Corporation, then took over as president of Lockheed Martin's Missiles & Space Operations division in 2000. Having previously worked in a high-ranking position at NRO was pivotal to Hill's future private sector career, as he became a consultant for both NRO and Lockheed Martin simultaneously.¹⁵³ Air Force Chief of Staff General Ronald Fogleman retired from the military in 1997, and used his experience and extensive network of connections to serve on the board at the Boeing Corporation. Former NSA official Joseph Amato became vice president at space electronics giant TRW in the same time frame.

Other intelligence officials also found themselves in lucrative positions in the private sector. Former CIA director Robert Gates was also on the board at TRW. After stepping down as under secretary of energy in 1997, commission witness Charles Curtis found himself as partner in Hogan & Hartson, a major aerospace and defense-related lobby firm, and one for which commissioner Anthony Harrington had worked.

The career trajectory for these former government employees is not remarkable in itself. Where else might one pursue a career outside government but in the same field? What is more, in defense of high-tech solutions, a staff member interviewed for this study commented that the United States had already invested heavily in space reconnaissance

¹⁵³ The NRO does not appear too upset with Hill's involvement in the misappropriation of funds that allowed the NRO to build its lavish headquarters. Today, the NRO's new conference center is named after Hill. See "America's Secret Spy Satellites Are Costing You Billions, But They Can't Even Get Off The Launch Pad," *U.S. News & World Report*, August 11, 2003, 6.

capabilities and, faced with a legacy of technology that was still in operation, the commission sought ways to adjust old technology to new targets.¹⁵⁴ But what is remarkable is the way such stakeholders were able to dominate the witness roster compared to other stakeholder groups such as the Department of Justice, State Department, or advocate groups. Defense industry stakeholders could count on interest alliance relationships with commissioners who controlled the selection process, and appear to have had a penchant for high-technology solutions for intelligence recommendations.

To reiterate the concept defined in chapter 1, interest alliance networks develop through individuals' common interests, and those interests are cultivated through the relationships formed by their many business connections. Perhaps no other example better elucidates the interest alliance dynamic than the behavior of the newly appointed DCI, John Deutch. As a former deputy secretary of defense, MIT provost, and defense industry consultant, Deutch was a high-profile member of the military-industrial-academic complex long before being tapped to take over as Director of Central Intelligence in 1994. As the new DCI, he used the relationships he had established through the years to lock up gains for the technical side of intelligence. Deutch also hoped to later become secretary of defense. Wanting to maintain close ties to the Department of Defense, he utilized his participation as a witness as a way to prove his loyalty to the department.

¹⁵⁴ Personal interview with commission participant, May 8, 2006.

Since the mid-1980s Deutch had earned well over six figures in combined income from his career at MIT and from consulting work for defense industry giants that included Martin Marietta, TRW, United Technologies, MITRE, and SAIC. Les Aspin appointed Deutch as deputy secretary of defense in 1994, and though federal law prohibited Deutch from cultivating his prior relationships for financial gain, Aspin granted Deutch a waiver shielding him from strictly following the rules about potential conflict of interests.¹⁵⁵ The argument was that strict adherence to the law would cripple Deutch's ability to oversee billions of dollars in defense contracts.

Deutch's confidence in defense industry technology carried over to his job as DCI. And according to Johnson's insider account, Deutch could depend on his relationship with his former boss Les Aspin and used the Aspin-Brown Commission as an avenue to steer policy-makers to high-technology solutions for the intelligence community:

The following week Aspin had dinner with Deutch on the eve of his confirmation hearings and the would-be-DCI, an old friend, asked for changes in the commission's "scope paper"...Deutch wanted the commission to focus more on the kinds of technical improvements in intelligence gathering of interest to the Director. Clearly, he intended to take an active role in intelligence reform and,

¹⁵⁵ "Mission Impossible; John Deutch Is Quick, Smart, and Tough—and a Poster Boy for the Military-Industrial-Academic Complex. With the Central Intelligence Agency in Shambles, Does He Have What It Takes to Save It?" *Washington Magazine Inc.*, December 1995.

drawing on his cordial ties with Aspin, was not going to be reticent about trying to shape the commission's recommendations.¹⁵⁶

Deutch recognized that having a relationship with commission members was crucial to ensuring that his preferences made it into the commission's final report. His lobbying efforts paid off, as shortly after that dinner Aspin:

asked the staff to strengthen the technical side of the commission's scope paper, which would soon be distributed to the White House, the intelligence agencies, and congressional officials for their comments.¹⁵⁷

According to Johnson, commission members worried about the effect the close relationship between Aspin and Deutch would have on the commission's objectivity:

In private asides during breaks in the commission's meetings, some commissioners began to question what they feared was too close a relationship between the DCI and Aspin. The commission, they whispered, had to make sure there was the right balance between independence from and cooperation with the Intelligence Director.¹⁵⁸

¹⁵⁶ Johnson (2002), 20.

¹⁵⁷ Ibid., 21.

¹⁵⁸ Ibid., 21.

While these particular concerns were alleviated after Aspin's death, Deutch was still able to influence the commission by persuading another former secretary of defense, Harold Brown, to replace Aspin as chair of the commission.¹⁵⁹ Having the fellow DoD-man on board enabled Deutch to ensure the agenda not only favored the technical side of intelligence, but also enhanced his prospects to become secretary of defense.

President Clinton had hinted that Deutch might be considered a candidate for secretary of defense further down the road. A reluctant DCI from the start, Deutch had made it publicly clear that his loyalties and aspirations for the future were with the military. In a *New York Times Magazine* interview the DCI stated, "Compared to uniformed officers, [HUMINT officers] certainly are not as competent, or as understanding of what their relative role is and what their responsibilities are."¹⁶⁰ As DCI, he also considered moving the CIA-developed spy aircraft, the Predator, to the Defense Department. He had also floated the idea of moving the National Photo Interpretation Center (NPIC) into a newly created National Imagery and Mapping Agency (NIMA) within the Pentagon.¹⁶¹ The Aspin-Brown Commission's failure to recommend changes that would fortify DCI authority may have been influenced by the fact that the current DCI was not interested in strengthening the post. As Johnson noted, "Even Deutch (now eyeing the office of the Secretary of Defense himself) backed away from the idea of eroding powers that he might want to have in the Pentagon."¹⁶²

¹⁵⁹ Johnson (2002). According to Johnson, the D.C. rumor mill had been suggesting that DCI Deutch played a heavy hand in Brown's appointment as commission chair.

¹⁶⁰ "Mr. Deutch's Auspicious Debut," *New York Times*, December 10, 1995, Section 6, 62.

¹⁶¹ See Kessler, 32.

¹⁶² Johnson (2002), 37.

John Deutch was a prominent participant in the Aspin-Brown Commission whose diverse resume in the private and public sphere made him an accomplished interest alliance participant. His proclivity toward high-technology solutions and his desire to return to the DoD as secretary of defense no doubt colored his participation during the Aspin-Brown Commission.

Other Voices

The commission did invite academics, experts, and a small number of advocate stakeholders. Nevertheless, the selection process was highly restrictive, and commissioners' reception of their testimony varied. Johnson notes these stakeholders' attempts to access the process:

...The panel averaged 600 phone calls a day from individuals offering advice on how the panel should proceed. A similar deluge of letters fell on the commission from former admirals, generals, and others from citizens concerned about civil liberties, a few from nuts. Think-tanks and beltway bandits descended upon the Executive office in search of government contracts and armed with fancy briefing books on how they would organize the panel's work. Many of their ideas were good, but none of them had the close ties with [Les] Aspin enjoyed by RAND, which ended up supplying the commission with its chief set of outside consultants.¹⁶³

¹⁶³ Ibid p.13

Aspin's confidence in the RAND Corporation does not appear to transfer to other experts called to testify, as evident in the small portion of testimony by this group that was held in public hearing. For example, Richard Haas, senior fellow at the Council of Foreign Relations, criticized the IC's growing dependence on technology and the DoD's dominance in intelligence:

There are grounds for concern about the influence exerted by the Defense Department and by defense-related concerns. There is a danger that spending on intelligence to support military operations will take priority over other important, or even vital, national security ends in which intelligence is needed.¹⁶⁴

Commission chairman Harold Brown was not enthusiastic about Haas' testimony, calling it "curious" for its proposed weakening of DoD authority over the intelligence mission.

Advocate stakeholder and former State Department official Herman Cohen represented the American Foreign Service Association and testified about the importance of directing all intelligence activities through the resident ambassador. Chairman Brown was again unreceptive:

You point out that you would not like State Department communications to be operated by the CIA. You do suggest that the State Department operate the CIA communications or, more generally, everybody's communications into the

¹⁶⁴ Testimony of Richard Haas, Hearing of the Roles and Capabilities of the United States Intelligence Community, January 19, 1996.

mission. Which I understand structurally, but of course the same concerns that State people have about giving their communications to somebody else, the Intelligence Community would have about the State Department running it.

Nor did the commission invite “victim” advocate stakeholders, who might have been personally affected by an intelligence lapse. For example, family members of individuals who lost their lives due to the Ames spy case might have been useful, not so much for technical expertise but for their unique firsthand perspective as ones living within the secretive world of intelligence. Though in general families are directed not to speak to the press or even relatives about their loved one’s death (family members of covert officers are bound by the same secrecy), the closed forum of the Aspin-Brown Commission would have offered an appropriate opportunity for such witness testimony.¹⁶⁵ The poignant testimony of the wife of a fallen soldier in Somalia might have influenced commissioners to explore more deeply what went wrong with incoming military intelligence. A further investigation of the insurgency might have illuminated the growing influence of the al-Qaeda network in the region, and the need for more human intelligence officers. It should be of little surprise that an advisory commission so dominated by technocrats produced recommendations sorely lacking in recommendations emphasizing the type of human resources required to combat the kind of grass-roots

¹⁶⁵ For a detailed examination of the families of lost covert officers see “Star Agents: The Anonymous Stars in the CIA’s Book of Honor Memorialize Covert Operatives Lost in the Field,” *Washington Post*, September 7, 1997, W6.

terrorist organizations that continued to prosper throughout the 1990s and into the current century.

Out of the four commission participants interviewed for this study, not one acknowledged the narrow field of participant expertise on the roster as a shortcoming of the Aspin-Brown Commission. Prior to 9/11, few may have recognized the critical role that could be played by stakeholder groups such as the State Department and Department of Justice. Even victim advocate groups could have played a role, with their ability to galvanize public interest through sympathy, and thus apply pressure on policymakers to demand meaningful reform. But another, perhaps more cynical interpretation is that commission participants (at least a small but powerful group of commissioners) were more interested in framing the agenda behind closed doors, where they could ensure that their interests, and those of their interest alliance partners, could flourish.

Revisiting the winner/loser status of each stakeholder group it is possible to see that, lacking public scrutiny, a pattern emerges between stakeholder representation on the commission's membership roster and a particular stakeholder group's ability/inability to access the debate.

Chart 3.4 Aspin-Brown Actual Stakeholder Access

Stakeholder Group	Status	Predicted Access	Actual Access
Congress	Win	High	High ✓
DoD	Win	High	High ✓
White House	Win	High	High ✓
CIA	Mixed	Medium	Medium ✓
DoJ	Lose	Low	Low ✓
State Department	Lose	Low	Low ✓
Private Sector	Win	High	High ✓

Conclusion

Was the Aspin-Brown Commission a “failure”? Just as it is often difficult to determine what is meant by an intelligence failure, it is equally difficult to define the commission’s results in such terms. The commission’s report did help to educate by outlining a range of complex challenges facing the intelligence community from both enemies abroad and from institutional barriers from within. The commission was also largely responsible for the release of the aggregate intelligence budget for fiscal year 1997 and again in 1998.¹⁶⁶ Additionally, a commissioner interviewed for this study described Aspin-Brown as “an early article of reference”¹⁶⁷ in the post-cold war era. But upon further investigation, it appears that the Aspin-Brown Commission did little in the way of recommending substantive reform. In the words of one intelligence critic “The [Aspin-Brown] panel labored mightily and came up with a mouse.”¹⁶⁸

However, the commission was most certainly a success in the eyes of a few key interest alliance stakeholders, as the official mandate was altered to conform to the interests of a select few who may have had more than national security interests in mind. While the range of motives varied from political to professional to bureaucratic, they had one thing in common--avoiding difficult and politically unpopular reform. Participants could do so by not only serving on the commission but by inviting a select group of

¹⁶⁶ See “Tracing the Rise and Fall of Intelligence Spending: As Portrayed in Official Government Publications,” www.fas.org.

¹⁶⁷ Personal interview with commission member, May 15, 2006.

¹⁶⁸ David Wise, “I Spy a Makeover,” *Washington Post*, March 24, 1996.

individuals to participate as witnesses or interviewees. With that, the commission could limit much of the testimony to include politicians, private industry, and those with personal careers to protect. By redirecting the commission's scope to protect, instead of to reform, an ailing apparatus, the commission fell well short of its mandate to make meaningful recommendations to help set the priorities for the roles and capabilities of the United States intelligence community in the post-cold war era.

Most national security scholars argue that there is no point of entry for interest groups in the formation of intelligence policy, yet evidence from this case study demonstrates that the ability to influence intelligence policy is not as limited as commonly thought. For those who know how to navigate the process, intelligence policy is in fact a porous and permeable area of U.S. national security decision-making. The ability of a select few commissioners to redirect the agenda away from substantive reform is perhaps illustrated best by Senator Warner's commentary toward the end of the commission's work:

The irresponsible cries for cuts in intelligence have subsided, Senator Warner happily observed at a commission meeting just before the release of its final report. As he rose to leave for another appointment, he turned to Brown and smiled, "The commission has fulfilled its original objective. I commend you."¹⁶⁹

¹⁶⁹ Johnson (2004), 19.

Chapter Four

Counterterrorism Commissions

Policymakers had precious few years after the fall of the Soviet Union in 1991 to consider what might emerge as the next major global threat to the United States.

Terrorism by non-state actors moved to the forefront in 1993 when an Islamic fundamentalist terrorist organization detonated a car bomb in the first terrorist attack on the World Trade Center. Though the attack succeeded in killing only six people, the group's decision to choose the densely populated target demonstrated its commitment to achieve civilian casualties on a mass scale.¹⁷⁰ The nation's vulnerability to terrorist assaults on the civilian population became increasingly apparent in 1995, as a truck carrying 5,000 pounds of agricultural fertilizer and motor-racing fuel exploded into the Alfred P. Murrah federal building in Oklahoma City. The attack by sole American white supremacist, Timothy McVeigh, was the worst domestic terrorist event in U.S. history, killing 168 and injuring hundreds more. A month prior, Japan received a rude awakening as the religious cult, Aum Shinrikyo, released sarin gas in a Tokyo subway. Though the poison gas killed no more than a dozen passengers, the event marked the first time a weapon of mass destruction (WMD) had been utilized by a non-state actor against any civilian population at home or abroad.

¹⁷⁰ Scholars have increasingly noted a change in the face of terrorism, from one motivated by political causes to one of religious fanaticism and apocalyptic or catastrophic terrorism. See for example: David Rapaport (1984), Paul Wilkinson (1974), US Department of State, *Patterns of Global Terrorism 2001* (Washington: GPO, May 2002).

Terrorist attacks by non-state actors continued abroad in 1998 at U.S. embassies in Nairobi, Kenya, and Dar Es Salaam, Tanzania. The bombings killed 12 Americans, over 200 Kenyans and Tanzanians, and injured more than 4,000 others. If the events abroad seemed to point to a return to far away targets, at the end of 1999, decision-makers were again reminded of the terrorists' interests in attacks on U.S. domestic soil. If not for an alert U.S. Customs Service official at the Canadian border, Algerian terrorist Ahmad Ressayd had planned to carry out an Islamic *fatwa* by staging an attack on the Los Angeles International Airport (LAX) during the millennium celebration.

Vastly different types of individuals, with significantly distinct motives, conducted these events. The combination nevertheless prompted a shift in thought by U.S. policymakers about domestic vulnerabilities to potential attacks by non-state terrorist organizations with weapons of mass destruction or by other unconventional means. It also focused policymakers on the need to include domestic security agencies in strategic plans to defend the nation against aggression by non-state terrorist organizations.

Within this context, from 1998-2003, three independent advisory commissions were established to assess U.S. counterterrorism capabilities in the post-Cold War era: the 1999-2001 Hart Rudman Commission, the 2000 Bremer Commission, and the 1999-2004 Gilmore Commission. Though all commissions concluded that the United States was dangerously vulnerable to attacks on domestic soil, each tackled slightly different aspects of the problem, and produced a varied range of recommendations to prevent, deter, and/or punish terrorist activity by non-state actors. The varied outcomes were a direct reflection

of not only slightly different mandate requirements, but also due to the distinct commission processes carried out by each commission: from the time and funding allotted, to the amount of public attention afforded, to the types of members, staff, and witnesses who participated on each commission. Outcomes also appear at times to be a direct reflection of the domestic political process in action.

The next six chapters document the decision-making process that unfolded in each counterterrorism commission. The chapters will explore each commission's mandate, and summarize its subsequent recommendations to determine which stakeholder groups examined in this study emerged winners, and which groups appeared to have lost in the commissions' final outcomes. The chapters then examine which commissions took place in the public eye and which commissions were isolated from outside accountability. Finally, they investigate which stakeholders had access to the debate, which ones were left out of the process, and whether or not the commission process allowed an opening for interest politics to influence the counterterrorism debate.

Hart-Rudman Commission: Case Study Summary

In 1998, the U.S. Department of Defense established and funded the U.S. Commission on National Security in the 21st Century. The Hart-Rudman Commission was born out of the need to redirect the nation's security strategy, which policymakers worried was still pointed toward old enemies and continued to worry about past threats. In theory the nation's leaders realized the United States was no longer at war with the Soviet Union after its collapse, yet few organizations within the national security

apparatus had adjusted their priorities in the post-cold war era. As such, the commission's mandate had to be expansive, a wide-ranging inquiry into the nation's security system writ large that included but was not limited to, the military, intelligence, diplomacy, congressional oversight, law enforcement, and homeland security.

The commission's holistic approach required it to "1) conduct a comprehensive review of the early 21st Century global security environment, including likely trends and potential 'wild cards'; 2) develop a comprehensive overview of American strategic interests and objectives for the security environment we will likely encounter in the 21st Century; 3) delineate a national security strategy appropriate to that environment and the nation's character."¹⁷¹

The Hart-Rudman Commission would prepare its report in three installments. Released in September 1999, Phase I defined future political, economic, military, societal, and technological challenges and described how U.S. geo-strategic interests would evolve over the next twenty-five years. Based on the predictions made in Phase I, the commission announced Phase II during the following spring. The second component sought to formulate an enhanced national security strategy for the United States. The commission announced Phase III in February 2001. The objective of the final report was to provide recommendations to help reorganize the nation's military and federal civilian national security agencies to better adapt to challenges in the post-cold war environment.

¹⁷¹ Charter of the United States commission on National Security in the 21 st Century, Sec. 1. Establishment and Purpose, appendix 2, Phase III, 130.

Phase I

Phase I of the Hart-Rudman Commission required the panel to define the international threat environment in the post-cold war era. It fulfilled the first portion of its charter in a 150-page report that identified basic assumptions about the likely threat, emphasizing the effects of globalization and technology on U.S. national security vulnerabilities. The report's first conclusion accurately zeroed in on the dangers of international terrorism, and emphasized U.S. domestic vulnerability to such attacks: "States, terrorists, and other disaffected groups will acquire weapons of mass destruction and mass disruption, and some will use them."¹⁷²

The report stressed that emerging threats would differ significantly from the cold war and challenged policymakers to think out of the box in terms of the types of methods and motives developed by adversaries. For example, it warned about the increasing possibility of bioterrorism: "While conventional conflicts will still be possible, the most serious threat to our security may consist of unannounced attacks on American cities by sub-national groups using genetically engineered pathogens."¹⁷³ It also focused heavily on technology as a double-edged sword, arguing that while the United States continued to dominate technologically on a global level, both state and nonstate adversaries would be increasingly capable of using technological advances to the detriment of U.S. interests. For instance, the report predicted that the global economic structure would be tested by newly emerging electronic infrastructures; national borders would be eluded by new

¹⁷² Hart-Rudman Commission, Phase I, "*New World Coming: American Security in the 21st Century, Major Themes And Implications*," p.4.

¹⁷³ Hart-Rudman Commission, Phase I, p.8.

technologies that allow enemies to transcend territorial limits; increasingly sophisticated adversaries will learn to exploit space for military and commercial purposes. It further warned that enemies might utilize technology to do damage to the airline industry:

“Another may be a well-planned cyber-attack on the air traffic control system on the East Coast of the United States, as some 200 commercial aircraft are trying to land safely in a morning's rain and fog.”¹⁷⁴

Phase I also warned policymakers that, as a result of the proliferation of other technologies, state and nonstate actors will develop sophisticated denial and deception tactics to thwart U.S. intelligence efforts. It also apprised that military superiority would not be enough to vanquish the new threat posed by such actors. As the 9/11 terrorist attacks would reveal two years later, Phase I was not too far off the mark in predicting what dangers lay ahead.

Phase II

Phase I had concluded that U.S. policymakers should seek a national security strategy that combines diplomatic, economic, and military power to shape the future international environment. With this perspective in mind, Phase II set out to define a national security posture based on U.S. interests and key objectives. It sought to develop a strategy to enable the United States to reap the benefits of a more integrated world to expand freedom, security, and prosperity, while simultaneously dampening the forces of instability caused by poverty, weakened government structures, and religious fanaticism. Phase II provided six overarching principles to guide U.S. national security policy in the

¹⁷⁴ Hart-Rudman Commission, Phase I, p. 8.

post-cold war era. An analysis of its mere seventeen-page report, however, reveals that it failed to deliver the national security strategy it promised. It highlighted a list of fairly obvious, generic observations, most of which were policies already consistently pursued:

- 1) Strategy and policy must be grounded in the national interest.
- 2) A long-term national commitment to America's strength must be made.
- 3) Globalization will create increasing transnational problems that should be dealt through creative diplomacy.
- 4) To help achieve security objectives, the United States must join with its allies and partners and adhere to established norms created by international institutions.
- 5) The United States should not overextend itself, but engage in limited international commitments that are strictly focused on the national interest.
- 6) The United States must apply its values and principles consistently throughout the world.¹⁷⁵

Phase II did not craft a national security strategy, but rather offered a broad set of objectives that were not tied to a comprehensive plan. The greater part of the report's declarations were vague and unimaginative, and failed to set specific priorities or provide strategic guidance for policymakers. Abroad, Phase II declared that the United States should assist the integration of key major powers, especially China, Russia, and India, into the mainstream of the emerging international system. Yet the report did not offer a

¹⁷⁵ Hart-Rudman Commission, Phase II, p. 6.

roadmap for policymakers to follow; it discussed the increasing danger caused by the India-Pakistan conflict, but went no further than suggesting that the United States “play a more active role” in the dispute; it encouraged support for Russian integration into the international community, but it avoided offering practical suggestions on how the United States might do so; recognizing Asia’s industrial boom and its consequent need for more energy, the report pressed the United States to reduce its dependence on imported fossil fuels, yet offered no specific alternatives to pursue; it promoted sweeping arms control agreements to prevent the use of biological pathogens, but, as critics point out, it ignored implementation challenges and “the dubious enforceability of such pacts.”¹⁷⁶ What the report achieved in breadth, it ultimately lacked in depth regarding the international threat environment.

Phase II also touched on security concerns at home. It emphasized the growing importance of homeland security, and the need to include domestic agencies such as the Department of Treasury and the Department of Transportation in the national security strategy. Additionally, the report endorsed the pursuit of a national missile defense system. The commission supported the need to “build national defenses against a limited ballistic missile attack to the extent technologically feasible, fiscally prudent, and politically sustainable.”¹⁷⁷ The report, however, did not offer a logical link between the need for a national missile defense system and its appropriateness to deter the threats predicted in its forecast. What is more, parallel studies at the time had concluded that

¹⁷⁶ Andrew F. Krepinevich, Michael Vickers, and Steven M. Kosiak, “Hart-Rudman Commission Report: A Critique,” Center for Strategic and Budgetary Assessments, April (2000) p.1.

¹⁷⁷ Hart-Rudman Commission, Phase II, p. 8.

high-tech space-based weapons systems would not represent a core component of future asymmetric threats, arguing that few post-cold war adversaries can afford to field air forces or other weaponry to challenge the United States on domestic soil.¹⁷⁸

Furthermore, trends in terrorist activity at the time of the commission had demonstrated more local methods of attack: terrorist attacks on U.S. installations in Africa and the Middle East in the mid-1990s were typically homegrown operations like car bombs and insurgent warfare; the Oklahoma City bombing was also a relatively unsophisticated operation; as for WMD, the 1995 sarin attack in a Tokyo subway by terrorist organization Aum Shinrikyo showed the world that a small group of terrorists could find creative means of domestically delivering a chemical weapons attack. Missile defense would not have prevented any of these events.

Making the problem more difficult, such groups typically function at the grass-roots level, amassing recruits by word of mouth, through religious indoctrination, and familial ties.¹⁷⁹ Phase II left unclear the logic associated with thwarting such on-the-ground activity through space domination. Nor did Phase II make the argument that enemies were actively pursuing this method of assault. In fact, it conceded that a national missile defense system would not adequately protect the homeland against the types of WMD attacks the commission predicted would be likely, acknowledging that the system would need to be supplemented with other defenses, though it did not specify what.¹⁸⁰

¹⁷⁸ For a detailed review, see Bennett, Twomey and Treverton (1999).

¹⁷⁹ For an excellent description of Islamic terrorist tactics and characteristics, see Brian Jenkins, *Unconquerable Nation*, RAND, (2006).

¹⁸⁰ Hart-Rudman Commission, Phase II, p. 8.

Ultimately, Phase II stopped well short of its mandate to articulate its own version of a national security strategy for the post-cold war era. A study group member interviewed for this study acknowledged that “we messed up. We could have done a much better job in Phase II.”¹⁸¹ Another member agreed, “There was no strategy in our strategy.”¹⁸² In its defense, the commission reserved Phase III for making specific recommendations to policymakers. But without the guidance of a coherent strategy, the recommendations may have been guided by at most political, professional, and bureaucratic agendas; at least, by stubborn cold war conventions.

Phase III

The commission released Phase III of its report in February 2001. The report’s 150 pages included fifty major recommendations that dealt with the executive and legislative branches of government, and the intelligence community. It also expanded to include other organizations not typically considered for their role in combating terrorism, including the State Department and such domestic agencies as the Coast Guard, Border Patrol, and Immigration and Naturalization Service. By doing so, its recommendations touched on a wide range of domestic security concerns not commonly addressed in national security policy.

The Hart-Rudman Commission’s most dramatic recommendation was the creation of a National Homeland Security Agency (NHSA). The new agency’s core would be formed by the Federal Emergency Management Agency (FEMA) and combine a number of domestic agencies. Its head would have cabinet-level status, and would be the single

¹⁸¹ Personal interview with study group member, January 19, 2006.

¹⁸² Personal interview with study group member, January 26, 2006.

go-to person responsible for coordinating and overseeing all homeland security activities. If implemented, the commission's recommendation would have had a dramatic impact on several national security stakeholder groups including such homeland agencies as the INS, U.S. Customs, the Border Patrol, and the FBI. It would also limit the domestic counterterrorism role played by the president's National Security Council. Additionally, the creation of a new agency affected advocate stakeholder groups interested in the fate of thousands of government employees in the event of a major government merger, as well as civil liberties groups concerned about limiting government's ability to conduct surveillance on U.S. citizens.

Homeland Agencies: "*Losers*"

Domestic agencies stood to lose significant ground with the creation of a National Homeland Security Agency. The proposal sought to consolidate thousands of employees from domestic defense agencies that included the Coast Guard, INS, FEMA, and Border Patrol. Though the proposal meant an elevation in status for domestic agencies in their counterterrorism role and more funding (for such things as training, and updating communications systems and aging fleets), the consolidation of homeland defense agencies also threatened to upset longstanding federal fiefdoms. The Coast Guard, a maritime enforcement body since 1790 had been part of the Department of Transportation (DoT) since 1967. The department's leadership publicly resisted its transfer to the new National Homeland Security Agency, arguing that the commission looked at the move through a narrow lens of national security concerns without

considering how the merger would affect the agency's other roles and responsibilities.¹⁸³ It also meant taking away the DoT's only military component and over \$400 million it received in annual funding from the DoD.¹⁸⁴ The Treasury Department would have to relinquish the U.S. Customs Service, an influential agency created in 1789, whose mission it is to regulate billions of dollars in international trade. The Commerce Department would lose authoritative claim over two organizations: the Critical Infrastructure Assurance Office and the Institute for Information Infrastructure Protection.¹⁸⁵

Homeland defense consolidation was a hot button issue that met with hostility from individual domestic organizations with turf to protect. The commission nevertheless endorsed the integration of these agencies into a new National Homeland Security Agency. Consequently, such agencies would be considered "losers" in the commission's final report.

Department of Justice: "*Loser*"

The Hart-Rudman Commission's new National Homeland Security Agency also left a negative impression on the DoJ. The commission recommended transferring a number of key offices currently housed at the FBI to the proposed NHSA including the FBI's National Infrastructure Protection Center (NIPC) and National Domestic

¹⁸³ Admiral James Loy and Captain Robert Ross, "Meeting the Homeland Security Challenge: A Principled Strategy for a Balanced and Practical Response," September 20, 2001.

¹⁸⁴ "Border Agency Overhaul Proves Tricky for Bush Team," March 29, 2002; GovExec.com.

¹⁸⁵ Hart-Rudman Commission, Phase III, p. 19.

Preparedness Office (NDPO).¹⁸⁶ The FBI also would have no longer been the lead agency in the event of a terrorist attack:

NHSA should develop and manage a single response system for national incidents, in close coordination with the Department of Justice and the FBI. This would require that the current policy, which specifies initial DoJ control in terrorist incidents on U.S. territory, be amended once Congress creates NHSA.¹⁸⁷

The Hart-Rudman Commission's National Homeland Security Agency recommendation would essentially subordinate U.S. law enforcement's counterterrorism role to the new agency. As a result, the NHSA recommendation would signify a loss for the DoJ.

White House: "*Loser*"

The NHSA proposal also meant change for the White House. The creation of the new agency with its own cabinet-level leadership meant a smaller role for the president's National Security Council:

Given the multiplicity of agencies and activities involved in these homeland security tasks, someone needs to be responsible and accountable to the President not only to coordinate the making of policy, but also to oversee its implementation. This argues against assigning the role to a senior person on the

¹⁸⁶ Hart-Rudman Commission, Phase III, p. 21.

¹⁸⁷ Hart-Rudman Commission, Phase III, p. 20.

National Security Council (NSC) staff and for the creation of a separate agency.¹⁸⁸

The commission's recommendation would not only limit the NSC's role in counterterrorism, it also sought to confine what it argued was an ever-expanding policymaking role played by the advisory body:

The NSC advisor and staff should resist pressures toward the centralization of power, avoid duplicating the responsibilities of the departments, and forego operational control of any aspect of U.S. policy. *Assuming a central policymaking role seriously detracts from the NSC staff's primary roles of honest broker and policy coordinator.*¹⁸⁹

The commission concluded that the NSC "should keep a low public profile,"¹⁹⁰ and made suggestions that would loosen the authoritative levers enjoyed by the president's advisory body. Of note, the commission did maintain that the NSC should continue to play a strategic role in planning and coordinating homeland security activities, though the commission did not specify the actual level of control. In sum, the White House would be considered a loser in the final outcome of the Hart-Rudman Commission.

State and Local: "Losers"

¹⁸⁸ Hart-Rudman Commission, Phase III, 15.

¹⁸⁹ Hart-Rudman Commission, Phase III, 51.

¹⁹⁰ Ibid.

The Hart-Rudman Commission acknowledged the need to include state and local agencies in the homeland security effort, but it intended their counterterrorism role to be temporary and to be limited to consequence-based counterterrorism functions. In the event of a terrorist attack, the commission envisioned that “state officials will take the *initial* lead in responding to the crisis.”¹⁹¹ Their lead role would be transferred to the NHSA at the first opportunity possible.

The commission’s suggestions were consequence-based in that they primarily focused on state and local capabilities once an attack had already occurred (e.g., adequate equipment and communications systems, properly defined and exercised procedures). The commission did not seek out a stronger role for state and local officials in the *prevention* of terrorism. For example, it did not offer suggestions for the inclusion of state and local voices in the decision-making process. Nor did the commission suggest mechanisms for a direct information channel between state and local offices and the intelligence community, law enforcement, and private sector industries responsible for critical infrastructure protection (e.g., utilities, transportation networks, banking and financing). State and local agencies would instead be required to go through NHSA.

While Phase III of the Hart-Rudman Commission mentioned the need to bolster response capabilities for state and local agencies in the event of an attack, it largely overlooked the relevance of state and local agencies in the prevention of terrorism. Furthermore, not one of its suggestions for state and local agencies--including its mention of increased response capability resources--made it into the report’s fifty major

¹⁹¹ Hart-Rudman Commission, Phase III, 2; emphasis added.

recommendations. By focusing on a top-level strategy for domestic counterterrorism the commission largely overlooked state and local agencies. Consequently, such agencies would be considered losers in Phase III of Hart-Rudman.

Advocate Stakeholders: “*Losers*”

The commission’s NHTSA recommendations were at odds with labor unions dedicated to protecting civil servant personnel and with civil liberties advocates concerned that the creation of a new domestic intelligence-gathering agency would significantly reduce privacy for American citizens. The unions opposed the merger, as it meant job uncertainty for civil servants across the board. For example, four labor unions filed suit against the Bush administration for reform measures that would restrict employees’ collective bargaining rights in the proposed legislation creating the Homeland Security Department. A spokesman for the National Treasury Employees Union, a union covering over eleven thousand employees, argued that “the rules overturn 25 years of civil service law, radically reduce the rights of federal employees and deprive them of a voice over many important issues.”¹⁹²

Civil liberties groups reacted negatively to the proposed new agency, as the commission did not make specific recommendations to ensure that the new agency abided by constitutional principles. Instead it relied on vague prescriptions for “interagency activities” between the new agency and the Department of Justice, as well as proposing that the new agency conduct “advanced exercises.” The media research

¹⁹² For a detailed discussion of the federal employees potentially affected by the creation of the new agency and the unions that protect them, see “Homeland Security: Data on Employees and Unions Potentially Affected,” *Congressional Research Service*, Report for Congress, January 9, 2003.

group, *Project Censored*, likened the new agency's domestic surveillance authorities to the FBI's COINTELPRO operations of the 1960s.¹⁹³ The ACLU was alarmed that the Department of Homeland Security would be "100% secret and 0% accountable."¹⁹⁴ These groups should be considered losers in the commission's final outcome.

In sum, a number of organizations would have been affected if Hart-Rudman's National Homeland Security Agency were established. Homeland agencies such as the INS, Border Patrol, and U.S. Customs stood to lose coveted turf if absorbed into the new entity; the FBI would sacrifice a significant authoritative control over domestic counterterrorism activities; the White House's NSC would take a backseat to the new cabinet-level leadership envisioned for the NHSA. Advocates emphasized distrust in the new agency's employee standards and safeguards for civil liberties. As such, these stakeholder groups would as emerge losers if Hart-Rudman's recommendations for a new homeland security agency were implemented. In contrast, the Hart-Rudman Commission's military-related recommendations provided substantial gains for both the DoD and the private sector defense industry that serves it.

Private Sector: "*Winner*"

The Hart-Rudman Commission asserted that the defense industry was one of the most critical assets for national security in the post-cold war era. It contended that "the United States must look to the health of the U.S. defense industrial base just as it takes responsibility for the viability of its Army, Navy, Air Force, Marine Corps, and Coast

¹⁹³ "Homeland Security Threatens Civil Liberty," <http://www.projectcensored.org/publications/2004/2.html>

¹⁹⁴ "ACLU Says Homeland Security Department Long on Secrecy, Short on Needed Accountability," June 25, 2002; <http://www.aclu.org/natsec/emergpowers/14403prs20020625.html>.

Guard.”¹⁹⁵ It therefore sought reform to boost the technical side of military and civilian intelligence collection agencies.¹⁹⁶

The commission cited studies that argued that the DoD was not adequately supporting a struggling defense industry.¹⁹⁷ It explained that “[DoD’s] procurement bureaucracy weakens a defense industry that is already in a state of financial crisis.”¹⁹⁸ Consequently, it suggested the DoD “consolidate, restructure, outsource, and privatize as many DoD support agencies and activities as soon as possible.”¹⁹⁹ It could further do so by developing a “fast track” system for breakthrough technologies; providing more funding for prototyping and weapons testing; and expanding the use of multiyear procurement. Phase III also suggested that the DoD finance private sector R&D efforts:

The commission also believes that the development of new technologies must be emphasized and properly financed. Development programs should generally be administered through contracts that pay for the costs plus a fee, with the fee being tied not only to system performance but also to meeting the schedule within costs. We must eliminate the pressures whereby firms need to recover R&D costs and losses during the production phase. Full funding of R&D programs is an essential part of the acquisition process.

¹⁹⁵ Hart-Rudman Commission, Phase III, p. 70.

¹⁹⁶ See appendix 1, p. 126, for a list of the tech-related recommendations.

¹⁹⁷ Interestingly, three of the four studies mentioned were government sponsored studies by defense consultants Booz-Allen Hamilton and the Scowcroft Group. See Hart-Rudman Commission, Phase III, 70 n. 64.

¹⁹⁸ Hart-Rudman Commission, Phase III, p. x.

¹⁹⁹ Hart-Rudman Commission, Phase III, p. xii.

The commission emphasized the need to reform the DoD's weapons acquisition process to better support the defense industry:

As for acquisition reform, the commission is deeply concerned with the downward spiral that has emerged in recent decades in relations between the Pentagon as customers and the defense industrial base as supplier of the nation's major weapons systems. Many innovative high-tech firms are simply unable or unwilling to work with the Defense Department under the weight of its auditing, contracting, profitability, investment, and inspection regulations.²⁰⁰

The commission also argued that the acquisition process was cumbersome and dealt a serious blow to smaller defense firms trying to compete for bids. As a result, Phase III looked to open the door for smaller, innovative companies that had not traditionally served the DoD:

- The government should encourage small, agile, high-tech companies to enter defense competitions, as they represent both a source of innovation and an inspiration to new efficiencies.
- To the extent practicable, the acquisition system needs to be open to continuous competition, and open to new ideas from companies of all sizes.²⁰¹

²⁰⁰ Hart-Rudman Commission, Phase III, p. xii.

²⁰¹ Hart-Rudman Commission, Phase III, p. 71.

The Hart-Rudman Commission also made recommendations meant to loosen oversight of the acquisition process. It worried that the defense industry's ability to sustain profits was suffering from strict procurement regulations placed on the DoD, noting that private sector firms "are affected adversely by the exacting social and ethical standards to which DoD is held."²⁰² Thus, the commission recommended that Congress relax its oversight over the acquisition process: "federal acquisitions regulations must no longer weigh down business with so much gratuitous paperwork and regulation that they discourage firms from doing business with the government."²⁰³

Phase III therefore proposed the rewriting of sections of U.S. Code, Title 10, and the Federal Acquisition Regulations to reduce the number of auditors and inspectors responsible for regulating the acquisitions process by fifty to sixty percent.²⁰⁴ It further asserted that excessive inspection creates an adversarial and risk-adverse environment and forces the private sector to "to go to extremes in accounting and business procedures."²⁰⁵

Phase III placed additional emphasis on technology in its concerted efforts to support space-based endeavors:

There is no more critical dimension of defense policy than to guarantee U.S. commercial and military access to outer space. The U.S. economy and military are vitally dependent on communications that rely on space. The clear imperative

²⁰² Hart-Rudman Commission, Phase III, p. 70.

²⁰³ Hart-Rudman Commission, Phase III, p. 75.

²⁰⁴ Hart-Rudman Commission, Phase III, p. xiii.

²⁰⁵ Hart-Rudman Commission, Phase III, p. 74.

for the new era is a comprehensive national policy toward space and a coherent governmental machinery to carry it out.²⁰⁶

Phase III also promoted individual private sector stakeholders by developing recommendations that protected high-profile individuals interested in transitioning to senior government positions. The commission wanted to lift what it considered to be cumbersome appointment requirements:

The ordeal that Presidential appointees are subject to is now so great as to make it prohibitive for many individuals of talent and experience to accept public service. The confirmation process is characterized by vast amounts of paperwork and many delays.²⁰⁷

Phase III criticized what it called, “post employment restrictions” that inhibited individuals from pursuing private sector careers after government service. It declared that conflict of interest and financial disclosure regulations kept “honest men and women out of public service.”²⁰⁸ It continued:

Meanwhile a pervasive atmosphere of distrust and cynicism about government service is reinforced by the encrustation of complex rules based on the assumption

²⁰⁶Hart-Rudman Commission, Phase III, p. xiii.

²⁰⁷Hart-Rudman Commission, Phase III, p. xv.

²⁰⁸Ibid.

that all officials, and especially those with experience in or contact with the private sector, are criminals waiting to be unmasked.²⁰⁹

Consequently, Phase III recommended revising ethics laws to reduce the number of FBI background checks and financial disclosure requirements for appointees with defense industry experience.²¹⁰

The Defense Department and Senate Armed Services Committee routinely force nominees to divest completely their holdings related to the defense industry instead of exploring other options like blind trusts, discretionary waivers, and recusals. This impedes recruiting high-level appointees whose knowledge of that industry should be regarded as a valuable asset to the office, not reason for disqualification.²¹¹

The Hart-Rudman Commission devoted a significant amount of attention to addressing procedural concerns of interest to the defense industry. By recommending ways to ease competitive procurement policies, it endeavored to find an opening for smaller defense companies into an increasingly shrinking military-industrial complex; by proposing the relaxation of employment restrictions and that Congress loosen regulatory laws, it searched for a smooth transition to government careers for private sector elites.

²⁰⁹ Ibid.

²¹⁰ Ibid.

²¹¹ Hart-Rudman Commission, Phase III, p. 91.

As a result, the private sector defense industry emerged a clear winner in the Hart-Rudman Commission report.

Department of Defense: “*Winner*”

The commission produced a series of recommendations meant to champion major structural reform at the DoD. But a closer examination of the recommendations suggests that the DoD actually suffered few casualties. For example, the report called for a 10 to 15 percent reduction of personnel.²¹² Yet the proposed downsizing included a limited number of areas like humanitarian assistance and military counter-drug programs. Phase III proposed to cut costs by a 25 percent reduction in such support infrastructure as military commissaries, accounting, and certain aspects of defense communications.²¹³ At the same time, the commission encouraged policymakers to provide better incentives for attracting and maintaining personnel. Education loan forgiveness, an enhanced GI Bill, and retirement benefits were among the commission’s suggestions for ensuring a high-quality military force.

What is more, the jobs it did propose eliminating were in areas that might ultimately serve the interests of the DoD. The recommended downsizing would have done away with oversight programs like the Joint Requirements Oversight Council (JROC) and the Joint Warfighting Capability Assessment (JWCA) staff. In addition, the commission proposed cutting acquisition oversight programs. All of these were key methods to measure performance and ensure accountability.²¹⁴

²¹² Hart-Rudman Commission, Phase III, p. 65.

²¹³ Hart-Rudman Commission, Phase III, p. 67.

²¹⁴ Hart-Rudman Commission, Phase III, p. 65.

The DoD was also the patent winner in turf battles with the DCI and Congress. The commission rejected arguments that the DCI should be given greater authority over budgets and personnel.²¹⁵ Instead, it argued that the DCI-Secretary of Defense relationship was “bearing fruit.”²¹⁶ The commission also empowered the DoD by arguing that the secretary should “contain Congress’ desire to micro-manage DoD processes through crippling laws and regulations.”²¹⁷ Such recommendations further shielded DoD turf from reform.

The commission did press the DoD to make two strategic reforms. The Phase III report concluded that the concept of fighting a two-theater war ignored current trends in the international security environment. It therefore recommended that the DoD resize its force structure planning to better respond to strategic realities.²¹⁸ It suggested military planning for *one* major war and for several simultaneous small-scale disruptions.²¹⁹ Of note, the commission’s suggested draw-down was not matched by suggestions for corresponding budget cuts. Instead, Phase III supported increased funding:

Given the demands now placed upon this nation’s military, or those anticipated in the next quarter century, it is evident that modern forces equal to these demands cannot be sustained by current levels of spending.²²⁰

²¹⁵ Hart-Rudman Commission, Phase III, p. 82.

²¹⁶ Ibid.

²¹⁷ Hart-Rudman Commission, Phase III, p. 64.

²¹⁸ Hart-Rudman Commission, Phase III, 76.

²¹⁹ Ibid.

²²⁰ Hart-Rudman Commission, Phase III, 15.

The commission also urged the president to direct the secretary of defense to make homeland security a primary mission of the National Guard, and to adjust its training, procurement, and deployment patterns accordingly. The commission argued that the U.S. military is the only governmental institution equipped to deal with the aftermath of a successful nuclear, chemical, or biological attack.

The Hart-Rudman Commission promised to deliver reform recommendations that addressed challenges facing the Department of Defense in the post-cold war era. Few, if any, of those recommendations would have placed the department at a strategic disadvantage compared to other agencies competing for turf in the realm of counterterrorism policy. As a result, the DoD secured a win in the Hart-Rudman Commission's final outcomes.

CIA: "Loser"

The commission acknowledged a number of egregious intelligence failures like the failure to detect India's nuclear testing and missile developments in North Korea and Iran. It also noted organizational impediments that slowed down information sharing between agencies. Nevertheless, it concluded that "the basic structure of the U.S. intelligence community does not require change."²²¹ For the CIA, avoiding substantial reform was a double-edged sword. It shielded the agency from turf, budget, or resource loss. But maintaining the status quo also kept in tact a structurally weak DCI.

Though Phase III recognized suggestions by experts to fortify the DCI position, it ultimately rejected making any significant improvements:

²²¹ Hart-Rudman Commission, Phase III, 81.

To respond to these challenges, some have recommended strengthening the Director of Central Intelligence (DCI) through organizational changes, such as vesting greater budgetary authority in him and giving him greater control over personnel throughout the community. We believe, however, that current efforts to strengthen community management while maintaining the ongoing relationship between the DCI and the Secretary of Defense are bearing fruit.²²²

The Hart-Rudman Commission downplayed the need for stronger authoritative levers, arguing that the DCI's role could be strengthened if the president set clearer priorities and provided better guidance for the IC's leadership.

Phase III did, however, make a few key recommendations that would improve human intelligence efforts by the agency. It recommended prioritizing HUMINT by loosening the guidelines that restricted officers from recruiting human intelligence sources who might have committed human rights violations.²²³ The report also recommended expanding the National Security Education Act (NSEA) to include areas of study deemed necessary for human intelligence operations such as language and cultural studies.²²⁴

By endorsing more freedom for the recruitment of foreign nationals and increased language and cultural education funding, the commission attempted to address problems

²²² Hart-Rudman Commission, Phase III, 82.

²²³ Hart-Rudman Commission, Phase III, 83.

²²⁴ Hart-Rudman Commission, Phase III, 89.

with the quality of human intelligence collection. It also acknowledged that human resources were spread thin and officers were subsequently forced to make “dangerous tradeoffs between coverage of important countries, regions, and functional challenges.”²²⁵ Ironically, however, the commission endorsed its own dangerous trade-off. Phase III contended that technological advances suffered because of what seemed to be the cost of increased personnel salaries and benefits:

Technological superiority has long been a hallmark of U.S. intelligence. Yet some agencies within the National Foreign Intelligence Program spend as little as three to four percent on advanced research and development. This reflects a decline in overall intelligence expenditures, *while salaries and benefits for intelligence personnel have been on the rise. Concerted effort is needed to ensure that research and development receive greater funding.*²²⁶

In sum, the report maintained the current structure of the CIA and supported increased resources and changes in legislation to strengthen human intelligence capabilities. However, its failure to redress authoritative imbalances between the DCI and Secretary of Defense, further maintained weakness at the helm of the agency. Its support for technological innovation seemed to be at the expense of human resources, suggesting that a dangerous zero-sum game might emerge. As such, the overall outcome for the CIA was a strategic loss in the Hart-Rudman Commission’s final report.

²²⁵Hart-Rudman Commission, Phase III, p. 83.

²²⁶ Hart-Rudman Phase III, p. 84; emphasis added.

Congress: “*Mixed*”

Though one study group member lamented that “no one was willing to take on Congress,”²²⁷ the legislative body lost on two fronts. First, the commission noted the lack of unified congressional oversight with regard to homeland security and proposed partnering each appropriations subcommittee with its appropriate authorizing committee. Members of Congress serving on authorizations committees or appropriations subcommittees would lose bureaucratic turf if the commission’s suggestions for structural reorganization were implemented. Second, Phase III suggested creating a special select committee on homeland security to oversee a new Homeland Security Agency, again threatening individual fiefdoms protected by each committee.²²⁸

However, the commission sought to soften the blow by proposing other recommendations that few members of Congress would find disagreeable. It suggested, for example, that congressional members become more educated in national security issues by participating in war games. It also felt members of Congress required more knowledge of international security affairs and thus supported funding for both legislators *and their spouses* to take part in more overseas travel.²²⁹ As a result, Congress emerged with a “mixed” result in the commission’s outcomes.

State Department: “*Loser*”

²²⁷ Personal interview with study group member, January 19, 2006.

²²⁸ For further detail, see Daniel Kaniewski, “Create a House Select Committee on Homeland Security and Terrorism,” *Journal of Homeland Security* (2002).

²²⁹ Hart-Rudman Commission, Phase III, p. 111.

The commission argued that the State Department was a “crippled institution.”²³⁰ Because of its disparate functional bureaus, State was unable to speak with one voice. Its fragmented hierarchical structure made it difficult to designate clear leadership roles and responsibilities. Consequently, the commission offered a series of recommendations intended to strengthen the agency’s organizational structure.

Phase III proposed dividing the office of the secretary of global affairs into five separate regional under secretaries. Undersecretaries would wrest authoritative control from officials in charge of regional programs such as development aid, democracy building, and security assistance. Additionally, it suggested regulating resources through a newly created Strategic Planning, Assistant, and Budget Office, and the reorganization and “right-sizing” of ambassadorial posts by an independent advisory panel.

The commission also proposed major consolidation efforts: integrating the U.S. Agency for International Development (USAID) into the State Department; combining the offices of Resources, Plans & Policy, and Policy Planning into a new ‘Strategic Planning, Assistance, and Budget Office’ to coordinate and manage the allocation of resources;²³¹ and integrating all State Department funds into a Foreign Operations budget.²³² Collapsing the responsibilities and budgets of several agencies, it argued, would allow the State Department to better accomplish its overall strategic goals.

Although the commission did support increased funding for State, it did so in only the vaguest sense:

²³⁰ Hart-Rudman Commission, Phase III, p. x.

²³¹ Hart-Rudman Commission, Phase III, p. xii.

²³² Phase III, Recommendation #22, p. 58.

A spiral of decay has unfolded over many years in which the Congress, reacting to inefficiencies within the department, has consistently underfunded the nation's needs in the areas of representation overseas and foreign assistance. That underfunding, in turn, has deepened the State Department's inadequacies. This spiral must be reversed.

Phase III proposed significant reform initiatives meant to consolidate, integrate, and improve the efficiency of an increasingly ineffective and irrelevant department in the post-cold war era. Whether or not the prescribed changes would improve efforts, it also meant that a collection of smaller programs and bureaucratic agencies within State stood to lose substantial control over coveted turf, a plan the State Department resisted endorsing.²³³ The response to such proposals by newly appointed Secretary of State Colin Powell supports the point:

Shortly after taking office, [Powell] said that he was committed to incremental reform, since radical change is too disruptive and distracts too much energy for ongoing operations, which were already under the strain of deficient resources. Thus, for example, the drastic reorganization recommended by the 2001 Hart-Rudman Commission was not undertaken.²³⁴

²³³ See "Debating vs. Diplomacy" for comments from former State Department officials, September 30, 2003, www.Americandiplomacy.org

²³⁴ "Task Force Report Secretary Colin Powell's State Department: An Independent Assessment," Foreign Affairs Council, March 2003

Hart-Rudman’s recommendations required major organizational changes at the State Department. Such proposals were unwelcome to Secretary Powell, who preferred an incremental, rather than drastic pace of reform. Consequently, the State Department should be considered a loser in the report’s conclusions.

In sum, Phase III of the Hart-Rudman Commission produced a series of winners and losers out of national security stakeholder groups. Private sector defense industry firms and the Department of Defense were largely protected, while homeland agencies, the State Department, and the White House’s NSC were left vulnerable to recommendations that required substantial reorganization. The CIA gained some small ground with the report’s endorsement of relaxing human asset recruitment standards, though the reports emphasis on technological improvements for the intelligence community meant that human resource improvements would be limited. Perhaps most critically, it failed to strengthen the ailing office of the DCI. Congress would also have mixed reactions to recommendations that would overhaul the intelligence committee structure, but offer conciliatory perks like participation in war game exercises and all-expenses-paid trips abroad. Issues of concern for labor and civil liberties advocate stakeholders took a backseat to the report’s decision to emphasize the creation of a National Homeland Security Agency. The following chart summarizes each stakeholder group’s win/loss status in the commission’s final outcome:

Chart 4.1 Hart-Rudman Win/Lose Chart

Stakeholder Group	Status
DoD	Win

Private Sector	Win
Congress	Mixed
White House	Lose
Homeland Agencies	Lose
State Department	Lose
DoJ	Lose
CIA	Lose
Advocates	Lose
State and Local	Lose

Conclusion

There was a clear disconnect between what the commission described as the emerging terrorist threat and the types of recommendations it proposed to combat them. Phase I noted that “the United States will become increasingly vulnerable to hostile attack on the American homeland, and U.S. military superiority will not entirely protect us.” For example, it predicted that bioterrorism would become a very real threat possibility in the post-cold war era:

A few people with as little as a \$50,000 investment may manage to produce and spread a genetically-altered pathogen with the potential to kill millions of people in a matter of months. Clearly, the threshold for small groups or even individuals to inflict massive damage on those they take to be their enemies is falling dramatically.²³⁵

²³⁵ Hart-Rudman Phase III, 4.

The Hart-Rudman commission concluded that such an, “emerging security environment in the next quarter century will require different U.S. military and other national capabilities.”²³⁶ But its recommendations appear to have suffered from myopic strategic thinking by focusing on space policy, ballistic missile defense, and ways to ease acquisition regulations for the private sector.

The Hart-Rudman Commission’s most important contribution to domestic counterterrorism policy was its recommendation for the establishment of a National Homeland Security Agency. By doing so the commission was one of the first to acknowledge the importance of including domestic agencies such as the Border Patrol and the INS, in domestic counterterrorism activities. Indeed, one commissioner interviewed for this study noted that the Hart-Rudman Commission “was the first to put the words ‘homeland’ and ‘security’ next to each other in a sentence.”²³⁷ However, the report had little to say about how to go about such an enormous transition of government employees, nor did it specify what civil liberties protections would be in place. Additionally, it stopped short of a balanced strategy by largely excluding state and local agencies in its strategic vision. How did the Hart-Rudman Commission ultimately come to the conclusions laid out in its final report?

The report’s recommendations must be viewed with the actual composition of the panel in mind. Which stakeholder groups had access to the commission and which were left out? If the hypothesis posited in this study is correct, if the commission operated in relative seclusion, an interest alliance consisting of these “winners” was able to access

²³⁶ Hart-Rudman Commission, Phase III, 3.

²³⁷ Personal interview with commissioner, May 15, 2006.

and dominate the commission process. The “losers” were poorly represented during the commission process, and thus was unable to form a competing alliance to adequately influence outcomes. The following chart summarizes the predicted access allowed by each group:

Chart 4.2 Hart-Rudman Win/Lose Chart Predicted Access

Stakeholder Group	Status	Predicted Access
DoD	Win	High
Private Sector	Win	High
Congress	Mixed	Medium
White House	Lose	Low
Homeland Agencies	Lose	Low
State Department	Lose	Low
DoJ	Lose	Low
CIA	Lose	Low
Advocates	Lose	Low
State and Local	Lose	Low

The next chapter will determine which stakeholder groups actually accessed the debate.

Chapter Five

Hart-Rudman Commission: Case Study Analysis

“Americans will likely die on American soil, possibly in large numbers.”²³⁸

Three years before the 9/11 attacks, the first report of the U.S. Commission on National Security in the 21 st Century predicted that foreign terrorists would achieve destruction within U.S. borders on a mass scale. The commission repeated the warning in its final report just seven months prior to the 2001 attacks:

The combination of unconventional weapons proliferation with the persistence of international terrorism will end the relative invulnerability of the U.S. homeland to catastrophic attack. A direct attack against American citizens on American soil is likely over the next quarter century.²³⁹

Despite its alarming conclusion, data compiled from the media and personal interviews with six participants (three commissioners and three Study Group members) reveal that the Hart-Rudman Commission’s efforts suffered from a lack of public scrutiny. Its three separate reports went largely unnoticed by major newspaper sources. Furthermore, the closed-door policy of the commission kept out the few public organizations that actually were interested in its work.

The commission’s report failed to receive adequate attention by the media, scholars, the White House, or the public.²⁴⁰ According to Andrew Tyndall, a media analyst who monitors nightly television news by the three leading networks, only CBS

²³⁸ “New World Coming: American Security in the 21 st Century, Major Themes and Implications,” Hart-Rudman Commission, (Phase I), 1999.

²³⁹ Hart-Rudman Commission, Executive Summary, Phase III, 1.

²⁴⁰ See Matthew Storin, “While America Slept: Coverage on Terrorism from 1993 to September 11, 2001,” Joan Shorenstein Center on the Press, Politics, and Public Policy, Working Paper Series, Spring 2002.

aired a segment on the report.²⁴¹ Scholars from the Brookings Institution also followed the media's coverage on the evening of its release only to find very little attention given the commission's warnings:

I then looked for that evening news on ABC, CBS, NBC, ABC's Nightline, the next morning's New York Times, Washington Post, and there wasn't anything there. And that really is the conundrum we're dealing with.²⁴²

Though both the commission's executive director General Charles G. Boyd, and the co-chairman, Gary Hart, met with editorial board members at the *New York Times*, the *Washington Post*, and the *Wall Street Journal*, most major news outlets dismissed the report. Referring to the report's final conclusions, Boyd recalled: "We got some serious yawns and that was about it."²⁴³ Staff member Art Garfinkle recalled that the media's response was "Where's the news hook?' Or they said, 'When you get to the end and get to all the controversial stuff, call me back.'"²⁴⁴ A Study Group member interviewed for this study said "the press never picked up on it."²⁴⁵ A commissioner interviewed for this concurred, "The media was asleep at the switch."²⁴⁶ Corroborating their claims, a LexisNexis search reveals that in the three years prior to the 9/11 attacks, from the release

²⁴¹ See Susan Paterno, "Ignoring the Warning" *American Journalism Review*, (November 2001).

²⁴² See comments by Stephen Hess in the Brookings/Harvard Forum, "Press Coverage on the War on Terrorism: Rudman-Hart Commission Warns of Terrorist Attack--Why Did the News Media Ignore It?" February 6, 2002.

²⁴³ Susan Paterno, "Ignoring the Warning," *American Journalism Review*, (November 2001), 3.

²⁴⁴ *Ibid.*, 2.

²⁴⁵ Personal interview with study group member, January 26, 2006.

²⁴⁶ Personal interview with commission member, May 16, 2006.

of its first report in September 1999 to September 10, 2001, just seventeen articles were written about the commission in major newspapers. The press finally tuned in, doubling its coverage (adding an additional 32 articles) in just three months after the September 11 attacks. The media centered its post 9/11 articles on why policymakers failed to heed the report's warnings, though it overlooked its own role in failing to report on the commission.²⁴⁷

There are several explanations for the lapse in media focus. For one, the arcane details of bureaucratic reshuffling simply did not resonate as newsworthy material pre-9/11. A *New York Times* reporter walked out during one of the commission's briefings because he felt there was no sense of immediacy to the commission's recommendations.²⁴⁸ Storin (2002) noted that the report's warning was extended "...over the next century. Not the kind of stuff that energizes headline writers."²⁴⁹ A Study Group member interviewed for this study noted that the commission had competed--and lost--against other headlines like the Wen Ho Lee spy scandal, the presidential inauguration, an electricity crisis in California, and interest rate cuts.

Another explanation is that the close of the cold war created an environment in which critics began to look inward rather than focus on threats from abroad. Roxborough (2001) criticized the commission for inventing an international "boogeyman held

²⁴⁷ See "Congress, Too, Missed 9/11 Threat," *Christian Science Monitor*, April 9, 2004, A16; "Connecting Dots: Bush's Culpability for 9/11," *Star Tribune*, April 8, 2004, A1. For a detailed discussion of the media's coverage of threat of international terrorism leading up to 9/11, see Matt Storin "While America Slept: Coverage of Terrorism from 1993 to September 11, 2001," the Joan Shorenstein Center on the Press, Politics, and Public Policy, Working Paper Series, no. 7, 2002.

²⁴⁸ Ironically, after 9/11, the reporter who had walked out on this briefing would then write an article criticizing the administration for not listening to the Hart-Rudman report. Personal interview with study group member, January 26, 2006.

²⁴⁹ Matt Storin "While America Slept: Coverage of Terrorism from 1993 to September 11, 2001," Joan Shorenstein Center on the Press, Politics, and Public Policy, Working Paper Series, no. 7, 2002, 27.

accountable for all the troubles in the world.”²⁵⁰ He argued that the commission’s aim was off--after all, the biggest terrorist threat on U.S. soil to date, the 1995 Oklahoma City bombing, was homegrown. The 1996 Atlanta Olympic games bombing was another indication that national security efforts should be focused inward. Pointing out the potential for domestic pork-barrel politics, the *Weekly Standard* considered the \$10 million commission “an expensive flop” and a “boondoggle” that was the creation of one of its commissioners, Newt Gingrich.²⁵¹

But the primary complaint by commission participants interviewed for this study was that the commission received inadequate support from the White House. One of the greatest powers of the presidency is the ability to focus media attention on a subject, yet the White House never invited the commission for a briefing. A Study Group member recalled that the commission briefed National Security Advisor Condoleezza Rice and Secretary of Defense Donald Rumsfeld. She was “fairly receptive,” and he “loved it.”²⁵² But the White House was nevertheless disinterested. Three out of the six participants interviewed for this study blamed political infighting for the administration’s failure to recognize its findings. They contended that the commission was poorly received because it had antagonized Vice President Dick Cheney’s wife, Lynne Cheney, who was initially on the commission but departed over conflicting views with other commissioners over

²⁵⁰ Ian Roxborough, “The Hart-Rudman Commission and the Homeland Defense,” U.S. Army War College, Strategic Studies Institute 2001, 17.

²⁵¹ “Newt Gingrich’s Last Boondoggle: The Hart-Rudman National Security Commission Shows Every Sign of Being an Expensive Flop,” *Weekly Standard*, May 29, 2000.

²⁵² Personal interview with study group members, January 14, January 26, and May 16, 2006.

U.S.-China policy.²⁵³ Another Study Group member claimed that President Bush shelved the report to allow Vice President Cheney room to conduct his own national security panel. Still others contend that the report was ignored because the commission's co-chair Warren Rudman, was Senator John McCain's campaign manager in the 2000 election. Though Rudman publicly denied it had an effect,²⁵⁴ a Study Group member disagreed: "We were on the Bush Administration's shit list because of our co-chair!"²⁵⁵ Whatever the reason, by snubbing the report, the White House signaled to the press that it was not an important issue to cover.

As for the public, some experts argued that the subject of terrorism was "too scary"²⁵⁶ or fantastical.²⁵⁷ Weapons of mass destruction were simply too horrific to contemplate. Yet at the same time as the release of the final report, the staff of the *New York Times* had written an extensive three-part series on the international terrorist threat that examined Osama bin Laden, al-Qaeda, and their link to the first World Trade Center bombing. The report was awarded the Pulitzer Prize for Explanatory Reporting in 2002, and indicated that the public was not as averse to thinking about terrorism as some had thought.²⁵⁸

The commission was unable to galvanize public interest despite the fact that several commissioners had strong ties to the media. Newt Gingrich, Leslie Gelb, and

²⁵³ Personal interview with study group member, January 26, 2006. See also Christopher Preble, "The Uses of Threat Assessment in Historical Perspective: Perception, Misperception and Political Will," Cato Institute, June 16, 2005.

²⁵⁴ "Hart-Rudman Commission Warns of Attack: Why Did the News Media Ignore It?" Brookings-Harvard Forum, February 6, 2002.

²⁵⁵ Personal interview with study group member, January 26, 2006.

²⁵⁶ Harold Evans, "Warning Given . . . Story Missed," *Columbia Journalism Review* (November-December 2001): 12-14.

²⁵⁷ Susan Paterno "Ignoring the Warning," *American Journalism Review*, November 2001.

²⁵⁸ Stornin (2002), 28.

John Dancy were all media commentators for such major news outlets as NBC, FOX, and the *New York Times*. The latter was not only a former White House correspondent, but also taught journalism at Harvard, Duke, and Brigham Young Universities.

Commissioner Andrew Young served on the board at Cox Communications, one of the nation's largest media conglomerates. Study Group member Adam Garfinkle worked as an editor of international affairs at the *National Interest*; James Schlesinger was one of its publishers. Nevertheless, these members failed to capitalize on such expertise to capture outside attention.

Another possibility, then, is that the commission deliberately avoided the media. As one Study Group member stated, "Any claims that commissioners really tried to harness the press are over exaggerated."²⁵⁹ The commission did not invite public commentary, nor did it provide public hearings or transcripts of its unclassified meetings.²⁶⁰ While most of the information was classified material that could not be discussed openly, critics observed that the commission held meetings for which security clearances were not required and for which classified information was not on the agenda. For example, news outlet *Inside the Navy* complained that the commission did not distinguish between classified and unclassified material. It found that the commission planned to hold unclassified meetings with a Rhode Island-based contractor during two July 1999 meetings. The meetings were nevertheless held behind closed doors.²⁶¹ Reporters accused the commission's chief of staff of denying them access to unclassified

²⁵⁹ Personal interview with a study group member, January 19, 2006.

²⁶⁰ "Security Commission Blurs Line Between Classified and Candid Talks," *Inside the Navy*, November 22, 1999.

²⁶¹ "Pentagon Rebukes National Security Panel on FACA," *Inside the Navy*, December 6, 1999.

portions of its records of the group's first report. The chief of staff reportedly insisted the news source file a Freedom of Information Act request to obtain documents.²⁶² A Study Group member interviewed for this study explained that the closed nature of the commission process was not entirely due to the need to examine classified material, but also because commissioners wanted to encourage candid discussion, which is difficult to achieve under the media's spotlight.

In sum, whether due to a complacent public, inattentive media, or dubious attempts at public outreach by participants, the commission operated in relative seclusion. The hypothesis laid out in this study predicts that in such an environment the commission process will be skewed by interest politics. It predicts that winning stakeholders had substantial access to the commission, while losing stakeholder groups would have had significantly less access. Furthermore, the isolated environment would have provided fertile ground for interest alliances to prosper. The following chart revisits the hypothesis's predictions:

Chart 5.1 Hart-Rudman Win/Lose Predictions Revisited

Stakeholder Group	Status	Predicted Access
DoD	Win	High
Private Sector	Win	High
Congress	Mixed	Medium
White House	Lose	Low
Homeland Agencies	Lose	Low
State Department	Lose	Low
DoJ	Lose	Low
CIA	Lose	Low
Advocates	Lose	Low

²⁶² Ibid.

Section Three--Background Affiliations

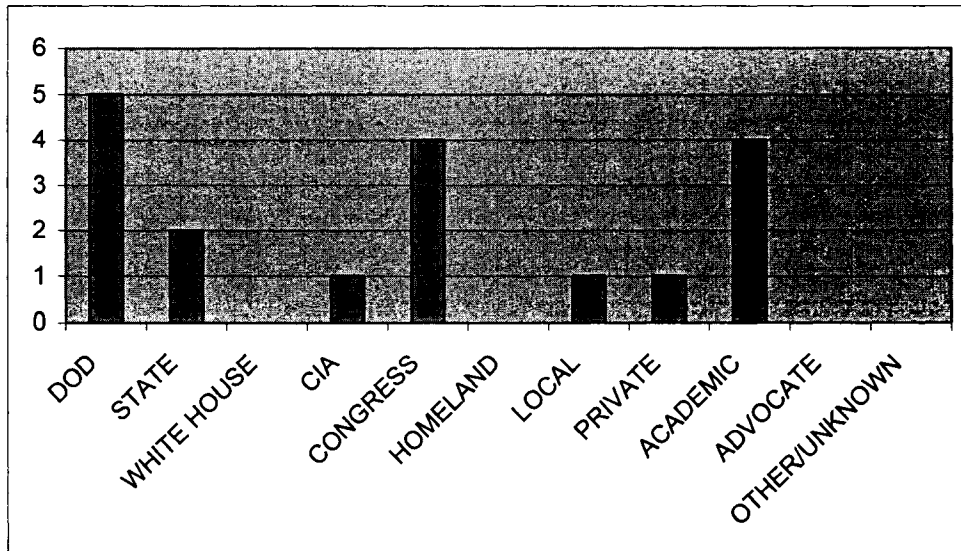
The Hart-Rudman Commission was born out of a conversation between President Clinton and the Republican Speaker of the House, Newt Gingrich. Both were interested in finding the appropriate successor to the country's cold war containment policy and considered an independent commission of high-ranking military officials, academics, and prominent policymakers a proper venue to work out a new post-cold war strategic vision. President Clinton decided that the commission's \$10 million budget would be funded by the Department of Defense and that the DoD would determine the commission's roster. Congress would have a voice in the selection process and the commission would be required to keep Congress updated on its progress throughout its three-year charter.

Secretary of Defense William Cohen was initially to have significant influence over the commission by selecting its two co-chairmen, its twelve additional commission members, its executive director, and all of its official Study Group membership.²⁶³ Though the secretary of defense formally had the final word, according to all six participants who agreed to be interviewed for this study, the commission's executive director, Gen. Charles Boyd, played the largest role in selecting the commission's roster. Boyd selected and interviewed all commissioners and Study Group members, and insisted that participants not be currently serving in government in order to avoid

²⁶³ Hart-Rudman Commission, Section II, Board of Commissioners, and Section VI, Personnel and Administrative Support, September 2, 1999.

bureaucratic biases.²⁶⁴ Who was invited to participate and what were their institutional affiliations?

Chart 5.2 Hart-Rudman Commissioner Credentials



General Boyd selected a mixture of commissions with experience in government, industry, academia, and the military to avoid the image of a DoD-centric group.²⁶⁵ According to the official biographies listed, the commission's fourteen-person roster included expertise in at least seven stakeholder categories: DoD, CIA, Congress, the State Department, the White House, local government, academic/expert, and private sector.²⁶⁶

The diverse group of talent should have produced a balanced, nonparochial report.

A deeper investigation, however, reveals that DoD and private sector bias might have

²⁶⁴ Personal interviews with one commissioner May 16, 2006, and two study group members, January 25, and January 26, 2006.

²⁶⁵ Personal interview with study group member, January 26, 2006.

²⁶⁶ As commissioners frequently have backgrounds spanning numerous fields, this table overlaps. For example, James Schlesinger served as secretary of defense, DCI, secretary of energy, among other career tracks inside and outside of government. The expertise table simply provides areas from which commissioners might be able to speak with expertise.

been an influential factor for a number of members. For example, commissioner Norm Augustine's expertise was as a former under secretary of the Army. During the time of the commission, however, he had made the transition to the private sector as an executive at aerospace giant Lockheed Martin. Lockheed was almost the exclusive provider of the large satellites used by the intelligence community. There was increased pressure to push away from the large satellites it produced, toward smaller, lightweight satellite technology, which opened the field up to other defense contractors. While public transcripts for the Aspin-Brown Commission are unavailable, public testimony by Augustine before the House Permanent Select Committee on Intelligence around the same time suggest that he was a major defender of Lockheed products over other intelligence systems: "Smallsats' certainly represent an intriguing new technology," however he argued that "we should continue to work on existing systems so that we will have proven assets to fall back on should 'smallsats' or other new technologies need a lengthy, evolutionary process."²⁶⁷ A Study Group member interviewed for this research noted that during the commission's deliberations, Augustine was a major contributor-- particularly during the sessions involving weapons acquisition.²⁶⁸ It is likely that the Lockheed employee continued to lobby for his company during his service on the Hart-Rudman Commission.

Newt Gingrich's ties to Lockheed Martin were also well known. Dreyfuss (1996) notes the company's financial contributions, including the maximum \$10,000 allowed during the 1993-94 election cycle. A spokesperson for the company tried to downplay

²⁶⁷ Dreyfuss (1996), 4.

²⁶⁸ Personal interview with a study group member, January 26, 2006.

the relationship between Lockheed and the controversial speaker: “He becomes a lightning rod, and some people, particularly Democrats, would like to embarrass him, would like to cut off programs because of him. We wanted to downplay any relationship between the speaker and Lockheed.”²⁶⁹ Nevertheless, his ties to the company ensured that he would not be a passive player when it came to the intricate details of intelligence policymaking.

Both commission co-chair Warren Rudman and retired general John Galvin earned close to a million dollars each for their participation as board members at defense contractor Raytheon. Though Admiral Harry Train, USN, was selected to participate for his naval expertise, he was then serving as an executive at a defense contractor, Science Applications International Corporation (SAIC).

It is not possible to make a direct link between members who might have had professional interests at stake and the recommendations ultimately produced by the commission. Nevertheless, comments made by a Study Group member interviewed for this study suggest that personal interests did come into play in at least one area of the commission’s recommendations: loosening employment restrictions for private sector elites to transition to high-profile government positions. The Study Group member explained that the recommendation reflected the frustration of the participants who themselves had recently gone through the vetting process in order to serve on the commission. The Study Group member acknowledged that this section was not directly related to the commission’s mandate, but nevertheless considered this section of

²⁶⁹ Dreyfuss (1996), 3.

recommendations “fair bitching” by individuals with first-hand experience with the cumbersome process.²⁷⁰

What is more, soon after the commission concluded its work, three commissioners did join government service. Gary Hart, Newt Gingrich, and James Schlesinger were all invited to serve on the Pentagon’s Defense Policy Board. According to its charter, the Defense Advisory Policy Board provides the secretary of defense with “independent, informed advice and opinion concerning major matters of defense policy.”²⁷¹ Its members assess tactical and long-term strategic threats to U.S. security and what type of weapons systems the United States needs to confront them. But because a number of Defense Policy Board members have private industry ties, and because all of its meetings are classified, the Board’s ethical standing has been called into question. The *Boston Globe* characterized it as “a controversial incubator for White House [national security] policy.”²⁷² In 2004 Senator John McCain (R-AZ) put forth a three-paragraph rider in the Senate version of the defense authorization bill recommending that the inspector general examine whether the policies and procedures of the board “are adequate to sufficiently insulate its members from advising on programmatic decisions that may benefit defense contractors and/or organizations with which members may have a direct or indirect financial interest.”²⁷³

²⁷⁰ Personal interview with Study Group member, January 26, 2006.

²⁷¹ Defense Policy Advisory Committee, Charter: Objectives and Scope, B,1, Office of Administration and Management of the Department of Defense; www.odam.osd.mil

²⁷² “McCain Inserts Key Provisions In Defense Bill: Cites Conflicts of Interest on Policy Board,” *Boston Globe*, May 23, 2004.

²⁷³ Ibid.

The appointment to the prestigious Pentagon policy advisory body might have been related to recommendations that seemed to favor a revolving-door policy for elite stakeholders wanting to move in and out of such decision-making circles. The fact that commissioners had significant DoD experience, coupled with transitions to jobs related to the DoD or defense industry, meant that the potential for conflicts of interest at least existed during the commission process.

The remaining commissioners who did not have significant military or high-tech experience were private businessman Lionel Olmer, Representative Lee Hamilton, former ambassadors Anne Armstrong and Charles Young, and media correspondents Leslie Gelb and John Dancy. But according to comments by Study Group members involved in the process, the influence of at least some of these members remains questionable. One Study Group member noted that though one particular commissioner had “moments of brilliance,” at other times the commissioner seemed to trail off during discussions, leaving others concerned that the first stages of Alzheimer’s had set in.²⁷⁴ Business interests abroad kept another commissioner from participating frequently. One State Department-affiliated commissioner rarely contributed to the debate, leaving the other State Department-affiliated commissioner alone to fend off reform proposals. Calls for further State Department reform were only stopped once the member threatened a “no concurrence” vote to get fellow commissioners to stop making more demands on the State Department.²⁷⁵ Thus the fact that the State Department lacked a strong constituency

²⁷⁴ Personal interview with study group member, January 26, 2006.

²⁷⁵ Personal interview with study group member, January 26, 2005. Based on public speeches made by Commissioner Newt Gingrich (no transcripts were ever made available), it is likely that he was a strong advocate for State Department reform. For example, the former Speaker of the House expressed his

goes a long way to explain why the State Department was positioned among the “losers” in the commission report.

Members may also have been influenced by long-standing institutional biases from commissioners’ cold war career experiences. A Study Group member stated that it was a well-known fact among the “talking heads” in Washington that the commission was stacked with relics from the cold war.²⁷⁶ A comment by commissioner Newt Gingrich supports the point: “I’m the youngest one on this commission and I have gray hair!”²⁷⁷ “You couldn’t beat the army out of him,” observed another Study Group member, describing a fellow member’s institutional bias.²⁷⁸

What is more, the commission process was disorganized. “They couldn’t organize themselves out of a paper bag,”²⁷⁹ complained one Study Group member who was frustrated by the lack of preparation by commissioners. Nor were they adequately up to date on national security trends, as commissioners rarely read the three-ring binders prepared by Study Group members until the night before a meeting.²⁸⁰ Another Study Group member recalled that commissioners were subjected to “behind-the-scenes phone calls” by the commission’s leadership when their views were out of sync with the more dominant DoD-affiliated members. Such a haphazard work environment may have made

concern about State Department reform announcing that, “The State Department needs to experience culture shock,”²⁷⁵ He described it as a “Rogue State Department” doing a “Foreign Disservice.” See “Transforming the State Department,” *Foreign Policy*, April 22, 2003.

²⁷⁶ Personal interview with a study group member, January 26, 2006.

²⁷⁷ Personal interview with a study group member, January 19, 2006. Another study group member disagreed with the cold war relic statement, though the member chuckled upon hearing Gingrich’s statement saying that “he may have a point there.” Personal interview with study group member, January 26, 2006.

²⁷⁸ Personal interview with study group member, January 26, 2006.

²⁷⁹ Personal interview with study group member, January 19, 2006.

²⁸⁰ Ibid.

it easier for the more dominant members with focused professional interests to steer the commission's agenda.

Comments by the three Study Group members interviewed for this study offer a glimpse into an otherwise opaque debate that occurred among commissioners. Their observations further provide a partial explanation for why the commission was unable to develop a comprehensive strategy in Phase II of its report. Additionally, the lack of a focused review might have left room for professional or institutional biases to steer the agenda.

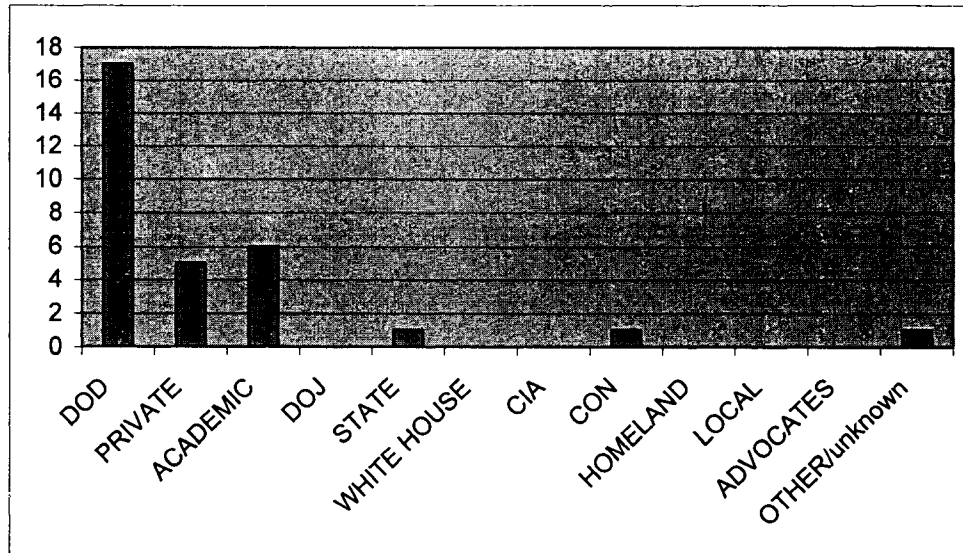
However, Study Group members themselves might have also been a source of limitation. The commission's mandate required that the Study Group roster include a myriad of expertise, stating that the commission should

select sufficient individuals with diverse experience and expertise to fill positions as members of the Study Group. All Study Group members shall be United States citizens with widely recognized expertise in fields relevant to the Study Group's national security objectives. Members should be innovative and creative practitioners or strategists in their respective fields of endeavor.

The following chart provides a breakdown of Study Group members' expertise.²⁸¹

²⁸¹ I obtained most of the background information from the Commission's Study Group Bio found at: http://govinfo.library.unt.edu/nssg/About_Us/People/people.htm.

Chart 5.3 Hart-Rudman Study Group Credentials



The fact that almost every member of the Hart-Rudman Commission’s Study Group had a link to the military may have further skewed the outcome toward the interests of the DoD. According to the commission’s official bio list, seventeen out of thirty (56%) had significant previous military expertise.²⁸² Academic/experts were a distant second at six (20%); followed by five witnesses (16%) whose primary expertise derived from private sector companies focused on technology and global investment. One witness (3%) had prior experience at the State Department, another in Congress.

During their time on the commission over 50 percent of the Study Group members either worked at the DoD or for institutions that were funded by the department, a reality that might have played a role in the commission’s pro-DoD outcomes. Seven (23%) worked in the private sector. Three of the seven (42%) were affiliated with high

²⁸² Biographical information on the remaining study group member identified him only as a “consultant” without offering further detail of what type of expertise he provided.

tech-related firms.²⁸³ The remaining four private sector participants belonged to an elite group of international business leaders that might also have wanted to utilize the commission to support particular interests. For example, recommendations that proposed relaxed regulations on financial disclosures for private elite stakeholders entering government service would have directly affected these Study Group members' ability to access the national security debate.

The commission's leadership selected both commissioners and Study Group members with extraordinary experience in national security topics related to defense. Yet the commission made a significant number of recommendations in areas outside the realm of the DoD. It did so without tapping the expertise of individuals from those fields. No Study Group members had career experience at the FBI, the CIA, or the White House. And while one Study Group member currently worked in the State Department, that member left the State Department within two years of the commission's conclusion, suggesting that State had few if any representatives at the decision-making table.

The Hart-Rudman Commission's most prophetic warning, that the "U.S. will be attacked on domestic soil," prompted the commission to advocate the creation of a new homeland security agency, yet no stakeholders from the INS, the Border Patrol, or any other homeland agency were represented. A Study Group member interviewed acknowledged that the failure to include more state and local officials was a major shortcoming of the commission's work.²⁸⁴

²⁸³ Christopher Bowie was a senior manager at Northrop Grumman; Rhett Dawson was president of the Information Technology Industry Council; Jeffrey Bergner's law firm represents such defense contractors as Boeing, Monsanto, and Lucent Industries.

²⁸⁴ Personal interview with commission member, January 19, 2006.

Advocate stakeholders were also completely excluded. The call for a new homeland security agency suggested that a significant employee base be diverted to the new domestic security agency, a recommendation that raised eyebrows among federal labor unions. Civil liberties advocates were concerned with privacy issues and government secrecy. In addition, in the event of a domestic attack, the commission strongly supported a fortified role for the National Guard, raising more concerns from advocates well versed in the tenets of habeas corpus. Yet the commission did not invite participants from these stakeholder groups to serve on the commission.

In its defense, the Study Group enlisted outside support from various government entities including the DoD, State Department, CIA, FBI, NSC, and Coast Guard among others. The group also worked with private advisers, contractors, and consultants.²⁸⁵ Yet Study Group members interviewed for this study mentioned that they were skeptical that commissioners spent much time evaluating their contributions. One Study Group member referred to the three-ring binders they had prepared as “virgin notebooks,” barely reviewed by commissioners the day before meetings.²⁸⁶ Furthermore, another Study Group member boasted that *the baseline for the new homeland security agency was essentially created by two members of the commission, in one night, over a bottle of scotch whiskey!*²⁸⁷

As the hypothesis posits in this study, the failure of particular groups to adequately access the commission process might serve as a partial explanation for their

²⁸⁵ For a detailed list see Phase I, Supporting Research and Analysis, p. 144, and Phase III, appendix 3, p. 139.

²⁸⁶ Personal interview with study group member, January 19, 2006.

²⁸⁷ Personal interview with study group member, January 26, 2006.

inability to garner wins in the report’s final recommendations. As the following chart indicates, the win/lose status does appear to correspond to the level of access achieved by each stakeholder group.

Chart 5.4 Hart-Rudman Actual Stakeholder Access

Stakeholder Group	Status	Predicted Access	Actual Access
DoD	Win	High	High ✓
Private Sector	Win	High	High ✓
Congress	Mixed	Medium	Low --
White House	Lose	Low	Low ✓
Homeland Agencies	Lose	Low	Low ✓
State Department	Lose	Low	Low ✓
DoJ	Lose	Low	Low ✓
CIA	Lose	Low	Low ✓
Advocates	Lose	Low	Low ✓
State and Local	Lose	Low	Low ✓

By not only funding the entire commission, but also deciding the makeup of the commission’s roster, the large number of Defense Department officials could play a decisive role in the commission’s outcomes. A significant number of its stakeholder representatives also had strong connections to private sector industries that could benefit from a particular set of recommendations meant to ease the regulation of the weapons procurement process. Congress had low-level access, though comments by both Study Group members and commissioners interviewed for this study suggest that former House Speaker Newt Gingrich played a decisive role in the decision-making process, and thus might have looked for at least a few perks to appease his former colleagues. The fact that the White House, homeland agencies, the State Department, the CIA, and advocate

stakeholders had low representation corresponds to their inability to protect turf or secure gains.

Others who were included did not necessarily have counterterrorism experience, but instead had prior working relationships with the commission's leadership. For example, two Study Group members interviewed for this study recalled that another Study Group member was hired more as a political favor, than for actual experience with counterterrorism issues.²⁸⁸ The member was "in between jobs" and looking for a paycheck. Study Group members recalled having to pick up the slack, often rewriting what little written work the member had done. Still other Study Group members were considered "downright immature," lacking backgrounds required to tackle an array of issues. But because of the relatively closed process, the commission's leadership was able to select participants based on personal connections more than on appropriate experience.

To review the interest alliance concept, participants operate by inviting each other to testify or serving as staff or commission members themselves. Having invited fellow participants allows them to determine who participates, the agenda to be discussed, and subsequently, the type of information parlayed to policymakers.²⁸⁹ These strategies not only ensure that their preferences are embedded in recommendations but also serve to institutionally legitimize their own parochial interests through legislative mandate. Though the Hart-Rudman Commission worked in relative seclusion, evidence

²⁸⁸ Personal interview with study group members, January 19, and January 26.

²⁸⁹ Schattschneider (1974), Edelman (1964), and Bachrach and Baratz (1962) find these processes at work in their studies of U.S. interest group activity.

from personal interviews with commission participants, and an examination of background affiliations, makes it possible to piece together a narrative that suggests that the interest alliance dynamic at least played a minor role in the Commission's decision-making process.

Conclusion

With uncanny prescience, the Hart-Rudman Commission forewarned policymakers of the inevitability of terrorist attacks on domestic soil. Scholars, experts, the media, and former commissioners themselves lament that the commission provided policymakers a roadmap that might have significantly deterred such terrorist activity, if only its work were not ignored prior to 9/11. A closer examination, however, leaves that assertion up for debate.

The Hart-Rudman Commission stayed on track with its mandate to review the international security threat and make recommendations for reorganizing the national security apparatus to adapt to future challenges. But because the commission's charter required it to first define the threat environment, it was able at the outset to shift that priority toward its members' agendas.

One agenda was the desire to bolster an ailing defense industry. The commission highlighted the threat of malevolent technology in the hands of U.S. adversaries and focused on expensive missile defense and other high-tech systems. But it also missed the mark by ignoring the trend toward more asymmetrical methods of attack. It is important to note, for example, that terrorists foiled U.S. security efforts at every level on 9/11 by using twine, pocketknives, and box cutters.

The commission recognized that in the post-cold war environment the military “appears incapable of generating a strategic posture very different from that of the cold war,”²⁹⁰ and made a compelling case for change. Yet the commission itself perpetuated the problem by prescribing few fundamental changes and maintaining conventional weaponry to fight a decidedly unconventional war. In the commission’s defense it did not have the advantages afforded by hindsight. Yet an examination of the participant rosters suggests that the Hart-Rudman Commission also denied itself insight from a more diverse range of stakeholders (e.g., homeland agency employees, state and local officials, advocates) who might have offered valuable insights for U.S. policymakers in search of a new national security strategy for the post-cold war era.

²⁹⁰ Hart-Rudman Commission, Phase III, p. 8.

Chapter Six

The Bremer Commission: Case Study Summary

Motivated by a series of terrorist attacks on American interests abroad during the 1990s, and evidence that terrorists were increasingly shifting their interests toward attacking American soil, Congress established the 1999 National Commission on Terrorism (the Bremer Commission), pursuant to Section 591 of the Foreign Operations, Export Financing and Related Programs Appropriation Act. The congressional mandate gave the independent body six months to “review the laws, regulations, directives, policies, and practices for preventing and punishing international terrorism directed against the United States.”²⁹¹ The enabling legislation authorized the commission to assess the effectiveness of, and make recommendations for improving, U.S. terrorism policy. The charter also required the commission to review:

(1) Evidence that terrorist organizations have established an infrastructure in the Western Hemisphere for the support and conduct of terrorist activities; (2) Executive branch efforts to prevent the use of nuclear, biological, and chemical weapons by terrorists; and (3) Executive branch efforts to coordinate counterterrorism activities among federal, state, and local agencies and with other nations to determine the effectiveness of such coordination efforts.²⁹²

The commission released its sixty-four-page report on June 5, 2000, producing thirty-seven recommendations meant to improve efforts to prevent and punish terrorist activity. It addressed part of its mandate by studying terrorist encroachment on the

²⁹¹ Bremer Commission, appendix B, p. 36.

²⁹² Ibid.

international front, casting a wide net to implicate nonstate terrorist organizations and states that were less than vigilant in their counterterrorism responsibilities including Iran, Syria, Afghanistan, Pakistan, and Greece. It focused on the second part of its mandate by proposing improvements for technical and human intelligence gathering methods to deter the proliferation of nuclear, biological, and chemical weapons. The commission only partially covered the third part of its mandate, which required it to look at U.S. domestic counterterrorism policy. The commission recognized that domestically, there were large gaps in legal authority between local, state, and federal agencies, but it addressed few of the coordination problems directly. Instead, in the case of catastrophic attack the commission proposed a silver bullet solution--transfer command authority to the Department of Defense.

More than a year before the September 11 attacks, the Bremer Commission's Executive Summary forewarned that the end of the cold war had not diminished, but merely changed, the nature of international threats toward the United States--particularly on Americans at home:

Today's terrorists seek to inflict mass casualties, and they are attempting to do so both overseas and on American soil. They are less dependent on state sponsorship and are, instead, forming loose, transnational affiliations based on religious or ideological affinity and a common hatred of the United States. This makes terrorist attacks more difficult to detect and prevent.²⁹³

²⁹³ Bremer Commission, Executive Summary, p. 3.

The commission set out to better define the threat by asking and answering the following questions:

- “Who are the international terrorists?”
- “What are their motives and how do they get their support?”
- “How can we stop them?”²⁹⁴

The commission sought to redraw the battlefield by identifying international terrorists and the countries that support them. The commission first singled out Iran and its Revolutionary Guard Corps and the Ministry of Intelligence and Security as the “clearest case” of terrorism by a state actor.²⁹⁵ It further identified Syria, Afghanistan, Sudan, Libya, North Korea, and Cuba as state sponsors of nonstate terrorist organizations. These states had provided funding, training grounds, and weapons to terrorists who were taking refuge within their borders or to groups outside their countries whose causes they supported from a distance. The commission also noted that at least one Western country, Greece, had done very little to prevent or punish terrorist activity within its borders.

The commission noted that terrorist motivations were no longer primarily political but were also based on religious, financial, ethnic, and apocalyptic aspirations.

Such groups may lack a concrete political goal other than to punish their enemies by killing as many of them as possible, seemingly without concern about

²⁹⁴ Bremer Commission, chap. 1, 6.

²⁹⁵ Ibid..

alienating sympathizers. Increasingly, attacks are less likely to be followed by claims of responsibility or lists of political demands.²⁹⁶

The commission was alarmed that terrorist groups meant to use violence as more than just a wake-up call to draw attention to their causes. It cited the 1993 World Trade Center bombing as evidence that terrorists were beginning to focus on producing casualties on a mass scale.

The Bremer Commission described the advantages terrorist organizations enjoyed because of their unique infrastructure, which “can rely on loose affiliations with like-minded groups from a variety of countries to support their common cause against the United States.”²⁹⁷ It described Osama bin Laden’s “al-Qaida [as] the best-known transnational terrorist organization.”²⁹⁸ However, it predicted that the transient nature of terrorist organizations would mean that even if bin Laden ceased to be a threat, another group or loosely affiliated number of groups would emerge to take its place. The commission also warned, “Moreover, new terrorist threats can suddenly emerge from isolated conspiracies or obscure cults with no previous history of violence.”²⁹⁹ The latter warning has become all too precise in describing the current situation in the Middle East, where offshoots of al-Qaeda are on the rise.³⁰⁰

²⁹⁶ Bremer Commission, chap. 1, 7.

²⁹⁷ Bremer Commission, chap. 1, p. 8.

²⁹⁸ Ibid.

²⁹⁹ Ibid.

³⁰⁰ A 2006 National Intelligence Estimate concluded that the radical Islamic movement has expanded from a core of al-Qaeda operatives and affiliated groups to include a new class of “self-generating” cells inspired by al-Qaeda, but without any direct connection to Osama bin Laden. For example, Musab al-Zarqawi’s al-Qaeda in Iraq has become an increasingly active militant group in the region. Though al-Zarqawi was killed on June 7, 2006, the group did not fold. Abu Hamza al-Muhajir was immediately announced as the group’s new leader in June 2006 and the group continues to conduct suicide bombings and other guerrilla tactics

With prescient accuracy, the Bremer Commission identified the enemy, described the threat, and determined that “good intelligence is the best weapon against international terrorism.”³⁰¹ It also concluded that current U.S. intelligence efforts both at home and abroad were inadequate to meet the challenge. The commission therefore set out to prescribe a series of fixes for the U.S. national security apparatus. As the recommendations reveal, the findings produced “winners” and “losers” out of stakeholder groups studied in this research project.

CIA: “*Winner*”

CIA-related recommendations primarily dealt with the human element of intelligence collection. The commission sought to maximize the effect of covert operations by supporting the revocation of the 1995 guidelines for the human recruitment. It argued that such guidelines sent the wrong message to intelligence officers in the field that “recruiting clandestine sources of terrorist information is encouraged in theory but discouraged in practice.”³⁰² Such bureaucratic procedures inhibited case officers from aggressively pursuing terrorist leads by dealing with foreign nationals with questionable human right records.

The commission further highlighted the challenges facing intelligence officers by discussing the personal legal risks involved in combating terrorism. It recommended that the government provide 100 percent reimbursement for legal representation in the event that an employee’s actions led to legal difficulties. In addition, the commission supported

against Western forces. For further discussion, see Jenkins (2006) ch. 2; “Spy Agencies Say War in Iraq Worsens Terrorist Threat,” *New York Times*, September 24, 2006.

³⁰¹ Bremer Commission, chap. 2, p. 10.

³⁰² *Ibid.*

increasing the number of analysts, linguists, and decryption technologies to better process incoming intelligence. By focusing on protecting the rights of human intelligence officers and recommending increased resources for the agency, the Bremer Commission signaled a clear “win” for the CIA.

DoJ: “*Winner*”

Like the CIA, the commission also recommended that FBI agents receive full government reimbursement for personal liability insurance in legal suits brought about by agents’ counterterrorism efforts, and increased funding to modernize aging technology for wiretapping and counter-encryption technologies.³⁰³ The commission additionally suggested that the FBI not only be equipped with updated wiretap and encryption technology but also with the legal authority to use it. The commission felt that the DoJ’s Office of Intelligence Policy and Review (OIPR) was “cumbersome and overly cautious”³⁰⁴ in its application of the Foreign Intelligence Surveillance Act (FISA), suffering from an excessive preoccupation with limits on the use of electronic surveillance and domestic wiretapping. As a result, the OIPR was not adequately assisting the FBI in obtaining legal authority to gather information on suspected terrorists. The commission therefore recommended that the office loosen its requirements for permitting the use of domestic intelligence collection: “The Attorney General should direct that the Office of Intelligence Policy and Review not require information in excess of that actually mandated by the probable cause standard in the Foreign Intelligence

³⁰³ Bremer Commission, chap. 2, p. 13.

³⁰⁴ Ibid.

Surveillance Act statute.”³⁰⁵ It further recommended that the attorney general direct the OIPR to better cooperate with the FBI’s intelligence gathering efforts.

Though the report seemed to find fault with other components of the DoJ, the commission also criticized the FBI for its unwillingness to share information with its intelligence counterparts at the CIA and other intelligence agencies. The commission pointed out that parallel dissemination efforts by the CIA were more successful because the CIA had dedicated personnel, called “reports officers,” whose main job it is to distill information for relevant agencies and policymakers. The commission recommended that the FBI create a similar position within its ranks to better facilitate the information sharing process.

Overall, the Bremer Commission’s recommendations for the DoJ were favorable. They supported increased resources, employee protections, and loosening federal guidelines for surveillance methods. Though the OIPR was criticized for its overzealous interpretation of FISA, its recommendations for loosening the office’s grip over the FBI’s domestic intelligence gathering activities essentially let the office off the hook with respect to its responsibility over civil liberties protections. The commission’s one major criticism of the FBI was its unwillingness to share information with outsiders. Yet, the commission’s recommendation that the FBI establish its own cadre of reports officers allowed the FBI to maintain authority because it proposed an internal fix--one that entrusted the FBI to self-regulate its information-sharing efforts. As a result, the DoJ ultimately emerged as a winner in the Bremer Commission’s final outcome.

³⁰⁵ Ibid.

DoD: "*Winner*"

The Bremer Commission would put the military in charge in the event of a catastrophic terrorist attack on the homeland:

The Department of Defense's ability to command and control vast resources for dangerous, unstructured situations is unmatched by any other department or agency. . . . In extraordinary circumstances, when a catastrophe is beyond the capabilities of local, state, and other federal agencies, or is directly related to an armed conflict overseas, the President may want to designate DoD as a lead federal agency. This may become a critical operational consideration in planning for future conflicts. Current plans and exercises do not consider this possibility.³⁰⁶

The commission felt that the military should take the lead in the event of a massive terrorist attack on the homeland because emergency preparedness agencies might hesitate to act due to gaps in legal authority between competing agencies such as FEMA, the FBI, and other local emergency responders. However, the commission also acknowledged that such a contingency plan would be met with resistance from federal, state, and local agencies whose traditional roles and responsibilities would be usurped by the military's newfound lead role in domestic counterterrorism response. Though the commission further conceded that the Defense Department "is not optimally organized to respond to the wide range of missions that would likely arise from the threat of a

³⁰⁶ Bremer Commission, chap. 3, p. 27.

catastrophic terrorist attack,³⁰⁷ it nevertheless proposed that the Pentagon take the lead, and suggested that federal agencies and the military conduct joint exercises to prepare each organization for a DoD-led response to terrorism at home. As the military managed to secure lead role status in the event of a terrorist attack at home, the commission's recommendations signified an important win for the DoD.

Homeland Security Agencies: "*Losers*"

By recommending a DoD-led domestic counterterrorism response, the commission implicitly weakened the authority of disaster relief agencies like FEMA in the event of a nuclear, biological, or chemical attack. The commission also recommended giving Congress a much larger role in overseeing the requirements for physical security of national laboratories and other certified facilities that utilize biological or other critical material, an area traditionally regulated by the Department of Health and Human Services. As agencies such as FEMA and the Department of Health and Human Services would be required to relinquish control over areas of traditional authority, homeland agencies should be considered losers in the Bremer Commission's outcomes.

State and Local Agencies: "*Losers*"

The commission excluded the role played by state and local agencies in U.S. counterterrorism efforts at home-- even though, like homeland agencies, state and local agencies like law enforcement, fire departments, and emergency medical units would likely be the first responders in the event of a terrorist attack on domestic soil. By proposing a strategy that positioned the DoD at the helm, the commission largely ignored

³⁰⁷ Bremer Commission, chap. 3, p. 28.

the critical roles played by state and local agencies. As a result, state and local agencies should be considered losers in the commission's outcomes.

Congress: "*Winner*"

The commission attributed weaknesses in U.S. counterterrorism efforts to Congress, yet offered only minor fixes.³⁰⁸ It noted that numerous subcommittees, such as the Senate and House Appropriations, Armed Services, and Intelligence SubCommittees, have authority over different aspects of the U.S. counterterrorism budget process, making coordination inefficient and difficult. Yet the commission stopped short of endorsing major organizational reform. Instead, it suggested that the House and Senate engage in cross-subcommittee reviews to better coordinate efforts. The commission also tasked Congress to "develop a mechanism"³⁰⁹ to better review executive branch counterterrorism policies, though it noted that it was the executive branch's responsibility to initiate the process, not the other way around:

Congress should develop a mechanism for reviewing the President's counterterrorism policy and budget as a whole. The executive branch should commit to full consultation with Congress on counterterrorism issues.³¹⁰

The commission devoted little time to examining Congress's role in U.S. counterterrorism policy. What suggestions it did make were relatively modest and

³⁰⁸ For further analysis of the Bremer Commission's recommendations for Congress, see Juliette Kayyem and Youlie Lee, "Centralizing Congressional Oversight: The Need for a Select Committee on Oversight," *Perspectives on Preparedness* (Harvard University), no. 13 (August 2002).

³⁰⁹ Bremer Commission, chap. 2, p. 28.

³¹⁰ *Ibid.*

redirected toward the executive branch. As a result, Congress should be considered a “winner” in the Bremer Commission’s outcomes.

White House: “*Winner*”

Only one recommendation dealt with potential organizational reform within the White House. The commission proposed that the Office of Management and Budget (OMB), the White House office responsible for devising and submitting the president's annual budget proposal to Congress, share its budgetary authorities with the individual in charge of coordinating national counterterrorism activities (then called the national coordinator for security, infrastructure, and counterterrorism). As both are part of the president’s staff, the recommendation was especially detrimental to the White House. The White House would therefore be categorized as a “winner” in the Bremer Commission’s outcomes.

State Department: “*Winner*”

The State Department would play an active role in U.S. counterintelligence efforts abroad by developing “carrots and sticks” to deter state actors from dealing with terrorists. The commission recommended that the secretary of state ensure the list of Foreign Terrorist Organizations (FTO) designations is credible and frequently updated. It also prompted the president to emphasize State’s lead role in developing international antiterrorism arrangements aimed at harmonizing national laws, sharing information between allies, providing early warning, and establishing accepted procedures for conducting international investigations of cyber crime.

The commission recognized the State Department's position on the front lines of defense against international terrorism and proposed recommendations that emphasized the department's counterterrorism role. As such, the State Department is designated a "winner" in the commission's outcomes.

Private Sector: "*Winner*"

Many of the commission's recommendations focused on the need to better utilize technology in U.S. counterterrorism efforts. They encouraged policymakers to prioritize the modernization of computer decryption and devices to better analyze and share streams of data. The commission also supported a new wave of industry experts-- biotechnology and pharmaceutical scientists. It drew attention to the threat of chemical and biological attacks and focused on R&D for gamma-ray imaging, body scanners, and improved viral detectors for such pathogens as smallpox and anthrax.³¹¹

By emphasizing the potential threat posed by terrorists with access to chemical and biological agents, the Bremer Commission made an important departure from findings in both the Aspin-Brown and Hart-Rudman reports. It did not advocate high-priced cold war weapons like satellites and ballistic missiles from traditional defense industry contractors. Instead, the commission emphasized a new age of human expertise in the biological sciences, supported by different types of technologies that focused more on prevention on the ground.

The commission proposed an important shift in the types of private industry firms that would emerge as relevant players in the post-cold war national security environment.

³¹¹ Bremer Commission, chap. 4, p. 29.

Though the commission was treading on relatively new ground, its recommendations, if implemented, surely opened a window of opportunity for private sector industries not previously given priority in national security policy (e.g., biotechnology).

Advocates: “*Mixed*”

The Bremer Commission was by no means a boon for advocate stakeholder groups interested in the counterterrorism debate, as human rights activists, civil liberties groups, and ethnic lobbies complained about several aspects of the commission’s efforts. Human Rights Watch activist Kenneth Roth called the report “profoundly misguided” for recommending that recruiting restrictions on CIA informants be lifted: “When the C.I.A. enlists informants who are committing murder and torture, it sends the signal that anything goes in the fight against terrorism or other evils.”³¹² Civil liberties activists opposed loosening CIA and FBI surveillance restrictions as doing so would remove “the few insulating layers of Justice Department review.”³¹³

Some advocate stakeholders did win small victories, however. For example, Jewish lobby groups criticized the initial nomination of Salam al-Marayati, a Muslim American activist and director of the Muslim Public Affairs Council, to serve as a member of the commission. Groups such as the American Jewish Committee and the Jewish American Congress argued that al-Marayati was an Arab extremist who condoned acts of terrorism by verbally defending militant groups such as Hamas and Hezbollah. According to one commissioner, because he had said a number of “unfortunate things,”

³¹² Kenneth Roth, “Terrorist Logic,” Human Rights Watch, June 5, 2000.

³¹³ Bruce Shapiro, “The Hying of Domestic Terrorism: Why a New Report on the Threat of International Terrorist Attacks on U.S. Soil Is a Con Job,” Salon.com, June 12, 2000.

coupled with the fact that al-Marayati had yet to hold the required security clearance to serve on the commission, his name was withdrawn from consideration.³¹⁴ In response, the commission replaced al-Marayati with Juliette Kayyem, an Arab American of Lebanese Christian decent whose work in the civil rights division of the Justice Department had earned her respect from both Arab and Jewish community leaders.³¹⁵

The commission was also in line with civil rights groups in recommending the cessation of an INS policy that permitted the use of “secret evidence” to remove foreign nationals suspected of terrorism from the United States. The commission recommended that the attorney general pursue prosecution in open court whenever possible. In cases where open proceedings were not possible, the attorney general should instruct that cleared counsel be used to review unclassified court evidence.

The commission offered a mixed result for advocate stakeholder groups. Some advocate groups expressed alarm over recommendations that supported loosening restrictions on domestic and international spying. Yet the commission responded to the concerns of other advocate groups, such as civil rights advocates who wanted an end to the use of secret evidence in terrorism trials, and ethnic lobby groups who were unhappy with the commission’s membership composition. As a result, advocates emerged with a mixed result in the commission’s final outcome.

In sum, the stakeholder group status breakdown would be as follows:

Chart 6.1 Bremer Win/Lose Chart

³¹⁴ Personal interview with commission member, February 21, 2006. See also “Voicing an Opinion,” *Online Newshour*, PBS, November 24, 1999.

³¹⁵ “Gephardt Bows to Jews Anger Over a Nominee,” *New York Times*, July 9, 1999.

Stakeholder Group	Status
CIA	Win
DoJ	Win
DoD	Win
Homeland	Lose
State and Local	Lose
Congress	Win
White House	Win
State Department	Win
Private Sector	Win
Advocates	Mixed

Conclusion

The Bremer Commission appears to have stayed on track with its mandate to identify and prescribe recommendations for preventing terrorism in the post-cold war era. If implemented, its recommendations would produce both winners and losers among the stakeholder groups studied in this project. Winners would include the DoD, the CIA, the FBI, the State Department, Congress, the White House, and certain sectors of private industry--all of which would gain enhanced resources, roles, and responsibilities in the U.S. counterterrorism effort. Homeland security agencies and state and local agencies would be considered losers, as their counterterrorism responsibilities would be relegated to secondary status behind the DoD. Advocates emerged with mixed results. Some advocate stakeholder groups managed to effect change on the commission, while other groups were unable to persuade the commission.

How did the Bremer Commission determine what recommendations to propose? On what information did it base its conclusions? And from which stakeholder groups did

the commission hear testimony? The next chapter seeks to answer these questions and tests the hypothesis that if the commission operated in relative seclusion, “winners” were able to access and dominate the commission process. The “losers” were poorly represented during the commission process, and thus unable to adequately influence outcomes. The following chart summarizes the predicted access allowed by each group:

Chart 6.2 Bremer Win/Lose Chart Predicted Access

Stakeholder Group	Status	Predicted Access
CIA	Win	High
DoJ	Win	High
DoD	Win	High
Homeland	Lose	Low
State and Local	Lose	Low
Congress	Win	High
White House	Win	High
State Department	Win	High
Private Sector	Win	High
Advocates	Mixed	Medium

Chapter Seven

The Bremer Commission: Case Study Analysis

“Today’s terrorists seek to inflict mass casualties and they are attempting to do so both overseas *and on American soil.*”³¹⁶

³¹⁶ National Commission on Terrorism, 1999, Executive Summary, 3; emphasis added.

Despite such alarming conclusions by the National Commission on Terrorism, an examination of the media response to its work prior to 9/11 indicates public complacency and skepticism about the threat of international terrorism. U.S. media reports quoted intelligence scholars and former intelligence officials who were largely skeptical of the commission's findings. One critic described the commission's grim warnings as "anxiety provoking."³¹⁷ Two CIA veterans wrote an op-ed piece for the *Wall Street Journal* that accused the commission of "inflating a diminishing threat," which "only achieves the terrorists' objectives--to instill fear in the U.S. public."³¹⁸ The *San Francisco Chronicle* described the report in an editorial as "A Dangerous Overreaction in Stopping Terrorism."³¹⁹ *Washington Post* reporter Vernon Loeb quoted former State Department counterterrorism official Larry C. Johnson, who also argued that the commission overamplified the danger: "We need a little bit more mature approach to this. . . . Is there the potential for mass casualties? Yes, but we don't have to reinvent the wheel in counter terrorist policy."³²⁰ Loeb continued:

More Americans have died from scorpion bites than from foreign terrorist attacks over the past five years. But that didn't stop the National Commission on Terrorism from describing the terrorist threat in vastly exaggerated terms.³²¹

³¹⁷ Bruce Shapiro, "The Hying of Domestic Terrorism: Why a New Report on the Threat of International Terrorist Attacks on U.S. Soil Is a Con Job," *Salon.com*, June 12, 2000.

³¹⁸ Milt Bearden and Larry Johnson, "Don't Exaggerate the Terrorist Threat," *Wall Street Journal*, June 15, 2000.

³¹⁹ "A Dangerous Overreaction to Stopping Terrorism," *San Francisco Chronicle*, June 8, 2000.

³²⁰ Vernon Loeb, "Terrorism Panel Faulted for Exaggeration," *Washington Post*, June 23, 2000.

³²¹ Vernon Loeb, "Terrorism Panel Faulted for Exaggeration," *Washington Post*, June 23, 2000.

Commissioners expressed frustration with the response the report received in the media. In an interview on NPR's Boston affiliate show, *The Connection*, commissioner Juliette Kayyem stated that the response was "worse than being ignored." She continued: "To say we got reamed in the press would be an understatement. We were vilified in that summer when the report came out as being paranoid."³²²

One of the three commissioners who agreed to an interview for this study stated that after six months of work "it was a one-day story, featured prominently in the *Washington Post* and less prominently in the *New York Times*."³²³ In support of this view, a Lexis Nexis search of major newspapers returned eighty-four articles referencing the "National Commission on Terrorism," or its informal title the "Bremer Commission," from the initial establishment of the commission in October 1998 up until September 10, 2001. Though a larger number of articles than Aspin-Brown and Hart-Rudman, the attention was primarily from news sources abroad. A commissioner who was interviewed noted that eighty of the one hundred journalists in attendance at the press conference after the release of the report came from foreign press outlets that were more interested in covering the controversial recommendations affecting U.S. allies such as proposals that supported sanctioning Greece, a U.S. ally, for its lax counterterrorism efforts; stricter monitoring of foreign students; and the proposal that the CIA should relax its rules on recruiting "unsavory" informants abroad. The commissioner expressed dismay at the public's negative reaction regarding the commission's foreign student monitoring recommendation: "We were really taken aback by the negative response to

³²² "Avoiding Another 9/11," *The Connection*, NPR Boston, May 21, 2002.

³²³ Personal interview with commission member, February 9, 2006.

our recommendation to improve the [foreign student] monitoring system. We were just systematizing a program that had already been in place in several university campuses countrywide.”³²⁴ In sum, the Bremer Commission seemed to suffer at both poles. The media paid scant attention to the commission’s dire warnings, and those that did were skeptical of its conclusions.

Part of the reason may have been that, like the Hart-Rudman and Aspin-Brown Commissions, the Bremer Commission did little in the way of developing a strong media strategy to attract public attention to its work. Because of the classified nature of the topic, the commission conducted all of its work behind closed doors, holding its interviews and all fourteen of its plenary meetings in private sessions. What is more, the commission did not release working papers, transcripts, or any other type of detail about its deliberations, further limiting the amount of media accessibility to the commission’s activities. This allowed it the opportunity to explore sensitive areas of the counterterrorism debate. However, it also limited the commission’s ability to adequately promote its message.

The commission appeared to deliberately steer clear of the media until after the final report was released. All three commissioners who agreed to be interviewed for this study concurred that the commission did not prioritize a media strategy. According to one commissioner,

³²⁴ Personal interview with commission member, May 21, 2006.

We had a press conference, I believe, and all of us probably did some interviews-- Jerry Bremer the most--but nothing special. We made the case for paying attention to the report as best we could. Whether it had anything to do with our strategy for getting attention or not, we didn't get much.³²⁵

A public statement by Commissioner Jane Harman further indicates that the commission preferred to work in relative seclusion: "One of the rules we had on the Bremer Commission was that we were going to be invisible until we produced our product."³²⁶

The commission made itself vulnerable to skepticism not only about its alarming findings but also about the true motivations behind its recommendations. In a debate with the commission's chairman, Paul Bremer, counterterrorism specialist Larry Johnson suggested that such dire warnings were typical methods used by agencies to scare policymakers into increasing agency budgets:

The problem with the money is right now every government bureaucracy in Washington is finding a mission in combating terrorism. This is utter nonsense. It is a misallocation of resources. There are some areas where money needs to be spent, but just doubling the budget so everybody can go up to the Hill and say,

³²⁵ Personal interview with commission member, February 9, 2006.

³²⁶ "Jane Harman and Warren Rudman Discuss the Importance and Effectiveness of Special Commissions," *All Things Considered*, NPR, July 21, 2004.

we're going to combat terrorism, there's not a member on the Hill that will vote against that.³²⁷

The remark narrows the focus of debate in a fundamental way. It suggests that critics felt the threat was overstated, and possibly for personal gain. Terrorism had replaced Communism as the threat du jour, and one that offered new political, bureaucratic, and financial opportunities for stakeholders involved in the commission decision-making process. A commissioner interviewed for this project, however, flatly rejected the notion, stating, "In terms of agendas, the commission had no 'cash cows.' No one got famous, or benefited in a particular way from serving on the commission."³²⁸ Nevertheless, by maintaining an opaque commission process, the Bremer Commission provided ammunition to skeptics who wanted more than what appeared to be rhetorical threat reporting to convince them of the growing danger posed by international terrorism.

The remaining sections investigate the allegations further by examining the backgrounds of those involved in the commission to determine whether the commission stayed on track with its mandate or fell victim to personal interests. Because the commission lacked substantial public scrutiny, the study predicts that winning stakeholder groups (CIA, DoJ, DoD, Congress, White House, State Department, and the private sector) had substantial access to the commission's decision-making process. Loser stakeholder groups (homeland security agencies, state and local agencies) likely did not have adequate access. Advocate stakeholder groups fit somewhere in between--

³²⁷ "Global Threat," *Online News Hour*, a *News Hour with Jim Lehrer* transcript, June 6, 2000.

³²⁸ Personal interview with commission member, February 21, 2006.

those that accessed the commission managed wins, those that did not access the commission emerged with losses. Though the process was largely closed to outsiders, winning advocates may have successfully utilized media attention to gain access to the discussion. The following chart shows the win/lose status of each stakeholder group and the corresponding predicted levels of access:

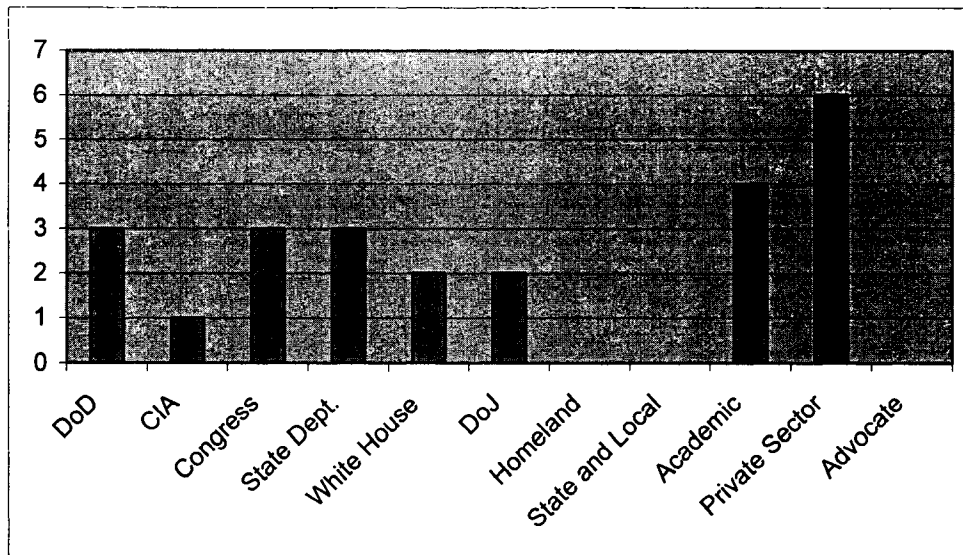
Chart 7.1 Bremer Win/Lose Predictions Revisited

Stakeholder Group	Status	Predicted Access
CIA	Win	High
DoJ	Win	High
DoD	Win	High
Homeland	Lose	Low
Congress	Win	High
White House	Win	High
State Department	Win	High
State and Local	Lose	Low
Private Sector	Win	High
Advocates	Mixed	Medium

Background Affiliations

Members of Congress appointed the commission’s membership. The Senate majority leader and the Speaker of the House each appointed three commissioners. The minority leaders of the Senate and the House each appointed two commissioners. The following chart provides a breakdown of commissioners’ credentials as provided in the commission’s report:

Chart 7.2 Bremer Commissioner Credentials



For the most part, members' past credentials correspond to the win/lose status of each stakeholder group. Three out of ten commission members (30%) had previous experience at the Department of Defense, a winning stakeholder group in the commission's final outcome. Commissioner Wayne A. Downing was a U.S. Army general who retired in 1996 after thirty-four years of service. Commissioner James Woolsey served as undersecretary of the navy in the late 1970s; Fred Ikle was undersecretary of defense for policy in the Reagan administration.

The win for Congress corresponds to the fact that three members (30%) had congressional credentials including James Woolsey, who was general counsel of the Senate Armed Services Committee, though in the early 1970s; Gardner Peckham, who held several senior positions in Congress, including senior policy advisor to House Speaker Newt Gingrich; and former Congresswoman Jane Harman (D-CA).

A roughly equal number of members had experience at the DoJ, the State Department, White House, and CIA--also winning stakeholder groups. The two members (20%) with prior DoJ work experience were Juliette Kayyem, who served as a legal advisor to the attorney general, and John F. Lewis Jr., who was an assistant director of the FBI's national security division during the late 1990s. Two members (20%) had State Department experience. Commission chairman Paul Bremer served in several senior-level ambassadorial appointments at the State Department throughout the 1980s and 1990s. Gardner Peckham served in the State Department during the first Bush administration as deputy assistant secretary for legislative affairs. Two commissioners (20%) had experience at the White House: Gardner Peckham worked briefly as director for legislative affairs for the National Security Council staff during the first Bush administration; Maurice Sonnenberg was currently serving on the President's Foreign Intelligence Advisory Board. The CIA managed a victory in the commission's final outcomes, though the commission included just one member (10%) with experience at the CIA, James Woolsey, former CIA director during the Clinton administration. Though commissioners were no longer affiliated with these departments or organizations, prior institutional or cognitive biases might have played a part in the views each held.

The commission did not include any local, state, or homeland security agency representatives in its membership. This directly corresponds to each group's inability to garner a win in the commission's final recommendations. The absence of such stakeholders in the commission's membership was an issue that one commissioner

interviewed for this study acknowledged in hindsight as “regrettable.”³²⁹ Thus, the commission appears to have had a relatively balanced membership with seasoned national security experts, though the experience was primarily at the federal level.

Six commissioners (60%) listed current private sector careers, though the descriptions were vague in detail. During Chairman Bremer’s tenure on the commission he was also managing director at an international consulting firm, Kissinger Associates. Commissioner Peckham was a managing director of the government relations firm Black, Kelly, Scruggs & Healey. Two other commissioners held senior positions at international investment firms. Commissioner Sonnenberg worked as an investment banker for Bear, Stearns & Co. and was a senior international adviser to the law firm of Manatt, Phelps & Phillips; Commissioner Lewis was working as director of global security for Goldman, Sachs & Co. Commissioner Downing served on several private sector boards and panels, though the commission’s report did not provide specific company names. Commissioner Woolsey was a partner at the law firm of Shea & Gardner. The commission report also mentioned that Woolsey served on several private sector boards, though it did not provide any company names.

A deeper investigation of commissioners’ backgrounds during and up to two years after the end of the commission indicates that at least some of the commissioners had professional careers that would be directly affected by the recommendations they proposed. Though Woolsey and Peckham’s affiliations to the current Congress were tangential at best, Harman returned to Congress in 2002 and was appointed a ranking

³²⁹ Personal interview with commission member, February 21, 2006.

member of the House Permanent Select Committee on Intelligence--a congressional body that would be directly affected by the commission's recommendations regarding the congressional committee/subcommittee structure.

Several commissioners had also ties to an emerging sector of national security firms that stood to benefit from the commission's recommendations. During his tenure on the commission, James Woolsey was on the board at an information technology firm, Yurie Systems. He then joined the boards of several other technology firms (Information Systems Laboratories, Linsang Partners, Fibersense Technology Corporation, and Invicta Networks) that provide the federal government with such national security products as communications systems, surveillance equipment, and data encryption devices--all products that were recommended in the commission's final report.³³⁰ After the 9/11 attacks, Woolsey also helped form Paladin Capital Group, a private equity firm that invests in companies that develop the types of homeland security products recommended by the commission.³³¹

It is noteworthy that Woolsey's private sector career was in transition. Prior to his affiliations with smaller technology companies, Woolsey had served on the board of several large aerospace companies such as Martin Marietta (1990-93), British Aerospace (1992-93), and Fairchild Industries (1984-1989). He was not the only commissioner to recognize the shift toward new technologies. In fact, his move to smaller high-tech companies appears indicative of an increasing trend by national security experts in the

³³⁰ See http://www.defenddemocracy.org/biographies/biographies_show.htm?doc_id=154779. For a detailed overview of the companies' profiles, see <http://www.lucent.com/gov/>, <http://www.islinc.com/>; <http://www.linsang.com/>; www.fibersense.com/; www.invictanetworks.com.

³³¹ For a detailed overview of Paladin Capital Group, see its corporate website at www.paladincapgroup.com/portal/index.

post-cold war era away from private interests in the traditional set of aerospace defense contractors toward new types of innovative technologies. For example, commissioner Downing joined the board of directors at Science Applications International (SAIC) at a time when the company sought to shift its level of expertise in the membership of its board from cold-war warriors like former Nixon Defense Secretary Melvin Laird, ex-CIA Director Robert Gates, Secretary of Defense William Perry, and former CIA Director John Deutch, to people with “more timely contacts.”³³² Since 1995 commissioner Iklé had been chairman of the board at the Telos Corporation, a smaller innovative security firm whose focus was also on providing national security products to the military branches, DoD, intelligence, and homeland security agencies.³³³ The client roster for Gardner Peckham’s lobby firm Black, Kelly, Scruggs & Healey includes traditional defense aerospace defense contractors such as Lockheed Martin, as well as smaller companies like the NEC Corporation, an information technology company that develops biometric scans and other devices for intelligence, defense, and homeland security agencies.³³⁴

Though such credentials made these commissioners well-versed in the types of cutting-edge homeland security technologies available in the private sector, the affiliation to such industries also leaves room for skeptics to assume the worst about the motivations behind their counterterrorism policy recommendations. For example, similar to the professional paths chosen by some Hart-Rudman commissioners, after the Bremer

³³² “Divvying Up the Iraq Pie,” *Alternet.com*, October 7, 2003.

³³³ For a detailed overview of the Telos Corporation, see its corporate website at <http://www.telos.com/company/overview>.

³³⁴ See <http://www.opensecrets.org/lobbyists/firmsum.asp?txtname=BKSH+%26+Assoc&year=2005>. For a detailed corporate profile, see the NEC Corporation website at <http://www.necam.com/ids/law/>.

Commission both Fred Ikle and James Woolsey were appointed to the Defense Advisory Policy Board. In a March 2003 report, the government watchdog group the Center for Public Integrity, noted a possible connection between Woolsey's membership on the independent advisory body and his affiliation with companies that do business with the Defense Department:

Former CIA director James Woolsey is a principal in the Paladin Capital Group, a venture-capital firm that is soliciting investment for homeland security firms. Woolsey joined consulting firm Booz Allen Hamilton as vice president in July 2002. The company had contracts worth more than \$680 million in 2002. Woolsey told the Wall Street Journal that he does no lobbying and that none of the companies he has ties to have been discussed during a Defense Policy Board meeting.³³⁵

A commissioner interviewed for this study contended that because Woolsey's experience was "all over the map" (his experience included the DoD, CIA, Congress, private sector, and so forth) he did not seem to be pushing any particular agenda while on the Bremer Commission.³³⁶ Nevertheless, suspicions surrounding his involvement on the Defense Policy Board illustrate that critics had recognized the potential for conflicts of interest between his governmental advisory role and his private business affiliations. The

³³⁵ "Advisors of Influence: Nine Members of the Defense Policy Board Have Ties to Defense Contractors," *Center for Public Integrity*, March 28, 2003.

³³⁶ Personal interview with commission member, February 21, 2006.

same concerns could have been raised regarding his role on the Bremer Commission. Recommendations that supported a DoD-led response to a terrorist attack at home might have been influenced by his relationship as a soon-to-be appointee to the Defense Policy Board, just after the end of the commission.

Though no concerns were raised at the time, there might have been the potential for conflicts of interest between Bremer's participation on the commission and his affiliation as managing director at Kissinger Associates. The Bremer Commission made a series of recommendations regarding the status of U.S. allies and adversaries in the fight against terrorism. For example, the commission criticized countries such as Iran, Syria, Pakistan, and even Greece for turning a blind eye to growing terrorist activity within their countries. Yet the commission made no mention of lax counterterrorism efforts in Saudi Arabia, a country that had been a key source of funding for al-Qaeda for years. Nor did it criticize Iraq, whose alleged role in sponsoring terrorist activities is what would initially prompt the U.S.-led invasion of that country in 2003--Kissinger and Associates has been linked to both Saudi Arabia and Iraq, introducing U.S. companies looking for business overseas.³³⁷ It is conceivable that the Bremer Commission's decision to exclude these countries in its recommendation for economic sanctions, for example, might have been influenced by Bremer's financial interests in these foreign governments while managing director at the company.

³³⁷ Representative Henry B. Gonzalez (TX-20), "Kissinger Associates, BNL, and Iraq," House of Representatives, May 2, 1991, H2762. See also "Want a Cover-Up Expert? Kissinger's Your Man," *Nation*, December 3, 2002.

At this point the argument is no more than assertion. However, as chapter 14 of this study will reveal, the company's financial interests were enough to force Henry Kissinger--the company's founder and CEO--to step down from the 9/11 Commission in 2002.³³⁸ In this case public outrage, in particular from advocate stakeholders who were family members of the 9/11 victims, was enough to influence the 9/11 Commission's membership roster. It is important to note that no such advocates were active during the Bremer Commission, and that such participation may have altered the commission's outcomes to some degree by changing the individuals who ultimately were involved in the decision-making process.

Ethnic lobby advocates, however, were able to penetrate and influence the Bremer Commission. This is evidenced by the commission's decision to withdraw Salam al-Marayati's name from the commission roster and replace him with what were considered to be the more balanced views of Juliette Kayyem, an Arab American. Kayyem herself acknowledged the commission's desire to ally itself with ethnic advocacy groups:

I, too, was appointed to the commission, as there was a growing concern that a commission on international terrorism should be informed by at least one Arab-American. To be honest, while I am proud of the work of the commission, I do

³³⁸ Very few specifics are known about Kissinger Associates or its client list. In a 2002 interview on CNN's *Late Edition with Wolf Blitzer*, former Secretary of State Henry Kissinger defended his company's right to privacy: "No law firm discloses its clients. I will discuss my clients fully with the counsel of the White House and with the appropriate ethics groups. And the possibility that the investigation of a commission that contains eight commissioners would be affected by any conceived commercial interests is outrageous. I have served six presidents, and I have never been accused of anything of this kind." Mr. Kissinger was referring to accusations that there existed the possibility of a conflict of interest if he served on the 9/11 Commission, because the commission would be investigating foreign governments that might offer business to his clients. See "Showdown: Iraq," *CNN Late Edition with Wolf Blitzer*, December 12, 2002; "Democrats Seeking Kissinger Disclosures," *New York Times*, December 12, 2002.

not doubt that my appointment--at the age of 29--had much to do with the fact that there were so few Arab-Americans who had any experience in national security.³³⁹

Kayyem was considered a safe bet, as she provided an ethnic perspective, but did not belong to any ethnic organizations that might have created unwanted controversy.

Kayyem continued:

My presence at that table, I hope, led to important discussions about ethnicity, counterterrorism efforts affecting particular communities, and the need for greater dialogue and understanding.

Both public accounts of the commission's activities, as well as comments by commissioners interviewed for this project, indicate that Kayyem's presence did influence topics of interest to ethnic advocate stakeholder groups. Though unsuccessful, Kayyem was also the only commissioner to formally dissent regarding the DoJ's "cumbersome and overly cautious" application of electronic and physical surveillance.³⁴⁰ The topic was of interest to Arab and Muslim advocate groups who were concerned about targeted intrusive searches that might violate their civil liberties.

³³⁹ Building Capabilities: The Intelligence Community's National Security Requirements for Diversity of Language, Skills, and Ethnic and Cultural Understanding, Hearing before the Permanent Select Committee on Intelligence 180th Congress, 1st Session, Nov. 5, 2003. See also, "Lawyer Presses Fight over Secret Evidence," *Boston Globe*, March 9, 2001, A1.

³⁴⁰ Bremer Commission, chap. 1, 15.

A commissioner interviewed for this study noted that Commissioner Kayyem (and Commission Jane Harman) pushed what he termed a “lefty liberal” recommendation to discourage the use of secret evidence in terrorism-related court cases.³⁴¹ Though the interviewed commissioner felt that it was relatively easy to gain consensus on this issue, commission advisor Brian Jenkins contradicted this observation in referring to the commission’s deliberations: “Having the privilege of advising a current national commission on terrorism, I can tell you that commissions do worry about the issue of civil liberties. Fierce arguments do take place.”³⁴² This indicates that it was not necessarily easy to gain support for issues of concern to ethnic and civil liberties advocates. Nevertheless, advocates did have support from at least two members on the commission.

Commissioners themselves diverged in their opinion of whether the commission members had adequate experience to do their job. One commissioner felt that the commission possessed a relatively shallow level of counterterrorism experience:

Like most, the depth and originality of what we could do were limited by the time we could spend, and by our lack of expertise. As with most commissions, the members were picked for their status as luminaries and generalists rather than as professional experts on the subject of the commission's mandate.³⁴³

³⁴¹ Personal interview with commission member, February 21, 2006.

³⁴² “Terrorism and Beyond: A 21st Century Perspective,” *Studies in Conflict and Terrorism*, (January 2001): 323.

³⁴³ Personal interview with commission member, February 9, 2006.

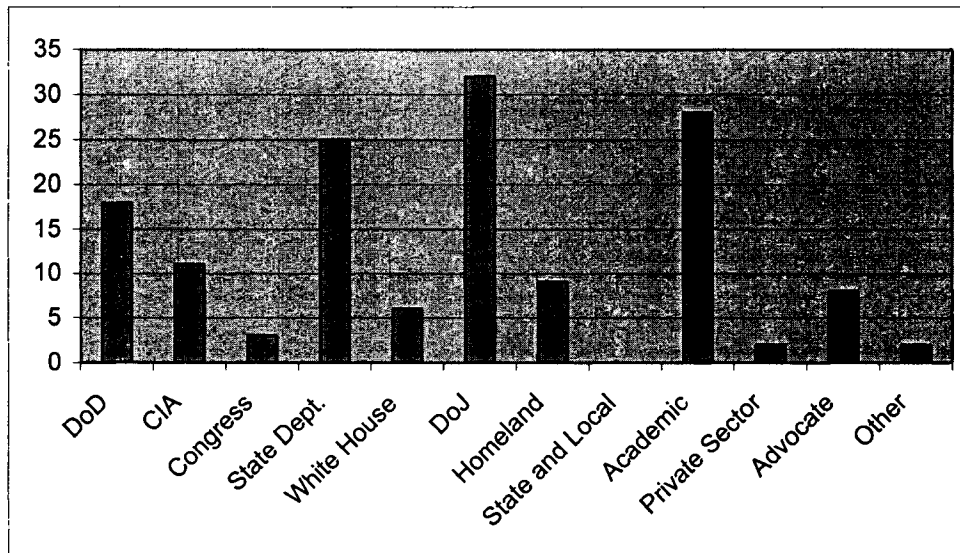
However, another commissioner disagreed with this position, arguing that most had the necessary experience to serve on the commission. The commissioner nevertheless acknowledged that one member was a “money appointment” serving on the commission not because of any expertise but more as a political favor.³⁴⁴ This statement falls in line with the description in chapter 1 of how interest alliance partners invite each other to participate on these commissions, often for professional favors more than for their expertise.

All members who were interviewed for this project agreed that the commission had a strong chairman in Paul Bremer. Bremer not only set the agenda, but hired the staff and approved the list of advisors and witnesses. The commission listed the names of 133 witnesses and six advisors from the intelligence community, military, academia, private life, and representatives from foreign governments. The following chart provides a breakdown of witness and advisor professional credentials.³⁴⁵

³⁴⁴ Personal interview with commission member, February 21, 2006.

³⁴⁵ Though not included in the witness credential chart, commissioners also interviewed security experts from Canada, Egypt, France, Israel, Jordan, Poland, and the United Kingdom.

Chart 7.3 Bremer Witness and Advisor Credentials



In several cases there seems to be a strong correlation between the number of stakeholders invited to participate and the stakeholder group's designation as a winner or loser in the commission's outcomes. The Department of Justice (a winning stakeholder group) had the largest number of representatives with thirty-two participants (23%). What is more, DoJ representatives included FBI Director Louis Freeh, a polished lobbyist for his agency, who, based on Kayyem's comments, appears to have applied his skills while testifying before the Bremer Commission:

He's charming. He brings you in. . . . He gave us a sense of what was going on in the millennium bombing investigation, and he followed up with personalized

thank-you letters. . . . It made you feel good about the FBI in a 'Gosh, he seems like a nice guy' way. At the same time, he might be asking for the world.³⁴⁶

The large percentage of DoJ participants, coupled with the skillful lobbying efforts by Freeh, may have had an impact on the commission's recommendations, which signaled a clear win for the DoJ.

The State Department also had a strong showing with twenty-five participants (18%). The large percentage--in fact the largest percentage of participants with State Department experience in all six case studies--corresponds to the commission's decision to highlight the important counterterrorism role played by the State Department. What is more, the fact that commission chair Paul Bremer had an extensive career in the State Department and had the final approval of all witnesses selected to participate, indicated that State Department officials had a powerful ally on board, and ensured that State would be represented in the commission's witness and advisor list.

The commission invited eighteen officials (13%) from the DoD. Though the stakeholder group did not have the largest number of witnesses, several other factors were in the group's favor to win lead-role status in the event of a domestic attack. First, with eighteen representatives, the stakeholder group had double the number of participants from all homeland security agencies combined (a collective nine, or 6%). What is more, prior to the creation of the Department of Homeland Security, homeland agencies like FEMA and the Department of Health and Human Services, as separate

³⁴⁶ "Freeh, Withstanding Crises--and Winning; Using Political Savvy, FBI Director Made the Most of Difficult Situations," *Washington Post*, May 2, 2001

agencies, would have been not only competing with the DoD but also among each other for turf and resources. As a result, such agencies would not have been able to rely on strength in numbers to protect their counterterrorism roles from DoD encroachment. Additionally, there were no state or local officials included who might also have debated the appropriateness of giving the military the lead role in situations where state and local responders would likely be the first officials on the scene in the event of a terrorist attack.

What is more, while transcripts are unavailable for the Bremer Commission's work, it is probable that Chairman Bremer advocated for a strong DoD presence in domestic preparedness. Publicly accessible transcripts from the Gilmore Commission reveal that Bremer, who would go on to serve on the Gilmore Commission just a few months later, was a strong advocate for a DoD-led response to attacks on the homeland.³⁴⁷ As such, the military was relatively assured a commission stacked in its favor.

Having a large number of stakeholders as participants does not appear necessary to secure a win, however. For example, the commission heard from only eleven (8%) CIA officials, six White House-affiliated witnesses (4%), three congressional representatives (2%), and one (less than 1%) individual from the private sector, yet all of these stakeholder groups emerged as winners in the commission's recommendations. Only one of the eight advocate stakeholders (less than 1%) ever met with the commission in person. Participation by the seven remaining advocate stakeholders was limited to the submission of written comments. The following chart summarizes the findings:

³⁴⁷ See chapters 9 and 10 of this study. See also the Gilmore Commission minutes, November 7, 2000.

Chart 7.4 Bremer Actual Stakeholder Access

Stakeholder Group	Status	Predicted Access	Actual Access
CIA	Win	High	Low ✗
DoJ	Win	High	High ✓
DoD	Win	High	High ✓
Homeland	Lose	Lose	Low ✓
Congress	Win	High	Low ✗
White House	Win	High	Low ✗
State Department	Win	High	High ✓
State and Local	Lose	Low	Low ✓
Private Sector	Win	High	Low ✗
Advocates	Mixed	Medium	Medium ✓

It appears that, in only some cases, does the Bremer Commission support the first set of hypotheses stated in chapter 1: (1) stakeholder groups with significant access to the commission process will likely emerge as winners in the commission's final recommendations. The high percentage of stakeholders from the DoJ, DoD, and State Department corresponds to each group's win in the commission's counterterrorism policy recommendations; and (01) stakeholder groups without significant access to the commission process will likely emerge as losers in the commission's final recommendations. The low percentage of homeland, state, and local stakeholders corresponds to the relative exclusion of each group in the commission's recommendations.

The second set of hypotheses were not supported: (2) an opaque commission process will produce a consistent relationship between access and outcomes; and (02) a

transparent commission process will not produce a consistent relationship between access and outcomes. The Bremer Commission worked without a significant level of public scrutiny, yet there was not a consistent relationship between wins for the CIA, Congress, White House, and the private sector, all groups with low levels of witness participation. How might we explain the results?

One explanation is that access is not the only factor that determines the win/lose status of a stakeholder group. One obvious possibility is that the commission simply allowed the issues to drive the counterterrorism debate instead of private interests or institutional biases. The commission was also subject to significant time constraints, as its mandate required that it complete its work within six months of its creation. This might have required the commission to include only the most relevant topics and participants.

However, a second and perhaps more compelling explanation, is that even the groups without a strong level of witness representation still managed to find allies on the commission. Congress had few stakeholders officially represented. Yet the fact that the Bremer Commission was mandated by Congress--which picked its membership--meant that Congress had at least some influence over the outcomes. Although only one private sector stakeholder officially informed the commission, sixty percent of the commissioners had ties to the defense industry. It is too strong an assertion to claim that members were directly seeking benefits. Nevertheless, the fact that so many had made the transition to smaller innovative technology firms meant that they were convinced of the

importance of equipping the national security apparatus with a particular set of technological tools and policies to counter the terrorist threat.

The CIA also had a low participation rate. In this case, the stakeholder group's win might be considered a by-product of other factors that shaped the debate. The commission focused heavily on a new age of information gathering technologies that would require more intrusive surveillance methods, data encryption, and computer technologies. The commission recognized it was dealing with a relatively gray area with respect to the types of legal limitations such information gathering tools would confront. Thus, by endorsing employee protections for the CIA (and FBI), the commission sought to further ensure that the types of technological innovations it endorsed had a fighting chance to survive in the new threat environment.

Though there was a low number of advocates, the debate was bolstered by the inclusion of Commissioner Juliette Kayyem, an Arab American attorney, who served as a counterbalance to participants who favored more aggressive domestic counterterrorism operations that would tread dangerously close to the civil liberties violations. They were also inadvertently helped by political blowback from the rather inflammatory comments regarding support for Hezbollah made by the commission's first choice for the commission, Salam al-Marayati. His comments were picked up by the media, and served as political fodder for Jewish lobby groups interested in influencing the debate. Thus, at least some stakeholder groups with minimal numerical representation seem to have been able to count on media attention to ensure that their interests were represented by the new replacement on the commission, Juliette Kayyem. Others, like state, local, and homeland

agencies were hard pressed to establish relationships with commission members, as their interests seem to be largely at odds with each other.

Conclusion

The Bremer Commission made several novel predictions about the changing face of international terrorism and the threat it would likely pose on American interests. Those predictions have unfortunately held up well. For example, the commission accurately forewarned that terrorist activity would be marked with an increasing interest in inflicting mass casualties, and the threat would reach as far as American soil. The commission recognized that terrorist groups would be less dependent on state sponsorship and instead, were forming loose, transnational affiliations based on religious or ideological affinity and a common hatred of the United States. The commission also described the situation as a sort of hydra-headed monster, where neutralizing one terrorist leader would only result in two more springing into action. The 9/11 attacks and ongoing war in Iraq seem to have proven these predictions to be accurate.

The commission also deemed it necessary to strike a balance between incorporating innovative domestic intelligence gathering technologies and protecting the officers that utilize them, and safeguarding important civil liberties that might become vulnerable to such new domestic counterterrorism policies.

Where the commission seems to have missed its mark was its scant attention to strengthening state, local, and homeland counterterrorism capabilities, despite its mandate to do so. By endorsing a DoD-led response, the commission effectively minimized the

critical role that would be played by on-the-ground responders in exchange for a military solution that, as 9/11 revealed, was ill-prepared to effectively do the job.³⁴⁸

At least part of the reason for its failure to adequately address homeland responsibilities might have been due to the lack of access, either numerically or through strong interest alliance ties, by these stakeholder groups in the commission process. Access is important, as the commission itself acknowledged that the individuals who made up the commission ultimately determined the outcomes: “Each of the [ten] commissioners approached these issues from a different perspective. If any one commissioner had written the report on his or her own, it might not be identical to that which we are presenting today.”³⁴⁹ The individuals who participate have the power to interpret the facts, determine how to define the problem, and ultimately shape the outcomes. By failing to access the commission, homeland, state, and local agencies would be hard pressed to gain recognition for the important counterterrorism role they would need to play in the event of an attack on domestic soil.

Chapter Eight

The Gilmore Commission: Case Study Summary

In 1998, the Department of Defense, in consultation with the secretary of the Department of Health and Human Services (DHHS) and the director of the Federal Emergency Management Agency (FEMA), directed an independent panel of private

³⁴⁸ The military’s response to the 9/11 attacks will be discussed in chapters 10 and 11.

³⁴⁹ Bremer Commission, Foreword, 2.

citizens to assess U.S. response capabilities at the federal, state, and local levels in the event of a terrorist incident in the United States involving weapons of mass destruction. The Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction (the Gilmore Commission) was initially established by Section 1405 of PL 105-241, 105th Congress, 2nd session (October 17, 1998). The intended goal was twofold: first, to develop sound strategies to deter potential terrorists, and second, failing that, to provide guidance on ways to better prepare federal, state, and local emergency responders in the event of an attack. The panel was given logistical and analytical support by the RAND Corporation's National Defense Research Institute, a federally funded research and development center (FFRDC) that receives the majority of its contracts from the Department of Defense.

The Gilmore Commission was initially chartered to prepare three annual reports, from 1999 through 2001, regarding federal, state, and local emergency capabilities to respond to terrorism. After the September 11, 2001, attacks, Congress extended the commission's authority for two additional years by Section 1514 of PL 107-107, 107th Congress, 1st session (December 28, 2001). The commission was specifically charged with the following:

- 1) Assessing agency efforts to enhance domestic preparedness for incidents involving weapons of mass destruction;
- 2) Assessing the progress of training programs for local emergency responses to incidents involving weapons of mass destruction;

- 3) Assessing deficiencies in programs for response to incidents involving weapons of mass destruction, including a review of unfunded communications, equipment, and planning requirements, and the needs of maritime regions;
- 4) Recommending strategies for ensuring effective coordination with respect to agency weapons of mass destruction response efforts, and for ensuring fully effective local response capabilities for weapons of mass destruction incidents;
- 5) Assessing the appropriate roles of state and local governments in funding effective local response capabilities.

The commission submitted five annual reports to the president and Congress, the last of which it delivered in December 2003.³⁵⁰ Each document set forth the commission's findings and recommendations for improving federal, state, and local domestic emergency preparedness to respond to incidents involving weapons of mass destruction. But before assessing the roles, efforts, or deficiencies of emergency responders, the commission felt it necessary to first take a step back and assess the types of strategies most likely to be utilized by terrorist organizations. The commission's first annual report, released in 1999, concluded that terrorists were not likely to pursue WMD on a mass scale as a strategy against U.S. targets.

The commission's report based its conclusions on historical examples where terrorist organizations failed to acquire, produce, or disperse WMD materials on a large

³⁵⁰ A number of issues examined in the commission are outside of the scope of this study. For example, the commission examined health and medical preparedness vulnerabilities to terrorism. These issues, while important elements of national security and also subject to interest politics, are not examined here.

scale. The commission cited botched attempts by the Japanese terrorist organization Aum Shinrikyo to successfully initiate a chemical or nuclear event on several occasions prior to the 1995 subway attack. The group was unable to create a stable strand of sarin gas, much less an effective weaponizing mechanism for the chemical agent. The religious cult also attempted to cultivate enough of its own uranium to make a nuclear device, purchasing an isolated and uranium-rich five-hundred-acre sheep ranch deep in the Australian outback. The terrorist group found it difficult to conceal its efforts to build a large-scale weapons program, however. Rumors that a possible nuclear blast had occurred on the farm attracted the attention of local geologists and seismologists, and eventually international weapons inspectors and a U.S. Senate investigation.³⁵¹

The Gilmore Commission highlighted substantial limitations for nonstate actors attempting to build WMD programs. The sarin gas example was illustrative of the inherent difficulties in producing, much less dispersing, chemical weapons material. In addition, the sheep farm experiment demonstrated that producing mass quantities of uranium or other materials required for a nuclear program would also draw attention from intelligence and law enforcement bodies. The commission concluded that the weaponization of WMD agents fortunately still posed a formidable challenge for nonstate actors. Terrorists, the commission argued, would more than likely pursue smaller-scale chemical, biological, or radioactive weapons (doubtfully nuclear), which would produce fewer casualties, but would nevertheless create mass disruption.

³⁵¹ For further detail, see "Seismic Mystery in Australia: Quake, Meteor, or Nuclear Blast? Is Seismic Warfare a Fantasy or a Possibility?" *New York Times*, January 27, 1997, C1.

Terrorists might disrupt domestic stability by using any number of smaller-scale biological, chemical, or radioactive weapons. The commission noted that in The Dalles, Oregon, in 1984, a religious cult led by the Bhagwan Shree Rajneesh hoped to create enough confusion and panic to tilt local elections in the cult's favor. To do so the group contaminated the salad bars of ten local restaurants with salmonella bacteria. In 1995, Chechen separatists buried a radioactive device in a popular Russian park. They directed a local Russian news outlet to the radioactive canister in hopes that the news report would intimidate and instill fear in the general population. Though neither incident resulted in major casualties, the potential for damage by using small quantities of chemical or radiological weapons on a local level would have been severe and immediate.

The first annual report also theorized about the potential damaging effects of agroterrorism--an attractive alternative for terrorists because of the nature of the attack. Current detection devices would be slow to recognize the effects of simultaneously releasing low-level chemical, biological, or radiological toxins in livestock across a widespread region, allowing terrorists enough lead time to flee the area and thus remain anonymous. Such an attack might not produce mass casualties, but it could create a host of other problems. Tainted agricultural goods would result in massive economic damage to a \$50 billion industry, not to mention the ripple effect that would extend to other agriculture-dependent industries such as transportation, processing plants, and grocers. An agro-attack might also have a destabilizing affect on government as an anxious public loses confidence in its leaders' ability to protect citizens. The first annual report largely ruled out a major WMD attack as the next biggest threat to the United States. Instead, it

highlighted a higher probability of smaller scale attacks using limited amounts of WMD materials.

Where the first report assessed the likely threat environment, the remaining four annual reports addressed related weaknesses at all levels of government in preventing and/or responding to homeland terrorism. At the federal level, the commission concluded that the executive branch had thus far failed to develop a national strategy to combat terrorism. Nor did it maintain an office exclusively for the coordination and analysis of homeland terrorism intelligence. For its part, Congress lacked a centralized authorizing, budgetary, and oversight body specifically for combating homeland terrorism. It was also subject to pork-barreling by its numerous appropriations committees and subcommittees. As for the intelligence community, agencies remained incapable of sharing information, they were unable to accurately detect traces of WMD materials, and they were hobbled by restrictive regulations regarding the acquisition of human intelligence. The military's role in a domestic crisis had yet to be clearly defined.

The Gilmore Commission also fulfilled its mandate by addressing the capabilities of homeland and state and local agencies to deter terrorism. It found that the Coast Guard and other border control agencies lacked the required equipment and authority to effectively monitor incoming cargo from the shipping industry. At the state and local level, the commission conducted a survey of over one thousand emergency responders across the country. Based on responses to the survey, it concluded that responders lacked funding for appropriate equipment updates. Bureaucratic complexities made it difficult for local agencies to become aware of, much less apply for, federal grant

monies. Training programs administered by the federal government were frequently out of touch with the obstacles that local responders would most likely face.

As it stood, the commission concluded that the United States remained ill prepared to combat even smaller scale attacks on domestic ground. It therefore produced 144 recommendations following from the premise that policymakers should take a bottom-up approach to homeland counterterrorism efforts, emphasizing state and local response capabilities, while federal agencies would take on a largely support role.

The commission went beyond its scope, however, by also addressing cyberterrorism. The issue was one that the commission initially recognized was not within its mandate, as its first report stated:

This report does not specifically address any issues related to cyber terrorism. A strict interpretation of the Panel's enabling legislation, and related federal statutes that provide definitions of 'weapons of mass destruction,' would indicate that the issue is not within the purview of the Panel's mandate.³⁵²

The commission noted that cyberspace was not considered a weapon of mass destruction, citing and accepting the definition of WMD contained in the Nunn-Lugar-Domenici (NLD) Act:

³⁵² Gilmore Commission, 1st Annual Report, p. v.

any weapon or device that is intended, or has the capability, to cause death or serious bodily injury to a significant number of people through the release, dissemination, or impact of (A) toxic or poisonous chemicals or their precursors;(B) a disease organism; or (C) radiation or radioactivity.

It also cited 18 U.S.C. Section 2332a, which included:

any explosive, incendiary, or poison gas . . . bomb, grenade, rocket having a propellant charge of more than four ounces, missile having an explosive or incendiary charge of more than one quarter ounce, mine, or device similar to any of the devices described in the preceding clauses.³⁵³

Although the commission recognized that cyberterrorism did not fit within the confines of its mandate, several members felt the issue demanded attention and recognized the commission as a venue to put the issue on the national agenda.

Commission participant Michael Wermuth:

We can probably come up with some proposals for some policy recommendations. There may even be some structural recommendations. *Even*

³⁵³ Gilmore Commission, 1st Annual Report, p. 58.

though we were not tasked to do this before, the fact is that there is so much out there that we can put this together rather shortly.³⁵⁴

Commissioner John Marsh also felt it was the commission's duty to put cyber security on the national security agenda, and that the commission could offer an objective analysis of the issue:

There are some indications that in the [Office of Homeland Security], they are going to consider physical infrastructure and cyber infrastructure as separate entities. It seems like a bad idea to me because one will get more attention than the other. These are issues that we need to put on the agenda. This commission has had a solid track record for putting threats down the road on the table. I am strongly of the view that the cyber threat is one that should be addressed.³⁵⁵

Commissioners recognized that cyberterrorism did not fit within the confines of either definition. They nevertheless reversed their initial position by asserting that the potentially disruptive affects of a cyber attack was a problem worth addressing:

The Panel has concluded that the issues of cyber terrorism and the forms of terrorist activities that the Panel has considered thus far are so inter-related that the Panel cannot ignore the issue. The Panel will, therefore, consider issues

³⁵⁴ Gilmore Commission minutes, September 4, 2003; emphasis added.

³⁵⁵ Gilmore Commission minutes, September 4, 2003.

related to cyber terrorism in its activities, and include in its subsequent reports conclusions and recommendations on the subject.³⁵⁶

By including cyberspace, the commission expanded its original mandate, which was to focus solely on weapons of mass destruction. The next section of this case study will discuss the commission's recommendations more thoroughly to help determine whether an interest alliance made up of organizations affected by cyberspace security was able to penetrate the process. It will also examine which other stakeholder groups managed to win or suffered a loss in the commission's final recommendations.

Private Sector: "*Winner*"

In an analysis of the recommendations directly affecting private sector firms, it appears that the trend continued toward new types of private sector actors as influential players in homeland security: smaller, innovative, homeland security technology companies, and a cyber-dependent business sector. Both sectors were recognized as key players in the national security debate, a role traditionally open to primarily defense contractor giants such as Lockheed Martin, Boeing, and Northrup Grumman.

The commission's mandate charged the panel to examine domestic response resource capabilities in the event of a WMD attack. It fulfilled this part of its mandate by supporting a host of new types of localized technology. It prioritized responder personnel protective equipment (PPE); medical surveillance, identification, and forensics; improved sensor and rapid-readout capability; vaccines and antidotes; communications

³⁵⁶ Gilmore Commission, 1st Annual Report, p. v.

interoperability; and products for port security.³⁵⁷ Yet the commission warned the newly emerging homeland security industry not to expect the kinds of special favors awarded the defense industry in the past. It explicitly noted the potential for pork-barrel politics: “Everyone with a good idea is coming into the Department of Homeland Security and trying to sell them technologies.”³⁵⁸ It shied away from sanctioning specific private sector products: “In the equipment category, determinations by the Panel will not include the endorsement of any particular commercial product.”³⁵⁹ What is more, the commission felt that private sector vendors should be financially responsible for testing the reliability of their equipment, “We recommend that the Assistant Director for RDT&E and National Standards . . . explore the prospect of financial support from vendors for equipment live agent test and evaluation, leading to federal certification.”³⁶⁰ Though the commission had tempered its support by making clear that it did not endorse traditional pork-barrel politicking, its recommendations supporting new technologies reassured smaller, newly emerging companies specializing in innovative homeland security equipment. If implemented, the commission’s recommendations confirmed that they would benefit.

Though not included in its original mandate, the commission also provided a venue for the interests of a plethora of cyberspace-dependent private sector businesses. It noted that over 80 percent of cyberspace is owned by private businesses including telecommunications, banking and finance, energy, and manufacturing, and that cyber-attacks have the potential to threaten the gamut. It criticized the government for

³⁵⁷ Gilmore Commission, 2nd Annual Report, p. 38.

³⁵⁸ Comment by James Gilmore, minutes, June 17, 2003.

³⁵⁹ Gilmore Commission, 1st Annual Report, p. 66.

³⁶⁰ Gilmore Commission, 2nd Annual Report, p. 37.

separating cybersecurity from the physical aspects of critical infrastructure protection (e.g., power plants, dams, transportation) and recommended the inclusion of cyberspace security in the nation's plans for critical infrastructure protection. It further recommended that, along with federal, state, and local agencies, the private sector should be given a voice in critical infrastructure protection through an executive branch office that would merge physical and cyber security into a single policy area. It further proposed the creation of a not-for-profit independent entity or "fusion center" for all cyberspace security issues of concern to law enforcement, intelligence agencies, and the private sector; it endorsed increased R&D funding for cyber-related security; and it proposed the creation of a "cybercourt" similar to the FISA courts, to ensure that law enforcement and other investigative agencies are guided by the appropriate authority and constitutional mechanisms.

The commission also noted the extraordinary cost burden for businesses investing in expensive cyber-security enhancements. The commission suggested, for example, that to "increase the market value of security," the federal government might invest in high-volume cybersecurity products, which would increase the availability of such products as well as decrease the market costs for private sector businesses to adopt similar cybersecurity measures.³⁶¹ The Gilmore Commission recognized that economies of scale largely limited the business sector's willingness to protect its cyber infrastructure from terrorism. As part of a remedy, it looked to the federal government to play a role in softening the burden for the private sector.

³⁶¹ Gilmore Commission, 4th Annual Report, p. 82.

It appears that a new set of private sector stakeholders emerged winners, as the commission promoted innovations in homeland security products, as well as enhancements to cyber security. Though the first issue was well within the confines of the commission's charge, the latter issue was explicitly excluded by the scope of the commission's mandate. The commission nevertheless seems to have changed course, steered perhaps toward the interests of the cyber-dependent business sector.

Notably, the traditional set of defense contractor giants failed to secure gains. The Gilmore Commission downplayed traditional big-ticket high-technology solutions for combating terrorism. Its second annual report, released in 2000, referred to certain decision-making processes that encourage an overdependence on high-tech solutions:

Reliance on sophisticated national technical means or other high-technology systems is not always sufficient to provide the necessary and timely indication and warning to forestall or to defend against a terrorist attack.³⁶²

The panel continued that in the post-cold war era "certain procedures, well intentioned when implemented, are now hampering the nation's ability to collect the most useful intelligence."³⁶³ Large defense industry contractors, supplying satellite and other aerospace technologies, could not expect the same sort of support afforded by the recommendations of past commissions. Instead, the commission minimized the need for the types of big-ticket technology solutions utilized during the cold war. Clearly there

³⁶² Gilmore Commission, 2nd Annual Report, p. 20.

³⁶³ *Ibid.*, 20.

seemed to be a dramatic shift away from the big-ticket technologies provided by the traditional set of defense contractor giants.

White House: “*Winner*”

The commission proposed a series of recommendations meant to strengthen the White House’s role in combating domestic terrorism. It found that, to date, U.S. leadership was weakened because the White House had not proposed a coherent list of priorities, objectives, or strategies to deal with the threat of terrorism on U.S. soil. It therefore pressed each incoming administration to set the stage by developing and articulating its national strategy to deter, prevent, and respond in the case of a terrorist attack. It noted the need for an executive branch component to combat terrorism by suggesting the creation of a National Office for Combating Terrorism. The office would be housed within the executive branch, led by a presidential appointee, and essentially articulate the federal roles, responsibilities, and missions with respect to issues related to terrorism. It would also develop domestic and international policy, develop a single-source counterterrorism web database, and coordinate the federal government’s budgetary program.

By proposing that the president develop his/her own national strategy to combat terrorism, the commission prioritized strengthening the leadership role of the White House. It further supported that role by advocating the creation of an executive branch office to implement that strategy. As such, the White House emerged a winner in the commission’s final outcomes.

Congress: “*Winner*”

As for Congress, the commission counted in excess of 40 committees and subcommittees that control various aspects of counterterrorism. The commission found that the compartmentalized organizational structure not only inhibits Congress' ability to conduct effective oversight, but also allows individual appropriations committees to designate funds for pet projects in circumvention of established budgetary procedures: "Earmarks in appropriations bills created many of the federal government's specific domestic preparedness programs without authorizing legislation or oversight. The rapidly growing U.S. budget for combating terrorism is now laced with such earmarks."³⁶⁴

To rectify the problem, the commission's second report recommended that Congress consolidate committees and subcommittees responsible for individual aspects of terrorism into a "Special Committee for Combating Terrorism."³⁶⁵ The new entity would have bipartisan membership and jurisdiction over all aspects of congressional counterterrorism efforts. By the fourth report, however, the commission toned down its suggestions for congressional reform. It revised its initial position and now advocated for separate authorizing committees and appropriations subcommittees within each house of Congress specifically for Homeland Security:

We therefore restate our prior recommendation with a modification that each House of the Congress establish a separate authorizing committee and related

³⁶⁴ Gilmore Commission, 2nd Annual Report, vii.

³⁶⁵ Ibid.

appropriation subcommittee with jurisdiction over Federal programs and authority for combating terrorism/homeland security.³⁶⁶

Instead of centralizing the legislative body's counterterrorism efforts through consolidation, the recommendation would create four more entities to the forty-odd committees already controlling aspects of terrorism authorization and oversight. Furthermore, the commission did not explain how the proposal would solve the problem of pet projects. Instead, it may have added to the problem by creating new congressional entities eligible to procure special benefits. By reversing its position, the commission allowed traditional scattered power structures to endure, enabling Congress to emerge victorious in the final outcomes.

Department of Homeland Security: "*Winner*"

By the release of the fourth Gilmore Commission report in 2002, Congress had already passed legislation that officially established the new Department of Homeland Security.³⁶⁷ The new Department subsumed over forty domestic agencies including the INS, the Border Patrol, and the Coast Guard. The legislation established a single cabinet-level position to lead the new department's four main divisions: Border and Transportation Security; Emergency Preparedness and Response; Chemical, Biological, Radiological, and Nuclear Countermeasures; Information Analysis and Infrastructure Protection.

³⁶⁶ Gilmore Commission, 4th Annual Report, v.

³⁶⁷ Department of Homeland Security Act of 2002.

As a newly created entity, the department's role in counterterrorism had yet to be clearly defined, the commission concluded. It therefore abstained from criticizing the department's efforts thus far and instead looked for ways to further clarify the new department's counterterrorism responsibilities. Among its recommendations, the report emphasized that the DHS should have the authority to levy direct intelligence requirements on the intelligence community for the collection or additional analysis of intelligence about potential threats to the homeland. It supported designating DHS lead-role status in the event of a bioterrorism attack. It also issued a series of recommendations geared toward consolidating the agency's border control agencies.

The commission refrained from proposing organizational reform for the newly created entity, giving the fledgling department more time to solidify its counterterrorism role. Consequently, the Department of Homeland Security appeared a winner in the final outcome of the commission report.

State and Local Agencies: "*Winners*"

There was a distinct through line in recommendations regarding the role of state and local agencies: empower their employees. Recommendations supported a series of proposals for strengthening state and local authorities: to ensure participation by senior state and local-level officials, policymakers should incorporate their input in the development and implementation of the national strategy; to improve intelligence sharing, grant security clearances for state and local officials; to improve readiness capabilities, ensure state and local responders are adequately trained and equipped, and increase funding to such efforts; to coordinate communications between local and federal

agencies, designate a state emergency official (presumably the governor) as the focal point for domestic terrorism preparedness.

If anything, the immediate response efforts during the 9/11 attacks only served to support the Gilmore Commission's findings that state and local agencies on the ground would, by necessity and proximity, take the lead role. Federal agencies and the military would need to serve as support entities. As the commission focused on strengthening the role played by state and local agencies, these stakeholders emerged as winners in the commission's final outcome.

Advocate Stakeholders: "*Winners*"

The report cautioned that "important civil liberties issues must be considered when evaluating measures for combating terrorism."³⁶⁸ It recognized that certain national security policies might be perceived as threatening important civil liberties and reminded leaders that the government must "look ahead at the unintended consequences of politics in the quiet of the day instead of the crisis of the moment."³⁶⁹ Strategic planning is necessary to combat terrorism but, according to the Gilmore Commission, "there is probably nothing more strategic that our nation must do than ensure our civil liberties."³⁷⁰ To do so the commission called on the president to create an independent, bipartisan oversight board to provide counsel on homeland security activities that may affect civil liberties. It acknowledged the invasive complexities involved in establishing mandatory domestic quarantines and vaccinations in the event of a biological attack and encouraged

³⁶⁸ Gilmore Commission, Fifth Annual Report, p. 4.

³⁶⁹ Ibid.

³⁷⁰ Ibid., p. 5.

policymakers to take care not to overstep constitutional boundaries. It also supported a civilian leader over the military in the event of a domestic attack, and suggested the DoD produce a handbook to clearly establish limitations on military use in domestic counterterrorism activities, further illustrating the commission's commitment to issues of concern to advocate stakeholder groups, and establishing advocates as winners in the final outcome of the commission.

State Department: "*N/A*"

Because the commission's primary focus was on homeland response capabilities, the commission devoted little attention to the counterterrorism role played by the State Department. The commission made only one recommendation affecting the State Department, suggesting more comprehensive negotiations and agreements to combat terrorism with the border countries of Mexico and Canada.

Department of Justice: "*Loser*"

As for the Department of Justice, the Gilmore Commission remained skeptical of the FBI's ability to collect intelligence on international terrorists inside the country:

The FBI's long-standing law enforcement tradition and organizational structure persuade us that, even with the best of intentions, the FBI cannot soon be transformed into an organization dedicated to detecting and preventing terrorist attacks.³⁷¹

³⁷¹ Gilmore Commission, 4th Annual Report, p. iii.

It criticized the agency's National Infrastructure Protection Center (NIPC) for its tendency to prioritize its law enforcement duties over its information-sharing responsibilities. It therefore recommended the creation of an independent, not-for-profit organization that would include representatives from law enforcement, other national security agencies, and the private sector.

The commission also recommended transferring the agency's counterterrorism responsibilities to the newly formed National Counterterrorism Center (NCTC). The commission imagined that the NCTC would be a stand-alone agency that would collect and fuse domestic and international terrorism information and disseminate it to appropriate consumer agencies including the DoJ and other domestic agencies that required the information. Though the new center would not take control of the FBI's law enforcement duties or other nonterrorism units, the FBI nevertheless stood to permanently lose its personnel and jurisdiction related to domestic counterterrorism operations.

The commission remained unconvinced that the FBI could adapt its resources to detect, prevent, and deter domestic terrorism. Because the commission proposed transferring the agency's responsibilities to a newly established counterterrorism entity, the stakeholder group emerged a loser in the commission's final outcome.

CIA: "*Loser*"

As the CIA's counterterrorism role focuses primarily on intelligence operations abroad, the commission devoted less attention to addressing weaknesses within the agency. It did, however, recommend the permanent transfer of some of the CIA's

counterterrorism analytical division into the new National Counterterrorism Center. Its recommendations supporting more information sharing among federal agencies, as well as with state and local agencies, meant that the CIA would also be encouraged to loosen its grip on jealously guarded intelligence turf. The report did offer a minor reprieve by calling for policymakers to rescind the 1995 guidelines that prohibited the recruitment of foreign agents with “less than savory” human rights records. For the most part, however, the report’s emphasis on consolidating counterterrorism analysis and information sharing were areas that would force the agency to relinquish control over substantial elements of its intelligence gathering tools. As such, the CIA emerged as a loser in the final outcome of the Gilmore Commission.

Department of Defense: “*Loser*”

The Defense Department clearly lost, as the majority of military-related recommendations supported a subordinate role for the DoD. The commission declared that “no component of the U.S. Armed Forces should ever be the lead agency.”³⁷² Instead, the commission concluded, the military should play a support role to a designated lead civilian agency. The commission also recommended that the secretary of defense develop a legal “handbook” to clearly explain and justify its support role. It further recognized that states have limited funds available to pay for military operations in homeland security operations, and suggested that the DoD pick up the tab if the extended use of military units were required.

³⁷² Gilmore Commission, 2nd Annual Report, p. 28.

The military made clear that it opposed the commission’s recommended changes in existing procedures. It felt that the DHS, not the DoD, should be responsible for funding military support in domestic security plans; it argued that the resources of other federal agencies should be exhausted before turning to DoD assets like the National Guard; it rejected the proposed need to provide a handbook explaining its statutory limits and authority in a domestic crisis.³⁷³ But the commission intended that the military take a back seat in countering domestic terrorism. It cited the protection of civil liberties as a primary concern, as martial law might infringe on basic civil liberties. It also noted that if international terrorism hit home, troops would most likely be committed to prosecuting the war abroad. Because the military rejected a large portion of the key conclusions, but was unable to persuade the commission otherwise, the stakeholder group is considered a “loser” in the Gilmore Commission’s final outcomes.

The Gilmore Commission produced a series of winners and losers in terms of stakeholder groups. The chart below summarizes the standings:

Chart 8.1 Gilmore Win/Lose Chart

Stakeholder	Status
Private Sector	Win
White House	Win
Congress	Win
Homeland Agencies	Win
State and Local	Win
Advocate Stakeholders	Win
State Department	N/A
DoJ	Lose

³⁷³ See Fifth Annual Report, appendix K-12.

CIA	Lose
DoD	Lose

The military was unable to secure lead status role, nor could it persuade the commission that other federal and state agencies should foot the bill for the use of DoD assets. DoD intelligence agencies, along with the CIA and FBI, stood to lose key functional responsibilities over combating domestic terrorism if the commission's recommendation for a new National Counterterrorism Center was implemented.

The most prominent winning stakeholders were state and local agencies, which the commission recognized as key players in the event of a domestic terrorist attack. The White House and Congress also managed important wins, as did the new Department of Homeland Security. As for organizations outside of government, a newly emerging set of private sector actors found support, as did advocate stakeholders concerned about civil liberties.

How might we interpret the results? What determined the outcomes? Did stakeholder groups have equal access to the commission? Did interest alliance activity occur? Was public interest/access a relevant factor? The next chapter analyzes the commission process to determine the factors most influential in the decision-making process. Based on stakeholders' win/lose status, the study predicts the following level of access by participants:

Chart 8.2 Win/Lose Chart Predicted Access

Stakeholder Group	Status	Predicted Access
Private Sector	Win	High
White House	Win	High
Congress	Win	High
Homeland Agencies	Win	High
State and Local	Win	High
Advocate Stakeholders	Win	High
State Department	N/A	N/A
DoJ	Lose	Low
DoD	Lose	Low
CIA	Lose	Low

Chapter Nine

The Gilmore Commission: Case Study Analysis

By the time al-Qaeda struck the U.S. homeland in 2001, the Gilmore Commission had already released two annual reports (1999 and 2000) regarding domestic counterterrorism response capabilities. In retrospect, one might think that the American public, searching for reasons that the terrorists attacked on September 11, 2001, or why federal, state, and local responders reacted the way they did, would have sought out answers from the ongoing panel of experts studying the very same topic. Nevertheless, four out of five commission participants (four commissioners and one staff member) interviewed for this study cited the lack of public interest as a major shortcoming of the Gilmore Commission.

The staff member noted that prior to 9/11, public response was limited to “a few knowledgeable individuals and a few random e-mails.”³⁷⁴ One commission member commented that before the attacks, the commission was “little more than an academic experiment.”³⁷⁵ Another commission member acknowledged, “We maybe caught the attention of a few experts, but domestic counterterrorism was really an esoteric issue pre-9/11.”³⁷⁶ Such statements by commission participants imply that things changed after 9/11. Yet the amount of public interest was minimal even after the 2001 attacks. The staff member interviewed found that the commission received much more focused attention after the attacks, but from specific domestic interest groups like emergency responders (e.g., fire and police unions) and national business associations.

The staff member also felt that the press did pay more attention to the commission after the attacks. Nevertheless, in a Lexis Nexis search of major newspapers from September 11, 2001 until the end of the year, not one major newspaper covered the Gilmore Commission’s third annual report released in December 2001, just three months after the terrorists hit. Even though 9/11 was included in all subsequent reports, the Gilmore report was not a reference point. A 2006 search of major newspapers for all five annual Gilmore Commission reports generated fewer than sixty articles. If the lack of media reports and e-mails received serve to gauge the public’s interest in the independent commission, the commission failed to attract substantial attention.

³⁷⁴ Personal interview with staff member, May 11, 2006.

³⁷⁵ Personal interview with commission member, May 15, 2006.

³⁷⁶ Personal interview with commission member, May 8, 2006.

Although the public chose not to reach out to the Gilmore Commission, the commission made notable attempts to reach out to the public. The commission raised awareness of its work by posting notices for its meetings in both the Federal Registrar and on the RAND website at <http://www.rand.org/nsrd/terrpanel.org>. RAND adhered to the FACA laws requiring independent advisory commissions to provide access to all non-classified materials. Its website posted transcripts for each of its thirty-two public meetings, written testimony, and other panel documents. It further provided a complete list of participants, both the commission and those invited to brief it; it described in detail the survey instrument used and the methodological approach to selecting participants (in fact, the commission devoted 89 out of 289 pages of its 2001 report to an appendix explaining its methodology in detail).³⁷⁷ Though the commission offered opportunity for public comment, few seemed interested.

Part of the reason the commission failed to attract attention prior to 9/11 might be that, like the issues discussed in the prior commissions studied, the Gilmore Commission was dealing with a problem that had yet to hit home for most American citizens. In addition, the commission's relatively mild conclusions about the probability of a WMD terrorist attack might not have been sufficient to attract public interest. Its first report stated, "It should be noted that, as serious and potentially catastrophic as a domestic terrorist [chemical, biological, radioactive, or nuclear] attack might prove, it is highly unlikely that it could ever completely undermine national security, much less

³⁷⁷ The Gilmore Commission's 3rd Annual Report is 270 pages long and includes an 89-page appendix on the survey instrument developed and implemented by the Commission's RAND research group.

threaten the survival, of the United States as a nation.”³⁷⁸ The Gilmore Commission argued that terrorist organizations would prefer to avoid the risky acquisition of materials that would be required for large-scale WMD production to produce casualties on a mass scale. Instead, terrorists would most likely use conventional weapons or small-scale chemical, biological, or radioactive materials, which would produce far fewer casualties yet cause significant economic and psychological damage.

The Gilmore Commission’s findings were tame in comparison to dire warnings by the 1999 Bremer Commission, for example, which had declared, “Today’s terrorists seek to inflict mass casualties and they are attempting to do so both overseas *and on American soil*.”³⁷⁹ The 1999-2001 Hart-Rudman Commission had warned “Americans will likely die on American soil, possibly in large numbers.”³⁸⁰ If the alarming warnings by Bremer and Hart-Rudman provoked skepticism about the commissions’ overzealousness and paranoia, a complacent, disinterested, and detached American public might have overlooked the Gilmore Commission’s relatively benign conclusions.

The Gilmore Commission made substantial efforts to create a transparent commission process. Yet it appears that it was unable to attract a significant degree of interest. If the lack of public interest was enough to allow stakeholder groups space to lobby for personal or professional gains, the outcome might look like the following:

³⁷⁸ Gilmore Commission 1st Annual Report, 38.

³⁷⁹ The National Commission on Terrorism, 1999, Executive Summary. Emphasis added.

³⁸⁰ “New World Coming: American Security in the 21st Century, Major Themes and Implications.” Hart-Rudman Commission (Phase 1) 1999.

Chart 9.1 Gilmore Win/Lose Chart Predicted Access Revisited

Stakeholder	Status	Predicted Access
Private Sector	Win	High
Executive Branch	Win	High
Congress	Win	High
Homeland Agencies	Win	High
State and Local	Win	High
Advocate Stakeholders	Win	High
State Department	N/A	N/A
DoJ	Lose	Low
CIA	Lose	Low
DoD	Lose	Low

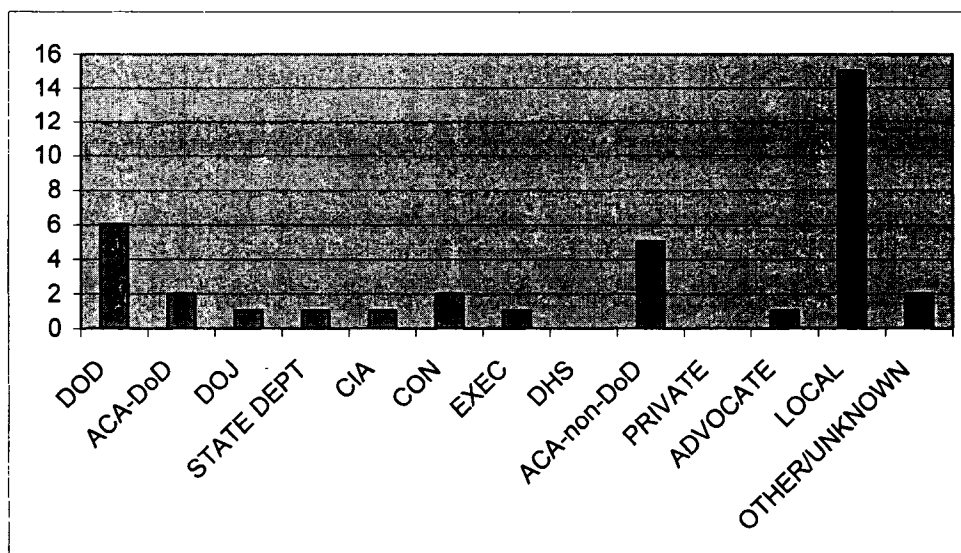
The following sections of this case study address whether or not the lack of public interest allowed interest alliance politics to control the debate, and whether the commission’s attempt at public outreach was enough to limit interest alliance activity. It examines the backgrounds of individuals selected to participate to determine whether winner and loser stakeholders coincide with their group’s ability to access the commission process. It also analyzes transcripts of testimony and includes observations from the five Gilmore Commission participants interviewed for this study to further elucidate the commission’s decision-making process.

Selection Process

The secretary of defense, in consultation with the secretary of the Department of Human Health and Services and the director of the Federal Emergency Management

Agency, chose RAND to manage the Gilmore Commission. The research institute was responsible for establishing the appropriate commission procedures and for selecting the commission's membership, as well as the witnesses invited to brief the commission. RAND was to select all participants based on their knowledge and expertise with respect to emergency response matters.³⁸¹ The staff member interviewed for this study stated that RAND's researchers were familiar with experts in the field and selected members based on the questions the commission was charged with answering. The following chart provides a breakdown of credentialed experience for each Gilmore commissioner.

Chart 9.2 Gilmore Commissioner Credentials



Individuals with experience at the state and local levels of government dominated the membership of the commission. Fifteen out of thirty-two members (47 %) selected had extensive experience in state and local offices, including the commission's chairman, Governor James Gilmore. This corresponds to this stakeholder group's categorization as

³⁸¹ Legislation: Public Law 105-261 (H.R. 3616, 105th Congress, 2nd Session) (October 17, 1998).

a “winner” in the commission’s outcomes. In most cases, however, members’ professional backgrounds fail to adequately explain the relationship between a stakeholder group’s representation and its status as a winner or loser. For example, the DoJ, CIA, White House, and advocate stakeholder groups had equal representation, nevertheless, outcomes for each varied (DoJ and CIA were losers, the White House and advocates enjoyed wins).

In three instances the results seemed to contradict the hypothesis altogether. The DoD emerged a loser, though it was the second most represented group in the commission’s membership (six members, or 19%). No members were affiliated with Congress, yet the legislative body managed a win. Though no members were selected for their professional expertise in the private sector, two sets of private sector companies managed wins: homeland security companies and cyber-dependent businesses. An examination of commissioners’ career trajectory up to two years following the end of the commission might provide a partial explanation, as at least some members were in career trajectories positioned to benefit from the commission’s recommendations.

Ten commission members remained in state or local government-related careers and stood to benefit from the fortified role the commission recommended for such agencies. The career trajectory two years later for members with DoJ and CIA credentials might explain in part why both the DoJ and CIA emerged as losers. Former FBI associate director James Greenleaf had turned to the silver screen, frequently utilizing his expertise to consult for the movie industry.³⁸² While commissioner John

³⁸² See <http://media.movieweb.com/galleries/700/notes.pdf>.

Gannon had twenty-four years of experience at the CIA, by 2005, he had made several career transitions. He moved to Congress as staff director of the House Homeland Security Committee, then to a team leader in the White House's Transitional Planning Office for the Department of Homeland Security, before leaving government service for a private sector career at Bae Systems Information Technology.³⁸³ As neither commissioner worked for either agency two years after the end of the commission, it might be possible that the agencies lacked the support of career-minded stakeholders seeking a future at the CIA or DoJ.

Five members made the transition to private sector firms. It may be important to note that some were directly related to the types of homeland security products endorsed by the commission. For example, in addition to the aforementioned commissioner, John Gannon, former secretary of the Army, John Marsh, was hired as a lobbyist for Novavax in December 2005. The company's R&D interests include biotechnology areas such as vaccinations and virus delivery. The position's job description took advantage of Marsh's prior government access, as he was hired to

monitor legislative and regulatory initiatives and guide management of the company in pursuing research and development funding specifically relating to vaccines as well as the company's other current and future products and product development efforts. The committee also will be responsible, among other things, for assisting management of the company in communicating, working with and

³⁸³ <http://www.na.baesystems.com/releasesDetail.cfm?a=300>; See also http://www.govexec.com/features/0204hs/0204HS_congress12.htm.

educating local, regional and national legislators and regulators on the efforts of, and issues of interest to, Novavax.³⁸⁴

Others stepped down from state or local agencies in pursuit of private sector careers related to homeland security products. Commissioner Jones had left the California State Office of Emergency Services for a private sector job at Kitt Associates, a crisis management firm whose website explains that it “bridges government agencies and non-profits with industry and constituents.”³⁸⁵ After leaving office, James Gilmore became head of Secure USA, a company that, according to its website, consists of a unique alliance of

key national technology and infrastructure companies that are affected by and participate in homeland security. These companies produce the services and products critical to the homeland defense of the United States of America.³⁸⁶

In particular, the former governor’s new position directly corresponds to the commission’s proposed recommendations regarding cybersecurity critical infrastructure protection plans. Additionally, a Gilmore participant interviewed for this study volunteered the observation that there was a direct correlation between

³⁸⁴ See “Novavax and Marsh Team Up to Fight Avian Flu,” December 9, 2005; <http://www.antandsons.com/2005/12/novavax-and-marsh-team-up-to-fight.html>.

³⁸⁵ See www.wittassociates.com/1162.xml.

³⁸⁶ See www.secureusa.net.

Gilmore's insistence that cybersecurity be included in the mandate and the soon-to-be former governor looking to bolster his private sector career opportunities.³⁸⁷

It is not possible to prove conclusively that the governor had personal interests at stake. What is more, three out of five commission members interviewed volunteered the opinion that the governor made significant efforts to maintain a balanced and nonpartisan commission, mentioning his willingness to invite witnesses from a broad range of fields. Nevertheless, examining commission members' private sector careers as well as participant observations reveals at least the potential for conflicts of interest to arise between the professional interests of participants and national security policy outcomes.

Examining the commission membership does not explain the results for Congress, however. No commissioners worked in Congress, yet the stakeholder group managed a win. At least part of the deviation might be explained by the fact that commissioners recognized the substantial challenge in reforming the powerful institution. An analysis of public transcripts reveals that a few members initially expressed willingness to take on the legislative branch. Commissioner Jerry Bremer declared "I'm all for telling Congress how they compound the problem."³⁸⁸ Though Commissioner Richard Falkenrath supported a congressional downsize--"I want to criticize the Congress, get rid of a half dozen congressional committees"-- in the end, however, he recognized the inherent difficulties in tackling the legislative body: "The real problem is getting the existing committees to give up their authority. Let's say that

³⁸⁷ Personal interview with staff member, May 12, 2006.

³⁸⁸ Gilmore Commission minutes, July 17, 2000.

bluntly.³⁸⁹ Commissioner Patrick Ralston was also hesitant to chastise the federal branches of government: “As far as the tone, if we bash Congress and the Executive Branch, they may take a defensive stance. I do not want them to come back and criticize us.”³⁹⁰ Commissioners seemed reluctant to scrutinize entities upon which the commission would ultimately rely to approve and implement its recommendations.

Six members remained working in DoD-linked fields, yet the stakeholder group failed to convince the commission to recommend giving it lead-role status in the event of an attack. A partial explanation for the DoD’s inability to persuade the commission might be that the interests of the DoD were simply in direct conflict with the interests of state and local stakeholders, the group that appears to have numerically dominated the commission. After all, it would be state and local agencies that would be expected to relinquish their counterterrorism responsibilities if the military were to be given lead role status. Indeed, an analysis of the transcripts of the commission’s meetings shows that, for the most part, state and local commission members opposed a strong DoD role.

An analysis of Governor Gilmore’s statements in the commission’s transcripts supports the position that the chairman and governor of Virginia adamantly opposed the notion of a DoD-led counterterrorism strategy:

Let me make it very clear that the DoD must be subjected to a clearly civilian entity; I disagree that the DoD is a clear civilian agency. So if the military must

³⁸⁹ Gilmore Commission minutes, September 28, 2000.

³⁹⁰ Gilmore Commission minutes, November 27, 2000.

be used, you use them under the auspices of a civilian entity....I think our role should be to recognize that the policy should be that under NO circumstances should this occur. Even under the most catastrophic circumstances, characterize it as a civilian response and put the DoD under them.³⁹¹

Chairman Gilmore further reiterated his point: "I am talking about the activation of a process, of interjecting a CIVILIAN entity in between the military and the public. This is an essential safeguard."³⁹²

The governor's position was most strongly opposed by a commissioner from the federal-level, ambassador-at-large Jerry Bremer. Bremer made a series of comments in meetings supporting a lead role status for the military in the event of a catastrophic terrorist attack: "My point is directed that the capability goes so far beyond local and state forces, and the President then evokes the National Command Authority." He further stated his opposition to the civilian-led recommendation: "It is quite imaginable that you may have a circumstance with catastrophic terrorism that will outrun the capabilities of state and local entities and the President WILL put DoD in charge."³⁹³

Bremer could count on a modicum of support from retired army Maj. Gen. William Garrison, for example, who defended the military's reputation in stabilizing domestic crises: "You know, the Army is not that bad of a thing. You do not need to worry about the women and the kids and the sheep and the goats."³⁹⁴

³⁹¹ Gilmore Commission minutes, November 27, 2000.

³⁹² Ibid.

³⁹³ Ibid.

³⁹⁴ Gilmore Commission minutes, September 12, 2002.

However, transcripts reveal that Bremer was outnumbered by a strong alliance of state and local officials who supported Gilmore's position. Dallas Jones, a California emergency responder, replied, "Jerry (Bremer) you fail to accept the concept that the military can be involved but not in charge."³⁹⁵ State emergency responder Ellen Gordon favored a civilian lead: "I support your opinion on this, Governor. I think the civilian agency should be in charge." Another state emergency responder, Patrick Ralston, also reassured Gilmore, "All four state directors are going to agree with you, Mr. Chairman." Ultimately, state and local commissioners won out, as Bremer was unable to steer the agenda toward an outcome favoring a DoD lead role.

Four out of five participants interviewed for this study confirmed that there was a clear divide between the large number of state and local members, like Gilmore, who preferred a "hands-off"³⁹⁶ approach by the military, and the smaller amount of federal and military members who felt the best solutions would come from a federal-level response to domestic terrorism. As a commissioner noted, "There is a natural tendency for individuals from similar backgrounds to agree with each other because they experience similar situations and challenges."³⁹⁷ The staff member observed, "Governor Gilmore had experience at the state level. Bremer mostly lived at the federal level. People at the federal level generally think all problems can be solved by a federal solution."³⁹⁸

³⁹⁵ Gilmore Commission minutes, November 28, 2000.

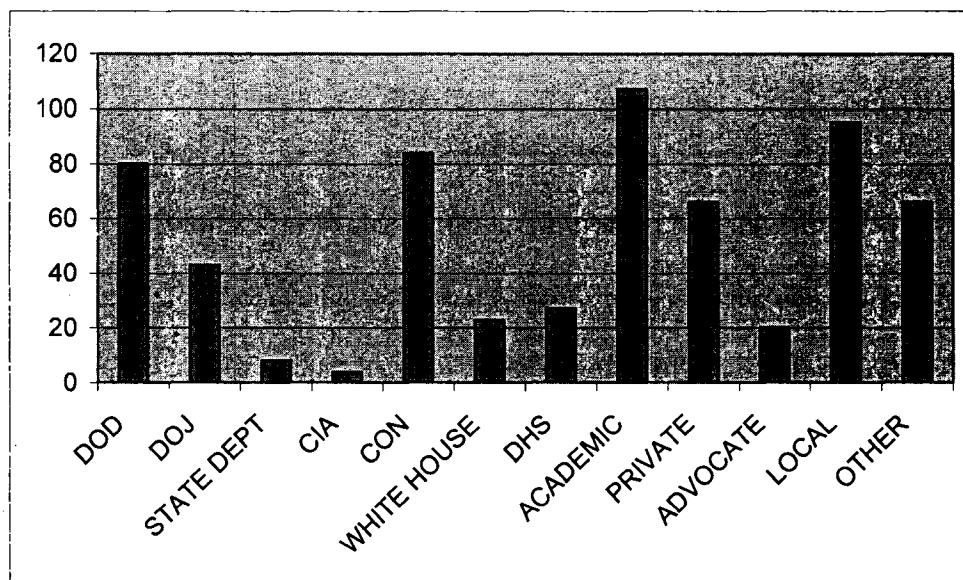
³⁹⁶ Personal interview with staff member, May 9, 2006.

³⁹⁷ Personal interview, May 15, 2006.

³⁹⁸ Personal interview with staff member, May 11, 2006.

State and local stakeholders further reinforced their position by providing a large number of additional state and local officials access to the debate. The following chart summarizes the official list of the professional affiliations of witnesses who briefed the commission. Though it further illustrates that stakeholders with state and local interests were a forceful component of the debate, it also shows that the commission invited participation from a wide range of stakeholder groups.

Chart 9.3 Gilmore Witness Credentials



Of the more than six hundred witnesses, ninety-five (16 %) were state and local officials. But the number does not include the over one thousand state and local emergency responders whose views were captured in a nationwide survey. The survey included volunteers and other local personnel from fire departments, emergency and public health and other medical care providers who commented on the need for more funding, training, and other homeland security resources. Of note, the survey did not

include federal-level respondents, a fact contributing to the favorable outcomes for state and local agencies compared to outcomes for the military. For example, DoD-related recommendations were no doubt influenced by the fact that 90 percent of the state and local respondents surveyed felt the military should serve in a support capacity.³⁹⁹

Congress was also heavily represented. With over eighty participants, the witness roster included a 13 percent showing from Congress. Though I did not find evidence from transcripts or personal interviews that interest alliance activity took place, the substantial number of congressional participants might have contributed to the commission's reluctance to recommend reform of the branch's subcommittee organizational structure.

Of the sixty-six (11 %) private sector stakeholders invited to participate, twenty-seven (40 %) were brought in from small information technology firms such as Digital Sandbox,⁴⁰⁰ a company specializing in critical infrastructure protection; EQE International,⁴⁰¹ a technology-based risk management firm; and Hadron, Inc., an information technology company that in 1995 was barely surviving, but by 1998 had begun winning lucrative government contracts.⁴⁰² Such small tech firms had honed their services to take advantage of a special niche market in the types of homeland security products the commission ultimately endorsed. Noticeably absent were private sector defense industry giants such as Lockheed Martin, Boeing, and Northrop Grumman--no

³⁹⁹ Gilmore Commission 3rd Annual Report, Appendix g.

⁴⁰⁰ See <http://www.dsbox.com/>.

⁴⁰¹ See <http://www.eqe.co.uk/companyframe.html>.

⁴⁰² See http://www.washingtontechnology.com/news/13_22/business/368-1.html.

doubt reflecting the commission's position on the government's over reliance on big-ticket solutions to the counterterrorism technology.

The commission also appears to have been influenced by a small number of representatives from the business sector. The Business Roundtable, Business Executives for National Security (BENS), and the U.S. Chamber of Commerce briefed the commission. The Business Roundtable and BENS represent hundreds of the nation's leading banking, telecommunications and other private sector corporations. The U.S. Chamber of Commerce represents over three million business stakeholders of all sizes and sectors, and is arguably the most influential business advocacy group promoting economic growth and free enterprise. All three brought a similar message to the commission--that policymakers need to include the private sector in the national security planning process. Though the commission's mandate had limited the scope of study to response capabilities against weapons of mass destruction, the cyber-dependent business sector group was able to successfully utilize the commission as a venue to promote its collective interests regarding cyber security.

The stakeholder group was also able to take advantage of the fact that its interests coincided with those of commission chair James Gilmore, who had established himself as an outspoken advocate for cyber-dependent businesses. In July 2000, the Virginia governor formed a blue ribbon commission called the Virginia Research and Technology Advisory Commission (VRTAC) to lobby against proposed Internet taxation policies and enhance the role played by Virginia's strong technology base. During his tenure on the commission, Gilmore also served on the government advisory board for Lucent

Technologies, a communications giant that provides mission-critical technologies to the DoD, DHS, and other national security agencies.⁴⁰³ In March 2003, Gilmore was appointed to the board of directors at Winstar, multinational telecommunications company involved in homeland security strategies for business.⁴⁰⁴ As Gilmore was a strong and vocal supporter for cyberspace security, the private stakeholder group might have benefited from a unique understanding or alliance between its representatives and the commission's leadership.

The large number of stakeholders representing state and local agencies, Congress, and the private sector might have allowed at least some interest alliance activity relationships to shape the decision-making process. The same was not true, however, for all stakeholders who accessed the commission. The DoD and the DoJ both had a significant proportion of representation, and were thus potential candidates for interest alliance relationships to form. Yet neither was able to emerge as winners in the final outcome. The eighty-eight (15%) DoD-linked witnesses were the second most represented stakeholder group. Yet the stakeholder group was unable to steer the commission toward a more favorable outcome. In addition, the commission received all of its analytical and logistical support from RAND's National Defense Research Institute, an institute that relies heavily on contracts from the Department of Defense.⁴⁰⁵ Based on

⁴⁰³ See <http://www.lucent.com/gov/advisors.html>.

⁴⁰⁴ See "IDT Corporation Announces Appointment to Its Winstar Board: Former Governor of Virginia, James. S. Gilmore Appointed to the Company's Board for Winstar," <http://www.idt.net/about/press/story.aspx?id=3350>.

⁴⁰⁵ RAND was a pivotal actor in the Gilmore Commission. The research institute selected the majority of witnesses interviewed or invited to brief the Commission; designed and conducted the survey instrument; and ultimately wrote the final product for publication. RAND's website www.rand.org, explains the close relationship between NDRI and the DoD:

RAND's long-standing relationship with the DoD, it might be assumed that the reports would have reflected a certain bias toward the research institute's primary benefactor. Nevertheless, the commission remained focused on the interests of state and local-level stakeholders, who remained dominant in the commission process and kept the discussion focused on support for their stakeholder groups.

Another partial explanation for the military's inability to sway the commission might be that by the spring of 2003, the military's primary advocate, Jerry Bremer, had left the commission to head the Coalition Provisional Authority in post war Iraq. Thus military stakeholders lost key support, as a critical potential interest alliance partner was no longer in a position to shape the debate.

Neither was the DoJ able to rely on interest alliance politics. Only forty-three representatives, roughly 7 percent of the commission's witnesses, were from the DoJ. The department was unable to persuade the commission that it was capable of adapting to the new age of domestic terrorism, despite efforts by stakeholders to access and thus influence the debate. One of the representatives was FBI Director Robert Mueller, who met with the commission on at least two occasions. The first time, the commission invited Mueller to participate. The second time, Mueller "wanted to come back on his own." Chairman Gilmore recognized the director's motive: "The whole FBI/MI5

"The National Defense Research Institute (NDRI), a federally funded research and development center (FFRDC), conducts RAND's research for the Office of the Secretary of Defense (OSD), the Joint Staff, the Unified Combatant Commands, the defense agencies, the United States Marine Corps, and the United States Navy. RAND research for the U.S. Air Force is carried out within RAND Project AIR FORCE, while research for the U.S. Army is carried out within RAND Arroyo Center....

As an FFRDC, NDRI has a special relationship with its research sponsors. The primary source of analytic expertise for OSD and other DoD elements over the past 20 years, NDRI has established a unique, irreplaceable capability and capacity. NDRI researchers have acquired an in-depth knowledge of OSD's requirements and institutional character and have used these to suggest innovative, effective ways of implementing current policy as well as to evaluate new, realistic policy options."

discussion is still always hanging around and the debate is ongoing and I think that is why the Director wants to come back.”⁴⁰⁶

As Mueller’s briefings were held in a classified forum, it is impossible to determine what type of formal approaches he might have used to persuade the commission. Nevertheless, information from the public transcripts reveals that Mueller might also have used informal channels to influence the debate. Before the second meeting, Mueller made informal contact with Commissioner Greenleaf, the only member with an extensive DoJ background. According to Greenleaf, “He called me at home and asked me to share some of the panel’s opinions on our recommendations. His purpose is to bring us up to date on the changes that have been made since the last time he was here.”⁴⁰⁷ Mueller’s attempt to cull Greenleaf’s support might have proved partially successful, as Greenleaf filed a formal dissent to recommendations that would transfer the FBI’s counterterrorism units to the new National Counterterrorism Center (NCTC):

I am in favor of the creation of the NCTC but only for the analytical “fusion” function. I am opposed to the creation of an independent organization within the NCTC that would collect intelligence and other information on international terrorists activities inside the United States....I believe that the FBI is fully capable of collecting the needed information in an effective, efficient, and lawful manner. The Bureau is like most bureaucracies and change comes slowly. However, knowing the caliber and dedication of the men and woman in the

⁴⁰⁶ Gilmore Commission minutes, April 30, 2003.

⁴⁰⁷ Gilmore Commission minutes, April 30, 2003.

organization, they can meet these new challenges and make the appropriate adjustments to counter the terrorist threat.⁴⁰⁸

It was apparent to members that FBI Director Mueller feared the dismemberment of his agency, recognized the commission as an influential body, and thus tried to play an active role in its deliberations. Mueller attempted to form an alliance with the only DoJ representative on the commission. Nevertheless, neither Mueller's efforts nor those of any other representative from the DoJ convinced the commission that the agency was capable of making the necessary improvements in its counterterrorism capabilities.

The State Department, CIA, and advocate stakeholders all had a low number of representatives, yet outcomes for the groups varied. There were fewer than ten (2%) combined representatives from the State Department and the CIA. This coincides with the minimal amount of attention afforded the State Department's role in domestic counterterrorism and the CIA's inability to maintain jurisdiction over its domestic counterterrorism capabilities. But the twenty advocate stakeholders (3%) granted access emerged as winners in the outcome. This may be not so much due to the group's ability to access the discussion or form an interest alliance with commission members. Instead, advocate stakeholders benefited from the fact that state and local officials, whose day-to-day careers would be directly affected by recommendations related to civilian protection, dominated the commission. One commissioner interviewed from the state and local-level

⁴⁰⁸ Gilmore Commission 4 th Annual Report, 6, n. 2.

commented, “There are no unions in the military,” and “You can’t sue the military,”⁴⁰⁹ noting that, unlike the military, state and local officials would be vulnerable to sharp criticism by displeased advocate groups. As such, the outcomes for advocate stakeholders may not have been due to the formation of an interest alliance between advocates and state and local officials, but more likely occurred because state and local officials recognized that their positions required them to be on the front lines of the battle between civil liberties and national security.

In sum, it appears that interest alliance activity explains how some groups were able to shape the debate, though in other cases it appears not to have had a substantial effect. The following chart summarizes each group’s ability to access the commission process, compared to their status as a “winner” or “loser” stakeholder group.

Chart 9.4 Gilmore Actual Stakeholder Access

Stakeholder Group	Status	Predicted Access	Actual Access
Private Sector	Win	High	High ✓
White House	Win	High	Medium ✓
Congress	Win	High	High ✓
Homeland Agencies	Win	High	Medium ✓
State and local	Win	High	High ✓
Advocate Stakeholders	Win	High	Low ✗
State Department	N/A	N/A	N/A
DoJ	Lose	Low	High ✗
CIA	Lose	Low	Low ✓
DoD	Lose	Low	High ✗

⁴⁰⁹ Personal interview with commissioner, May 15, 2006.

Conclusion

The Gilmore Commission provided five consecutive years of advice regarding U.S. domestic response capabilities and vulnerabilities in the event of a terrorist attack. It went against the grain by reporting that non state terrorist organizations were less likely to engage in large-scale WMD attacks. Instead, terrorists would be more likely to engage in more creative means, using smaller amounts of chemical, biological, or radioactive materials to create mass disruption, not mass destruction, on domestic soil. The conclusion was not enough to galvanize public interest, though not for lack of trying by its participants.

Thus the Gilmore Commission presents an interesting hybrid case: a commission whose process was open, yet still very closed to outside scrutiny because of the lack of public interest. How did this affect the results? I would argue that the open process allowed for a generally balanced representation of views by a wide range of stakeholder groups, though state and local officials clearly dominated the process at the expense of the DoD. However, the lack of public attention also left room for influential stakeholders to include their own subtle earmarks.

The commission seemed to be distracted by a cyber-dependent business sector that was increasingly concerned about its vulnerability to cyberterrorism. In 2000, for example, the Computer Emergency Response Team (CERT) at Carnegie Mellon University reported over twenty thousand cyber security threats nationally including identity theft and teenage hackers. By 2001 that number had increased to over fifty-two

thousand.⁴¹⁰ The business sector also was well aware that protecting its infrastructure would require expensive security updates. By participating in a commission whose chair was an influential politician and strong advocate of their cause, the business sector could count on shaping the counterterrorism agenda toward its own interests.

Issues of concern to private sector homeland security companies were at least within the scope of the Gilmore Commission's mandate. And, indeed, the stakeholder group could expect to influence the debate. First, a significant number of commission members were either working for companies that specialized in homeland security products during their tenure on the commission, or would make the transition to such companies soon thereafter. It may be overly cynical and simplistic to argue that professional interests shaped their decisions. Nevertheless, the fact that so many individuals moved in that direction meant they were at least converts to the cause.

In their defense, the staff member interviewed for this study noted that after spending three, four, or five years of one's life on the topic, members tended to become very "enthusiastic believers" in the types of homeland security solutions available for national security consumption.⁴¹¹ But if such true believers dominated the commission, cyber-dependent businesses and homeland security companies could also rely on being called to testify as experts in what technologies, weapons, and other resource capabilities will be required in the post 9/11 environment. Forty percent of private sector witnesses were from cyber businesses or small homeland security firms, while not one witness

⁴¹⁰ Computer Emergency Response Team, Coordination Center (CERT/CC) Statistics 1988/2006.

⁴¹¹ Personal interview with commission member, May 11, 2006.

came from the traditional defense giants such as Lockheed Martin, Boeing, or Northrop Grumman.

The Gilmore Commission further elucidates the increasing influence of an emerging set of small innovative homeland security companies and also marks the entry of cyber dependent businesses into the national security debate. That these stakeholders were represented in both the commission's membership and in the witness docket indicates that interest politics played at least a minor part in the decision-making process. It also clarifies the point that the private sector recognizes the independent advisory commission as an important avenue of access for its stakeholders to shape the debate.

It is also important to note that the Gilmore Commission was the first commission to recognize the need to include state and local officials, stakeholders that have been historically excluded from the debate, in the national security strategy-making process. In addition, the open process allowed space for advocate stakeholders and the public at large. Though neither the general public nor advocate groups appeared to take full advantage of the open advisory commission process, civil liberties advocate stakeholders at least managed to benefit from career-minded state and local officials who recognized that their own interests would eventually be effected by recommendations regarding civil liberties and the national security debate.

Chapter Ten

9/11 Commission: Case Study Summary

On September 11, 2001, terrorist activity took the lives of more U.S. citizens in one day than were killed by the Soviets in the entire forty-five-year span of the cold war

era. The devastating event was a turning point in history that forever changed the way policymakers, the military, and civilians around the world would think about international security and how to respond in a new era of non-conventional threats.

In 2002, Congress passed the Intelligence Authorization Act for fiscal year 2003, which, among other provisions, established the National Commission on Terrorist Attacks Upon the United States. With a final budget of \$15 million, the commission's ten private citizen commissioners (five Republicans and five Democrats), along with eighty-one staff members, reviewed more than 2.5 million documents, over one-thousand hours of audiotapes, interviewed over twelve hundred individuals in ten countries, and held nineteen public hearings with testimony from over 160 individuals within a nineteen-month period. It disbanded as a government entity on August 21, 2004, but not before releasing a 567-page report, including forty-one policy recommendations spanning the nation's security apparatus. The report provided an important factual record of September 11, 2001 as part of its mandate to find out why the events on 9/11 happened, how they could have happened, and what might be done to prevent their ever happening again.

The following chapter examines more closely the historical context surrounding the events leading up to September 11, 2001. It lays out the major intelligence failures the commission's mandate set out to address. It then analyzes the commission's recommendations, and examines how well the report matched its official mandate. Finally, it categorizes stakeholder groups as winners or losers based on the impact such recommendations would have on each group if implemented.

In step with its mandate to provide a comprehensive examination of the causes of 9/11, the commission devoted eleven out of thirteen chapters to highlighting the major circumstances that led to the worst terrorist attack on domestic soil. First, it explored the roots of Islamic fundamentalism, and found that the highest levels of the national security apparatus, including the State Department, White House, senior intelligence community, and military officials *underestimated the growing threat of Islamic terrorism* abroad; Second, it criticized agencies at home like the FBI, Federal Aviation Administration (FAA), and North American Aerospace Defense Command (NORAD) for creating a *deep divide between foreign and domestic intelligence sharing* and a dangerous loophole for adversaries to exploit to attack the homeland. Third, it found *inadequate emergency and evacuation plans by state and local* first responders including area police and fire departments. The commission concluded that a combination of factors at all levels played a decisive role in the events that unfolded on September 11, 2001.

Underestimating Islamic Terrorism

The 9/11 Commission found that both the State Department and intelligence community failed to adequately address the growing threat of Islamic terrorism; human resources had been cut back to dangerously low levels; and when senior military and policy officials reacted to events, their responses were weak and intermittent.

While the 9/11 Commission was created in direct response to the attacks, the commission's mandate required that its members look back as far as necessary to try to understand what past events might have prompted Osama bin Laden and the al-Qaeda network to attack. The commission found that Osama bin Laden motivated his followers

by hearkening back to Islam's past greatness. His first publicized tape after 9/11 declared that Muslims should kill as many Americans as possible in reply to eighty years of humiliation and frustration brought on by the Western world's imperialistic crusades. The message alluded to promises not kept by Allied forces after World War I, where Arab nations were assured independence, allowing them to rekindle the power and glory of times past. Historians who testified in front of the commission argued that this had a galvanizing effect on Muslims who might make a direct connection between their current life of poverty and disillusionment and Western encroachment that had left their world morally corrupt and spiritually bankrupt.

Bin Laden played off of this sort of hostility, making declarations against Americans as early as 1992 when he praised the 1983 attacks in Beirut that killed 241 American soldiers, and the bombing in Aden, Yemen, which (unsuccessfully) targeted U.S. troops en route to Somalia. In 1993, he issued a fatwa against American "infidels" occupying holy land in Saudi Arabia, referring to American soldiers based throughout the country, including a U.S.-Saudi joint facility in Riyadh. In 1998, bin Laden denounced the West and particularly the United States in the London-based paper *Al Quds al Arabi*. The fatwa called for murdering Americans anywhere and everywhere in the world as the "individual duty for every Muslim who can do it in any country in which it is possible to do it."⁴¹² He elaborated three months later in an ABC-TV broadcast interview. "It is far more important to kill a single American soldier than to squander his efforts on other

⁴¹² As translated from "Text of World Islamic Front's Statement Urging Jihad against Jews and Crusaders," *Al Quds al Arabi*, February 23, 1998. Translated by Foreign Broadcast Information Service and discussed in chap. 2.1 of the 9/11 Report.

activities.” He expanded in the same conversation to include all Americans declaring, “We do not have to differentiate between military or civilian. As far as we are concerned, they are all targets.”⁴¹³

Aggravating the situation was the fact that U.S. conventional cold war thinking during the 1980s had already funded, armed, and trained Islamic fundamentalist groups in Afghanistan in efforts to repel the Soviet occupation. After the Soviet retreat, the United States turned a blind eye to the region. In doing so it left an army of young, underemployed, yet confident men who had just defeated the world’s largest land army, with the weapons, infrastructure, and religious fervor to maintain power, and to look for new enemies to conquer. As one historian who testified noted, “Afghanistan became a terrorist Disneyland, where more than 40 different terrorist organizations were training and using Afghanistan as an operational base.”⁴¹⁴

Islamic fundamentalist groups in Afghanistan quickly pinpointed their former ally as the next target. The United States, however, was much slower in recognizing Islamic terrorism as its next biggest security challenge. In the early 1990s the threat of terrorism competed with such topics as the Balkan War, illicit sales of missile technology, nuclear proliferation, and the possibility of a nuclear war between India and Pakistan. William Milam, the American ambassador to Islamabad, told the 9/11 Commission that “U.S. policy had too many moving parts and could never determine what items had the highest priority.”⁴¹⁵

⁴¹³ ABC News interview, “Terror Suspect: An Interview with Osama Bin Laden,” December 22, 1998.

⁴¹⁴ Testimony given by Rohan Gunaratna, Institute for Defence and Strategic Studies, Singapore, 9/11 transcripts, July 9, 2003.

⁴¹⁵ See 9/11 transcripts, testimony given by William Milam, former U.S. ambassador, March 23, 2003.

The commission's final report found that the United States had neglected to establish strategically effective relationships with the far corners of the Muslim world. It had failed to adequately engage a frustrated youth whose primary education came from religious schools, many of which espoused a fervent hatred of democratic ideals and sorely misrepresented the United States in the region for political purposes. U.S. embassies, consulates, and other State Department agencies abroad worked on the front lines in this ideological battle and were best positioned to gauge and possibly influence popular sentiment. The commission found, however, that such agencies were "woefully understaffed"⁴¹⁶ and not in a position to combat the type of religious fanaticism they encountered in the region.

State Department representatives were in a delicate and dangerous balancing act with allies such as Saudi Arabia, Pakistan, and Afghanistan, which were on the front lines in the battle against terrorism. Saudi cooperation varied under the watch of Secretary of State Madeleine Albright. As one of only three countries to officially recognize the Taliban regime, Saudi Arabia sometimes served as a go-between for the United States government and Afghanistan's leadership. Saudi assistance fluctuated, however: at times its intelligence services allowed U.S. intelligence agencies to interrogate key al-Qaeda prisoners, while on other occasions it refused access entirely. Further complicating its role, Saudi Arabia served as a fountain of fanaticism due to the prominence of the Wahhabi-sect of Islam within its borders. The country was known as financial source for

⁴¹⁶ The Complete Investigation: The 9/11 Report The National Commission on Terrorist Attacks Upon the United States, New York Times Edition, (New York: St. Martin's Press, 2004), p. 530.

charities linked to al-Qaeda. It also spawned fifteen out of the nineteen of the 9/11 hijackers.

Relations with Pakistan were tentative at best. Coming off the 1998 nuclear tests by both Pakistan and India, the State Department was reluctant to push for tough foreign policy options against Pakistan. Economic sanctions were not an option as the State Department worried about destabilizing a state with newly proven nuclear capabilities. As for Afghanistan, one NSC staff memo noted, “Under the Taliban, Afghanistan is not so much a state sponsor of terrorism as it is a state sponsored by terrorists.”⁴¹⁷ Afghanistan leader, Mullah Omar, held a certain disdain for the West and cut his country off from diplomatic, military, or economic relationships with the non-Muslim world. Consequently, State lacked the usual forms of carrots and sticks with which to pressure the Taliban leader.

Defense Secretary Donald Rumsfeld emphasized the importance of winning the ideological battle, “Are we capturing, killing, or deterring and dissuading more terrorists everyday than the madrasses [radical Islamic religious schools] and radical clerics are recruiting, training, deploying against us?”⁴¹⁸ The commission found that the U.S. State Department, as the lead agency in such tasks, had limited success in the region throughout the 1990s. With a vacillating relationship with Saudi Arabia and minimal influence over Afghanistan or Pakistan, State could do little more than issue threat advisories about terrorism to U.S. embassies, consulates, and citizens abroad.

⁴¹⁷ 9/11 Report, New York Times edition, p. 263, from an NSC memo, “The Millennium Terrorist Alert--Next Steps,” undated.

⁴¹⁸ Ibid., 537.

The 9/11 Commission fulfilled a large portion of its charter by exploring the root causes that allowed Islamic terrorism to flourish throughout the Middle East. As much as the State Department was *unable* to effectively counter its ideological foundations, the commission found that policymakers were *unwilling* to support a more aggressive HUMINT counterterrorism campaign abroad. Human assets, the 9/11 Commission found, were the best chance at diffusing the terrorist threat, yet weak resolve at the policy level created a substantial disconnect between on-the-ground case officers who saw UBL as the gravest threat to U.S. security, and senior intelligence, military, and policymakers back in Washington, who feared a negative domestic and international response to such preemptive activity.

Beginning in 1996, the CIA had devoted a HUMINT unit to tracking the activities of bin Laden. In early 1997, the unit discovered that bin Laden was not just a financier but also an organizer of terrorist activity. The unit had a significant amount of information linking bin Laden to terrorist operations like the bombings of the USS Cole and the Khobar Towers. It knew al-Qaeda was not only planning operations against other U.S. interests worldwide but was also actively trying to obtain nuclear material.

The 9/11 Commission noted hundreds of articles from morning briefings that were prepared for the highest officials in the government with titles such as: "Bin Laden Threatening to Attack U.S. Aircraft," 1998; "UBL Plans for Reprisals against U.S. Targets, Possibly in U.S.," 1998; "Bin Laden to Exploit Looser Security during Holidays," 1999; "Bin Laden's Interest in Biological and Radiological Weapons," February 2001; "Taliban Holding Firm on Bin Laden for Now," 2001; "Terrorist Groups

Said Cooperating on U.S. Hostage Plot," May 2001; and "Bin Laden Determined to Strike in U.S.," August 2001.⁴¹⁹ Nevertheless, the sense of urgency felt by employees in the unit was ridiculed in Washington as being alarmist and overzealous.⁴²⁰ If decision makers were slow to connect the dots, they were even more hesitant in their response once the links to bin Laden were evident.

Testimony from current and former midlevel intelligence and military officers highlighted several failed attempts to capture Osama Bin Laden that, they argued, were largely the fault of weak resolve from a risk-averse leadership. The bin Laden unit had what they considered "actionable intelligence" on bin Laden on at least three separate occasions, but in each instance policymakers pulled out at the eleventh hour:

In late 1997, the unit planned its first attempt--a nighttime raid of bin Laden's primary residence in Afghanistan, Tarnak Farms. Operatives mapped out the approximately eighty building compound, identified bin Laden's sleeping quarters, and coordinated a capture plan to be carried out by tribal forces. CIA headquarters gave it a 30 percent chance of success. After numerous rehearsals the unit and its proxy forces were ready to implement the operation only to be told to stand down because of cabinet-level doubts about the tribal force's ability to carry out the mission, the possibility of civilian casualties, the perception that it might look too much like an assassination attempt, and fear of retaliation by bin Laden supporters.

Second, there was a renewed effort to target Osama bin Laden after intelligence linked al- Qaeda to simultaneous bombings of the U.S. embassies in Nairobi and Dar es

⁴¹⁹ 10 th public hearing, Staff Statement no. 11.

⁴²⁰ 8 th public hearing, Staff Statement no. 7.

Salaam in 1998. Incoming information also indicated bin Laden's interest in planning attacks within the United States, *including plans for an aircraft hijacking*.⁴²¹ Despite the clandestine unit's ability to pin down bin Laden to a residence in Kandahar, cabinet-level intelligence officials once again balked at the plan because of doubts about the reliability of the source, and the potential collateral damage, which was estimated at well over two hundred deaths and possible damage to a nearby mosque.

Third, CIA assets mapped out another attempt that targeted a desert hunting camp south of Kandahar. Senior officials again called off the operation, this time because intelligence reports warned of the possibility of killing royalty who were traveling with bin Laden from the United Arab Emirates. Senior intelligence officials, military officials, and policymakers alike worried about public reaction to civilian casualties and the perception that it might look like an assassination plot.

The 9/11 Commission was particularly concerned that due to budget cutbacks, most of these operations were to be carried out not by U.S. intelligence officers, but by local, proxy forces. One of the areas hit hardest by budget cutbacks in the 1990s was the CIA division that supplied human intelligence, the Directorate of Operations (DO). In 1995, for example, the clandestine service faced a 25 percent reduction in case officers; only seven new employees were being trained to become new case officers and numerous overseas stations had been closed down; The forty-five hundred remaining employees were roughly the same as the number of FBI agents in the New York field office alone; and all were being promoted at a slower rate than personnel in the Directorate of

⁴²¹ Declassified Presidential Daily Brief received by President Clinton in December 1998. See p. 128 of 9/11 Report.

Administration (DA).⁴²² The reductions in clandestine resources left the DO with little alternative other than to depend heavily on foreign assets, which was not the most favorable option because of the large amount of training and strategy development required to produce the desired results. Experience had also shown that information from paid sources could be unreliable, as proxies tend to tell those who pay them what they want to hear.⁴²³ The commission quickly concluded that “by deciding to use proxies to carry out covert actions in Afghanistan before 9/11, decision makers placed the achievement of policy objectives in the hands of others.”⁴²⁴

Policymakers were slow to realize that human intelligence was more important than ever in the wake of the Soviet collapse. Gone were conventional targets like large army masses, tanks, airplanes, and other sizeable munitions that could be detected with satellite imagery. Terrorist organizations like al-Qaeda operated on a grassroots level, below the radar screens of high-tech detection devices. Al-Qaeda had no recruiting officers or components. Instead, members sought out and joined the organization through human linkages, that is, through friendships, kinship, and religious organizations.

What is more, depending on million dollar weapons to strike targets would be an expensive, inefficient, and largely ineffective strategy to combat these loosely organized groups. Missile strikes from offshore naval ships had limited success, as the amount of time required from launch to detonation often allowed enough lead time for the enemy to escape. Not only were terrorist training camps mobile, but even if a bomb hit its intended

⁴²² See Ronald Kessler, *The CIA at War* (2003), 89.

⁴²³ Interview with former CIA case officer, January 18, 2005.

⁴²⁴ See Eighth Public Hearing, Staff Statement no. 7, 10.

target, they were easily rebuilt as their infrastructure often consisted of makeshift tents and “jungle gym-like” ropes that could be hastily reassembled in isolated areas like the remote stretches of the Afghan desert region.⁴²⁵ Combatting these types of organizations would be best accomplished by ground infiltration and intelligence collection from human resources. Yet testimony by intelligence officials revealed that prior to 9/11 the CIA had never laid American eyes on Bin Laden in Afghanistan and had to rely on other means to gather information on al-Qaeda and its leader.

Osama bin Laden largely escaped reprisal. The only executive branch response had been orders for a cruise missile launch that hit an alleged nerve gas facility owned by the terrorist leader in Sudan. While Bin Laden escaped unscathed, President Clinton did not escape sharp skepticism from critics who doubted the accuracy of intelligence that identified the target as a WMD facility. On the heels of the Monica Lewinsky scandal and possible impeachment, critics were even more skeptical of the President’s motives. With headlines such as “U.S. Hard Put to Find Proof Bin Laden Directed Attacks,”⁴²⁶ the media also expressed doubt that bin Laden was a terrorist leader. What is more, at a time when bin Laden had been directly connected to killing fewer than 50 Americans overseas, a strong military response might be seen “to be disproportionate to the threat” by a “bomb-happy U.S.”⁴²⁷

“We may well come to regret the decision not to go ahead”⁴²⁸--the lament of lead CIA field officer Gary Shroen’s appears painfully accurate. Yet like the White House,

⁴²⁵ 9/11 Report, p. 120.

⁴²⁶ “U.S. Hard Put to Find Proof Bin Laden Directed Attacks,” *New York Times*, April 13, 1999.

⁴²⁷ 9/11 Report, p.349.

⁴²⁸ 9/11 Report, p. 131.

the CIA was also suffering from its own internal problems. During the late 1990s, public attention had zeroed in on a number of recent intelligence embarrassments, including the Aldrich Ames spy case, and failed intelligence in 1999 that led to the accidental bombing of the Chinese embassy in Belgrade. Consequently, an acute case of risk aversion had also set in at the highest levels of the CIA, causing officials to tread cautiously in their decisions about foreign operations.

The 9/11 Commission concluded that Congress was also slow to adjust to newly emerging terrorist threats in the post-cold war period. It concentrated more on domestic affairs guided by parochial interests, allowing the White House to steer intelligence budgets and policy. When it did pay attention to intelligence it was mostly during cases of abuse and scandal. Consistent with the findings of all previous commissions, the 9/11 Commission also warned that the fractious structure of the current congressional intelligence committee structure made it difficult to apply strong oversight mechanisms.⁴²⁹

The 9/11 Commission satisfied a large part of its mandate by providing an exhaustive investigation of mistakes made at the highest levels of U.S. foreign policy-making: The State Department's influence in the region oscillated into irrelevance; the smaller human intelligence units within the CIA recognized the threat al-Qaeda posed, yet U.S. leadership failed to effectively convey the message to policymakers; neither executive branch nor Pentagon officials demonstrated a substantial commitment or

⁴²⁹ 9/11 Report, p. 154.

resolve to eradicate terrorist leaders; and Congress was derelict in its oversight responsibilities.

The 9/11 Commission's report explained that throughout the 1990s, bin Laden viewed failed attempts by superpower forces to exert influence in the region as a sign of weakness. The Soviet defeat in Afghanistan provided him with enough assurances to rally his followers to confront the new post-cold war enemy, the United States. An intelligence report quoted bin Laden as saying, "By Allah, by God, the Americans will still be amazed. The so-called United States will suffer the same fate as the Russians."⁴³⁰ The lack of forceful and committed retaliation by the United States seems to have further confirmed his views. Such timid responses encouraged bin Laden and his al-Qaeda network to recruit, plot, and operationalize events ultimately leading up to September 11.

Foreign/Domestic Divide

"Foreign terrorist sleeper cells are present in the U.S. and attacks in the U.S. are likely."⁴³¹

Despite this January 2000 warning by Counterterrorism Security Group (CSG) chief Richard Clarke, the commission found gaping holes in the nation's homeland defenses. The report noted egregious failures in homeland security, particularly highlighting problems at the FBI, the Federal Aviation Administration (FAA), and the North American Aerospace Defense Command (NORAD).

⁴³⁰ 9/11 Report, p. 123.

⁴³¹ 9/11 Report, p.179. The warning came from an NSC memo, "The Millennium Terrorist Alert--Next Steps," undated.

The report highlighted three major shortcomings in the FBI's counterterrorism efforts leading up to 9/11. First, previous counterterrorism achievements had led to overconfidence and a reactive, instead of proactive, investigative behavior. For example, the FBI had successfully captured, arrested, and prosecuted terrorists involved in the first World Trade Center bombing. The agency had also correctly identified Libya's role in the 1988 bombing of Pan Am Flight 103 over Lockerbie, Scotland. Additionally, it successfully thwarted the "Day of Terror" plot, which would have destroyed New York City landmarks including the Lincoln and Holland tunnels, the George Washington Bridge, and the United Nations. Such successes reassured the agency that its counterterrorism approach was more than sufficient to combat terrorist activity. Yet the FBI was slow to make the analytical leap to connect these plots to a larger framework of terrorist activity.

Second, the persistent neglect of its analytical division left the agency with a limited base of forward-thinking employees. The FBI's emphasis on case-by-case law enforcement also meant it had little appreciation for its analytical component. Before 9/11, the agency devoted no more than three days out of a recruit's sixteen-week training to counterterrorism, nor did many agents have adequate language skills to analyze intelligence from Arabic sources. The agency also usually recruited from within, putting itself at a disadvantage by isolating itself from outside expertise. Additionally, the commission found inadequate training on how to recruit, validate, and maintain assets; analysts continued to be assigned menial tasks, including covering the phones at the reception desk and emptying the office trash bins; The agency continued to face a

dangerous shortage of qualified Middle-Eastern language specialists to translate the intercepts. A 2003 report by the Department of Justice inspector general stated that "FBI shortages of linguists have resulted in thousands of hours of audio tapes and pages of written material not being reviewed or translated in a timely manner."⁴³² What is more, the FBI quantified success by the number of arrests, prosecutions, and convictions. Counterterrorism investigations were a lengthy process, often with few quantifiable results. Such an environment discouraged agents from pursuing a career in analysis as it often meant an employee would have to forego speedy career advancements.

Third, a legal "wall" between law enforcement and intelligence analysis blocked the dissemination of critical threat assessments to the separated FBI divisions that needed the information the most. This inhibited the flow of terrorist information both within the agency and among other intelligence agencies. The agency compartmentalized threats into separate field offices, each its own fiefdom interested in information from its own institutional knowledge bank. The most blatant example came just months before September 11 when a field officer in Phoenix signaled to both FBI headquarters and the New York office (the office in charge of counterterrorism) that Osama bin Laden might be coordinating efforts to send members of his network to attend flight schools within the United States. Neither managers at the New York office nor headquarters were interested in reading the now infamous "Phoenix memo" until after the attacks on September 11.

⁴³² "Top Management Problems in the Department of Justice," Memorandum for the Attorney General, Acting Deputy Attorney General, from Inspector General Glenn A. Fine, November 5, 2003; <http://www.usdoj.gov/oig/challenges/2003.htm>.

The agency also put a high priority on its criminal justice mission and worried that if its law enforcement division shared information with the analytical division it would mean releasing grand jury testimony that might damage ongoing court proceedings. Furthermore, the insulated culture affected information sharing with outside agencies like the CIA or NSC. Former National Counterterrorism chief Richard Clarke complained that “the National Security Council never received anything in writing from the FBI whatsoever.”⁴³³ Reform efforts in the mid-1990s had led to FBI-CIA cooperation in tasking agents abroad but communication was still limited.⁴³⁴

In the 9/11 Commission’s opinion the FBI produced counterproductive policies that inhibited the agency from adequately harnessing its intelligence capabilities. Instead of devising an agency wide base of institutional knowledge, individual field offices had to construct their own investigations from scratch. By discouraging information sharing from both within and between agencies, the agents essentially “did not know what they didn’t know.” The commission concluded that this sort of culture prevented the agency from making forward-thinking analytical leaps that might connect the dots between individual plots and the larger, worldwide network of coordinated terrorist activity that meant to do harm to U.S. interests both at home and abroad.

The Federal Aviation Administration held the unique position of both regulator and champion of an industry experiencing severe financial challenges in the pre-9/11 era. Because no U.S. airplane had been hijacked in over a decade, the commission found that

⁴³³ Staff Statement No. 9, “Law Enforcement, Counterterrorism, and Intelligence Collection Prior to 9/11” p. 10.

⁴³⁴ See 9/11 Report, p. 267.

the agency seemed to have prioritized its role as a promoter of airlines, more than it did its responsibility for consumer safety and security. FAA officials were more concerned with reducing airport congestion, delays, and the number of passenger complaints. All were quality control efforts to boost airline sales and ease the industry's financial burdens.

On paper, FAA regulations required the airlines to: harden cockpit doors to discourage unruly passengers from disturbing pilots; deploy more federal marshals aboard domestic flights (there were only thirty-three in total before 9/11 and all were dispatched to international flights); and improve prescreening procedures. But in each case the aviation industry successfully avoided making the changes, which they feared would decrease revenues: Hardened cockpits and federal marshals on board meant less room for passenger seats. Stringent prescreening meant long delays for passengers and the possibility of discrimination lawsuits--both might encourage customers to seek out other means of travel.

Despite experiencing a relatively calm period in the history of commercial travel, a declassified addendum to the 9/11 Report found that within the six months leading up to September 11, the FAA received fifty-two intelligence reports from their security branch that mentioned bin Laden or al-Qaeda. Five of those reports specifically mentioned the network's interest in hijacking techniques.⁴³⁵ Yet the FAA's intelligence collection division had compiled a "no-fly" list that included the names of only twelve

⁴³⁵ "9/11 Report Cites Many Warnings about Hijackings," *New York Times*, February 10, 2005.

terrorist suspects, none of whom were the 9/11 hijackers. At the same time, the State Department's TIPOFF-list of suspected terrorists consisted of over sixty thousand names.

Neither did FAA leadership take much interest in intelligence directly related to terrorism. The head of the agency reviewed intelligence information only after the FAA's Intelligence Office filtered it; the agency's chief of civil aviation security testified that he was not even aware of the State Department's TIPOFF watch-list until after 9/11.

In the end, the commission criticized the FAA for bowing to pressure from the aviation industry. It concluded that both the agency and commercial airlines had a common goal to "limit the impact of security requirements on aviation operations, so the industry could concentrate on its primary mission of moving passengers and aircraft."⁴³⁶ The FAA's homeland security procedures not only negatively impacted commercial airline security but played a part in the military's failure to protect the nation's airspace.

In the case of airline hijackings, none of NORAD's own radars pointed inward so its standard operating procedures required coordinated efforts between NORAD and the FAA. Essentially, the entire defense command had to rely on the FAA to relay information to fighter pilots. In addition, the pre-9/11 procedures required military command to get authorization from domestic law enforcement (FBI) before conducting operations within domestic airspace, which further slowed expected response time. Even if orders came down the appropriate chain of command, standard operating procedures would send a fighter jet to discreetly monitor the hijacked plane and "escort" it safely to a

⁴³⁶ 9/11 Report, chap.3, p. 85. Interview with the inspector general of the Department of Transportation.

landing site. No homeland defense strategy trained pilots on what to do in the case of hijackers determined to use a civilian aircraft as a suicide weapon.

Additionally, NORAD's defense structure still maintained its cold war defense posture, its radar systems were still looking one hundred to two hundred miles out to sea in efforts to identify external threats originating from Russian airspace. What is more, the collapse of the Soviet Union meant budget cuts that forced the closure of all but seven of the twenty-six alert sites, equipping each station with no more than two fighter jets on alert. The remaining fighter jets were positioned to take-off outward from the coasts to avoid accidental collisions with commercial airliners. Consequently, during the 9/11 attacks fighter pilots lost critical time while re-scrambling their flight routes toward domestic airspace.

The commission contended that there were no strategic plans in place to appropriately deal with the type of suicidal mission that occurred on 9/11. As a vestige of the cold war, the North American Aerospace Defense Command had become ill-suited to defend the nation's airspace in the post-cold war era.

Inadequately Equipped State and Local Agencies

Most of the report's recommendations pertaining to local responders referred to weaknesses in emergency response procedures. The commission called attention to communication problems during the attack caused by a 9-1-1 phone system not equipped to handle the volume of calls, and antiquated radio frequency technology that inhibited communication between emergency squads. Some of the deaths might have been

prevented but for well-known coordination problems between police and fire departments responding to the World Trade Center attack.

The 9/11 Commission found weaknesses under every stone unturned, leading it to make recommendations that touched on almost every aspect of the national security apparatus. As the next section indicates, the 9/11 Commission's recommendations were a boost for the State Department's national security role. Other major structural reforms meant important turf losses for the CIA, DoD, and state and local agencies, while the presidency and the DoJ were spared major reorganization. The report also implicated the private sector as a key player in national emergency preparedness and obliged it to contribute to the nation's security efforts. Though conflict arose between advocate stakeholder groups regarding specific recommendations, the influence of such groups on the national security decision-making process was unprecedented.

State Department: "*Winner*"

The 9/11 Commission did not ignore the detrimental affect that slash-and-burn post-cold war budget cuts had on the resources and intelligence gathering capabilities of embassies, consulates, and other State Department agencies. It responded with State Department-related recommendations to help win the "struggle of ideas" in the Islamic world. It recommended increased resources, and proposed specific tasks that could be undertaken by State Department agencies to counter the growth of Islamic terrorism. For instance, the commission recommended making long-term commitments to countries such as Pakistan, Afghanistan, and Saudi Arabia, on the front lines of the war against Islamic terrorism. It proposed developmental aid and educational opportunities like a

new “International Youth Opportunity Fund,”⁴³⁷ which would build schools with an alternative message from that offered at the religious madrassas. Recommendations urged the United States to change its unpopular reputation by communicating a positive message to the Muslim world, beginning with a media campaign exposing Osama bin Laden as the real enemy of the Muslim people:

To Muslim parents, terrorists like bin Laden have nothing to offer their children but visions of violence and death. America and its friends have a crucial advantage--we can offer these parents a vision that might give their children a better future.⁴³⁸

The 9/11 Commission keyed in on the State Department’s inability to effectively influence the region. It proposed various diplomatic methods to engage the region, and supported an increased budget and resources to complement State’s efforts. As a result, the State Department emerged as a winner in the 9/11 Commission’s final outcome.

White House: “*Winner*”

Three recommendations specifically targeted executive reform. First, the commission recommended that the president take the lead in safeguarding civil liberties that might be threatened by the Patriot Act. An executive branch oversight board should be established to regulate such efforts. Second, a new Director of National Intelligence (DNI) would replace the DCI as the top intelligence advisor to the president. Instead of

⁴³⁷ 9/11 Report, p. 540, New York Times edition.

⁴³⁸ 9/11 Report, p. 537, New York Times edition.

being a part of the CIA, the new post would be housed within the executive branch. Third, it recommended reforming the transition process between administrations to allow new officials to assume their responsibilities as soon as possible.⁴³⁹ Testimony by administration officials revealed that the long lead time for appointing cabinet officials left incoming administrations without key national security positions filled. Such was the case in the transition from the Clinton to Bush administrations. This finding, however, also served as an apologia for events that occurred between January 2001 and the September 11 attacks. It allowed both administrations to avoid criticism by suggesting that neither outgoing nor incoming administration could be held responsible for crises that occurred during the transition between administrations.

The first part of the 9/11 Report signaled weak resolve at the policymaking level as a key failure in both administrations. The commission's proposed recommendations to redress the problem do not appear to negatively impact the White House. Consequently, the stakeholder group managed a win in the commission's final outcome.

Congress: "*Loser*"

The commission held the legislative body accountable for its role in intelligence failures and proposed structural reform that would streamline the traditional committee process. The 9/11 Commission recognized that like other bureaucratic entities, Congress is no less protective of its turf:

⁴³⁹ 9/11 Report, p. 600, New York Times, edition.

Few things are more difficult to change in Washington than congressional committee jurisdiction and prerogatives. To a member, these assignments are almost as important as the map of his or her congressional district.⁴⁴⁰

Nevertheless, the commission recommended changing congressional committee jurisdiction by uniting intelligence committees and bringing authorizing and appropriating functions into a single body. It also noted that the Department of Homeland Security is subject to some form of oversight by eighty-eight separate committees and subcommittees. It therefore recommended jurisdictional consolidation of the homeland security committee structure: “Congress should create a single, principal point of oversight and review for homeland security.”⁴⁴¹

The commission also chastised lawmakers for allowing pork-barrel politics to influence the allocation of national security funds, warning that “this issue is too important for politics as usual to prevail.”⁴⁴² The commission declared that “those who would allocate money on a different basis should then defend their view of the national interest.”⁴⁴³ It suggested that the process of allocating funds be regulated more carefully and that states provide appropriators with risk-based assessments before receiving financial assistance for security updates.

The 9/11 Commission proposed a dramatic revision of the oversight process that would force powerful individual lawmakers to surrender a piece of the national security

⁴⁴⁰ 9/11 Report, p.596, New York Times edition.

⁴⁴¹ 9/11 Report, p. 599, New York Times edition.

⁴⁴² 9/11 Report, p. 566, New York Times edition.

⁴⁴³ Ibid.

pie. A history of redirecting funds toward a legislator's home state provided the rationale for the commission's proposals for eliminating pork spending in the decision-making process. In doing so, a number of congressional stakeholders stood to lose if the commission's recommendations were implemented.

CIA and Department of Defense: "*Losers*"

September 11 proved that no one agency was looking in between the cracks. Some of the commission's most dramatic recommendations focused on organizational changes that would: (1) reorganize the intelligence community's leadership structure by creating a new Director of National Intelligence; and (2) shrink the foreign/domestic divide by proposing the creation of a new domestic counterterrorism unit. Both proposals meant turf losses for the nation's traditional national security apparatus.

The report concluded that the Director of Central Intelligence (DCI) could no longer be expected to manage the CIA, the other fourteen agencies, and be the president's chief intelligence analyst. The responsibility of three jobs meant the DCI could not do any one of the jobs effectively. As a result, the community would need a structural framework to ensure better coordination in all areas. In one of its most publicized recommendations, the commission endorsed the creation of a new position at the top of the organizational pyramid. A cabinet-level Director of National Intelligence (DNI) would take over the DCI's intelligence community management responsibilities and assume the position as chief intelligence adviser to the president.

The DCI would not be the only office forced to surrender some of its authority under the commission's proposal. The recommendations similarly affected the military's

national security role by taking additional control away from the DoD. The new Director of National Intelligence would have explicit authority to develop and determine the government's intelligence budget, to exercise "exclusive direction" with the White House budget office over how that money is distributed, and to control the hiring and firing of senior managers under his/her charge--all responsibilities traditionally held by the secretary of defense. The DNI would also direct the personnel of, and have operational authority over, DoD agencies such the Defense Intelligence Agency, National Security Agency, National Geospatial Intelligence Agency, and the National Reconnaissance Organization. Their senior managers would report directly to the national intelligence director instead of to the secretary of defense.

Statements by senior military officials reveal that the DoD would oppose the creation of the new intelligence post. Defense Secretary Donald Rumsfeld testified in front of the commission that centralizing intelligence under the new NDI post "would be a major mistake and could damage our country's intelligence capability severely."⁴⁴⁴ After the commission released its recommendations, Defense Undersecretary for Intelligence Stephen Cambone testified before the Senate Armed Services Subcommittee on Strategic Forces "I honestly do not see an advantage to the creation of a different structure for the governance of the intelligence community than the one we have today."

⁴⁴⁴ U.S. Secretary Of Defense Donald H. Rumsfeld's prepared statement for delivery to the National Commission on Terrorist Attacks upon the United States, March 23, 2004.

⁴⁴⁵ That the DoD would lose control of the majority of its intelligence funding and operations if such a move were made, and that senior military officials publicly balked at the idea, is evidence that the DoD would consider it an important loss if the commission's DNI recommendation were implemented.

The report further stressed the need for a unified front within the national security apparatus, recommending that current counterterrorism planning by the CIA, FBI, DIA, and Homeland Security be integrated into an all-source National Counterterrorism Center (NCTC). The report laid out specific duties and an organizational structure for the new agency. The NCTC would plan and oversee operations, but would leave lead agencies to execute operations. The NCTC chief would be a presidential appointment, hold a position equivalent to deputy head of a cabinet department, and have influence over the hiring and firing of senior managers under his/her charge.

By consolidating intelligence collection, one agency would provide policymakers with a single "go-to" person in charge and responsible for ensuring a unified effort. In addition, it argued that "there are not enough experienced experts to go around."⁴⁴⁶ Pooling skilled analysts would relax the strain on the already short supply of employees, reduce redundancy, and enable analysts to see the enemy from various vantage points.

The commission acknowledged the potential complications that might arise from integrating intelligence collection. Integrating intelligence collection potentially reduces healthy competition between agencies and might obscure dissident voices by virtue of its

⁴⁴⁵ "Defense Officials Oppose Overhaul of Intelligence Community," Govexec.com, April 7, 2004; <http://govexec.com/dailyfed/0404/040704c1.htm>.

⁴⁴⁶ 9/11 Report, p. 573, New York Times edition.

mandate to offer policymakers a unified message. And making major structural changes during a time that the nation is at war might further complicate U.S. goals in the Middle East. The commission reminded its readers, however, that this would not be the first time that the United States restructured its national security apparatus during a critical national security period, referring to the initial creation of the intelligence community following Pearl Harbor.

The commission also noted that the merger would force agencies to surrender cherished turf: “It is hard to ‘break down stovepipes’ when there are so many stoves that are legally and politically entitled to have cast-iron pipes of their own.”⁴⁴⁷ It nevertheless concluded that a readjusted national security system was more important than bureaucratic turf wars, and that a new Counterterrorism Center was the appropriate model for responding to the new threat climate.

The 9/11 Commission’s new Director of National Intelligence post and National Counterterrorism Center significantly reorganized the current security structure. Yet the CIA and DoD would not suffer wholesale losses. The commission made rebuilding the CIA’s analytical and human intelligence talent pools a priority. It also supported the CIA’s continued execution of clandestine operations, despite acknowledging mistakes made in their attempts to capture bin Laden in the mid 1990s.

As for the Defense Department, the 9/11 Commission endorsed its primacy in homeland defense: “Our national defense at home is the responsibility, first, of the

⁴⁴⁷ 9/11 Report, p. 575, New York Times edition.

Department of Defense and, second, of the Department of Homeland Security.”⁴⁴⁸ It supported its continued jurisdiction over NORAD and the DoD’s control over two major military intelligence programs--the joint military intelligence program (JMIP) and tactical intelligence and related activities (TIARA). It also recommended that the Defense Department take full control over all clandestine paramilitary operations, arguing that due to reduced HUMINT resources the CIA had relied too heavily on proxy forces to conduct adequate paramilitary operations.

The Commission noted the need to maintain a strong intelligence and defense structure and therefore offered several concessions for both organizations. However, by endorsing a new Director of National Intelligence and a National Counterterrorism Center, the commission supported significant structural changes that would invade jealously guarded turf at the CIA and DoD. Overall, the CIA and DoD emerged as losers in the final outcomes of the 9/11 Report.

Department of Justice: “*Winner*”

The FBI would also be forced to surrender authority over some of its jurisdiction. Nevertheless, the loss of one segment of the FBI’s capabilities was better than the alternative it faced. One of the major proposals on the table was to replace the FBI’s intelligence collection capabilities all together with a new domestic intelligence agency, similar to Britain’s MI5. The commission ultimately rejected the idea, demonstrating confidence in the FBI’s own efforts to reform:

⁴⁴⁸ 9/11 Report, p. 607 New York Times edition.

There is a new aggressiveness in pursuing international terrorism cases and a new push for agents to recruit more sources and assets. Agents are no longer required to open up parallel intelligence and criminal cases for each terrorism investigation. The "wall" is down. All international terrorism cases are now treated simply as counterterrorism investigations.⁴⁴⁹

Since 9/11, the FBI had also proposed the establishment of a new Office of Intelligence with analysts and language translators recruited from a broader pool of candidates. The number of counterterrorism agents, for example, had already increased from about 1,350 on 9/11 to nearly 2,400. Both FBI witnesses and the commission attributed much of these changes to Director Mueller, who, since taking office September 2001, began to implement an ambitious series of reforms. Mueller endeavored to transform the reactive law enforcement culture of the FBI into one geared toward intelligence analysis, noting in the course of announcing reforms in May 2002 that "what we need to do better is to be predictive. We have to be proactive."⁴⁵⁰ And for the most part, the 9/11 Commission demonstrated confidence in Mueller's proposed changes, largely leaving the agency in tact. Its only recommendation was the establishment of a new, "specialized and integrated national security workforce....consisting of agents, analysts, and surveillance specialists." The new intelligence cadre would be specifically trained and "imbued with a deep expertise in intelligence and national security."⁴⁵¹

⁴⁴⁹ 9/11 Staff Statement No. 12.

⁴⁵⁰ Ibid.

⁴⁵¹ 9/11 Report, p. 605, New York Times edition.

Department of Homeland Security: “*Winner*”

The commission’s homeland recommendations concentrated on improving efforts at the embryonic Department of Homeland Security.⁴⁵² It recognized the department’s lead responsibility in protecting the nation’s borders and emphasized the modernization of border and immigration security technology by endorsing the use of biometric scans, port screening devices, and other homeland security technologies. It would also authorize DHS agencies to conduct more thorough travel monitoring by standardizing the passport and driver’s license acquisition process.⁴⁵³ It further suggested that DHS take firmer control over state and local funding for emergency response resources.

State and Local: “*Mixed*”

To some degree, the win for the Department of Homeland Security would diminish authority at the state and local level. The 9/11 Commission recognized the role played by state and local emergency responders in the event of an attack. Based on events that unfolded on 9/11, the commission concluded that such agencies were poorly equipped to deal with the enormity of such an attack. The commission supported an increased radio-spectrum frequency for emergency broadcasts, and the adoption of a unified command structure, the Incident Command System (ICS), to better connect emergency response agencies nationwide.

Though it touched on issues of importance to state and local agencies, its overall positive impact for state and local agencies was muted. First, the commission

⁴⁵² Though the first part of the commission’s report criticized the FAA, the second part did not focus on FAA reform because the Aviation and Transportation Security Act of November 2001 reallocated much of the FAA’s duties to the newly created Transportation Security Agency (TSA). The Act gave the TSA responsibility for monitoring “no-fly” lists and taking charge of passenger screening.

⁴⁵³ See 9/11 Report, chap 12.4.

recommended that Department of Homeland Security funding for state and local agencies should be contingent upon agencies' willingness to comply with the new unified command procedures. This would mean that some state and local agencies would sacrifice their jurisdiction over particular emergency response capabilities in the name of a unified response front. Second, to limit pork-barrel spending, city needs would be evaluated before monetary assistance would be allocated. Third, the prioritization of the new NCTC, NDI post, and the Department of Homeland Security meant that little resources for preventative measures would trickle down to state and local agencies. It further meant that state and local agencies would have to rely on a top-down exchange of information, as security requirements at the federal level would leave most state and local officials out of the loop in terms of their ability to access classified intelligence.

State and local agencies managed to carve out a niche in the national security debate by winning support for increased resources to respond to an attack. But by tying that assistance to the implementation of objective benchmarks for allocating national security funding, the commission preferred to keep a tight leash on state and local stakeholders' ability to prevent or deter an attack on the homeland.

Private Sector: *"Mixed"*

The commission noted that 85 percent of the nation's infrastructure is in the hands of private industry and placed a large amount of responsibility on the private sector to safeguard their own employees in the event of another attack. Companies should standardize building safety guidelines and establish emergency evacuation plans and disaster management programs. Instead of relying on federal disaster protection, the

commission proposed that the insurance industry base coverage on a company's compliance with such emergency measures. The commission further recommended that the aviation industry pay "a fair share of the costs" for security updates.⁴⁵⁴ In this way, the commission put the onus on all sectors of private industry to protect themselves from loss, concluding that "private sector preparedness is not a luxury; it is the cost of doing business in the post-9/11 world."⁴⁵⁵

The commission further concluded that the intelligence community had been plagued by an over reliance on big-ticket items produced by the private sector. By focusing on high-tech satellites and weapons systems, policymakers neglected not only badly needed human intelligence resources but other technologies needed for homeland defense like improved screening detection technologies at the nation's sea ports, biometric scan devices for U.S. Customs, and increased radio-spectrum frequency for state and local responders. As a result, the commission continued the trend from commissions such as the Bremer and Gilmore Commissions by recommending the reallocation of funds away from the traditional set of defense expenditures toward a more widely dispersed range of homeland security providers.

The commission put the onus on the airline and insurance industries to protect their own industries from the devastation that would occur in the event of another terrorist attacks. By doing so it sent a clear message that the post-9/11 world would require revolutionary thinking in terms of the amount of responsibility the private sector must take on to help prevent another 9/11. The commission also steered clear of

⁴⁵⁴ For a detailed discussion see chap. 12.4 of the 9/11 Report.

⁴⁵⁵ 9/11 Report, p. 569 New York Times edition.

supporting traditional high-priced defense technologies. Instead, and like some of its predecessors, it looked to a new wave of on-the-ground technologies, to help thwart another attack. However, the commission also highlighted the dangers of pork-barrel politics, and warned policymakers not to allow such interests into the funding allocation process. As such, the 9/11 Commission produced a mixed return for the private sector as a whole.

Advocate Stakeholders: “*Winners*”

The 9/11 Commission was an important win for most of the advocate stakeholder groups involved. Family members of the 9/11 victims were instrumental in the very creation of the commission. They were also allowed critical access to the commission participant selection process, and won a key victory in blocking the appointment of President Bush’s first choice to head the commission, Henry Kissinger, and would-be vice chair George Mitchell. Family groups also won out in the commission’s decision to support stricter border security requirements, including a system to produce a national ID card. Though civil liberties advocates opposed the national ID card system, they managed to post a win with the commission’s proposed Civil Liberties Board within the executive branch. Though not all recommendations pleased all advocate stakeholder groups, they all nevertheless as emerged winners in the largest sense of the word as the 9/11 Commission offered such stakeholder groups a prominent position in the prevailing discourse on national security.

The following chart summarizes each stakeholder group’s win/loss status:

Chart 10.1 9/11 Win/Lose Chart

Stakeholder Group	Status
State Department	Win
White House	Win
Congress	Lose
DoD	Lose
CIA	Lose
DoJ	Win
Homeland	Win
Private Sector	Mixed
Advocates	Win

How did the commission ultimately come to these conclusions? Who were the commission members and witnesses, and what affiliations did they have? How did publicity affect the commission's outcomes? Were interest alliances represented? If so, by whom? Were advocate stakeholders in attendance? If so, how many? If the commission excluded public scrutiny, based on the outcomes, we would expect the following groups to have accessed the 9/11 Commission:

Chart 10.2 9/11 Win/Lose Chart Predicted Access

Stakeholder Group	Status	Predicted Access
State Department	Win	High
White House	Win	High
Congress	Lose	Low
DoD	Mixed	Medium
CIA	Mixed	Medium
DoJ	Win	High
Homeland	Win	High
State and Local	Lose	Low
Private Sector	Mixed	Medium
Advocates	Win	High

The next section focuses on the absence or presence of interest alliance members and advocate stakeholders, and examines their influence, or lack thereof, on the commission's final report.

Chapter Eleven

9/11 Commission: Case Study Analysis

One of the key advantages interest alliance stakeholders have had during the commissions examined thus far has been the ability to dominate the commission process in the absence of public scrutiny. Stakeholders often served as commission members, who then controlled and narrowed the witness selection process. In this way, interest alliance participants could guide the type of information ultimately conveyed and ensure that their preferences were embedded in the final recommendations. Events surrounding the National Commission on Terrorist Attacks Upon the United States, however, appear to have played out somewhat differently. The 9/11 Commission was by far the most publicized commission examined in the study. As a result, the commission process was accessible to the widest variation of stakeholder groups. Despite the public venue, stakeholder groups still kept in mind their political and professional interests, as witnesses were openly protective of their turf. However, because of the high level of

public scrutiny, few stakeholder groups would be able to rely on interest alliance support in efforts to navigate the process. This led some stakeholders to channel their interest alliance energies toward backdoor politicking in attempts to influence national security policymaking.

This chapter examines the amount of public scrutiny afforded the 9/11 Commission. It then investigates the background affiliations of the 9/11 Commission's membership, as well as the backgrounds of the 160 witnesses called to testify during twelve sessions of public hearings.⁴⁵⁶ It also analyzes commission activity and the public transcripts released by the commission, and includes observations from three commissioners and one staff member who agreed to be interviewed for this study.

Few if any independent commissions have devoted as much time to public outreach as the 9/11 Commission. From broadcasting all public proceedings on its website (<http://www.9/11commission.gov>) to distributing tickets for the hearings to the public each day on a first-come first-serve basis, to providing detailed directions and a map to hearing locations, to making hundreds of press releases, including individual promotion appearances by commission members on TV media outlets like Larry King Live, Meet the Press, CNN, NPR, FOX, ABC, and newspaper interviews for the *Wall Street Journal*, the *New York Times*, and *Washington Post*. The commission orchestrated an enormous public relations effort to maximize public exposure to its work.

⁴⁵⁶ My research does not include a portion of the testimony that, due to national security concerns, took place behind closed doors and remains classified.

For its efforts, the commission could boast over 50 million ‘hits’ on its website the first day the final report was released. Interested citizens downloaded 5.4 million copies of the report at government-accessed websites. Even with the free download, the *New York Times* book edition of the report still sold over 1.1 million hard copies in the first month. Due to the book’s readability and strength of narrative it was nominated for the prestigious *National Book Award*, and made numerous best-seller lists including *New York Times*, *USA TODAY*, Barnes and Noble and Amazon.com. LexisNexis searches of the commission’s formal title, “The National Commission on Terrorist Attacks Upon the United States”, and its informal title, the “9/11 Commission” both exceeded the thousand hit maximum allowed by the search engine, demonstrating an overwhelming public interest in the commission’s work.

Not every public commentary was positive, however, as critics, skeptics, and conspiracy theorists alike attacked the 9/11 Report for failing to provide a fully disclosed accounting of events, and for potential bias. One of the primary complaints was that the commission omitted critical pieces of information from its report. David Griffin’s 2005 critique provided an exhaustive list of excluded details including its failure to explain how the steel-framed World Trade Center buildings collapsed the way they did (a structural impossibility according to some); not addressing the charge that Saudi nationals were flown out of the country immediately following the attacks despite a commercial flight ban; the charge that the commission was engaged in a cover-up to hide the Bush administration’s deliberate failure to prevent the attack to spur the invasion of

oil-rich Iraq.⁴⁵⁷ Griffin assailed the 9/11 Commission's final product for neglecting what he argued were key events surrounding the crisis.

Still others contended that commission members were biased by political or professional conflicts of interest. Critics such as former FBI Director, Thomas Pickard, argued that Jaime Gorelick's appointment to the 9/11 Commission was problematic because of her prior role in helping establish the Clinton administration's domestic terrorism policies. Victims' family groups also denounced the appointment, and further called for the resignation of the commission's executive director, Phillip Zelikow, because of his close relationship with the Bush administration.⁴⁵⁸ In addition, several commissioners had professional interests related to the airline industry. Commissioner Slade Gorton had business ties to Boeing, the company that had built all the planes destroyed on 9/11. Fred Fielding, James Thompson, and Richard Ben-Veniste all worked for law firms that lobby on behalf of major airlines.

As with all cases examined thus far, it is simply not possible to prove conclusively whether interest alliance type relationships developed that allowed conflicts of interest to influence the outcomes. Nevertheless, the transparent nature of the commission process makes the 9/11 Commission the most easily accessible case to examine. If the hypotheses in this study are correct, the 9/11 Commission should not

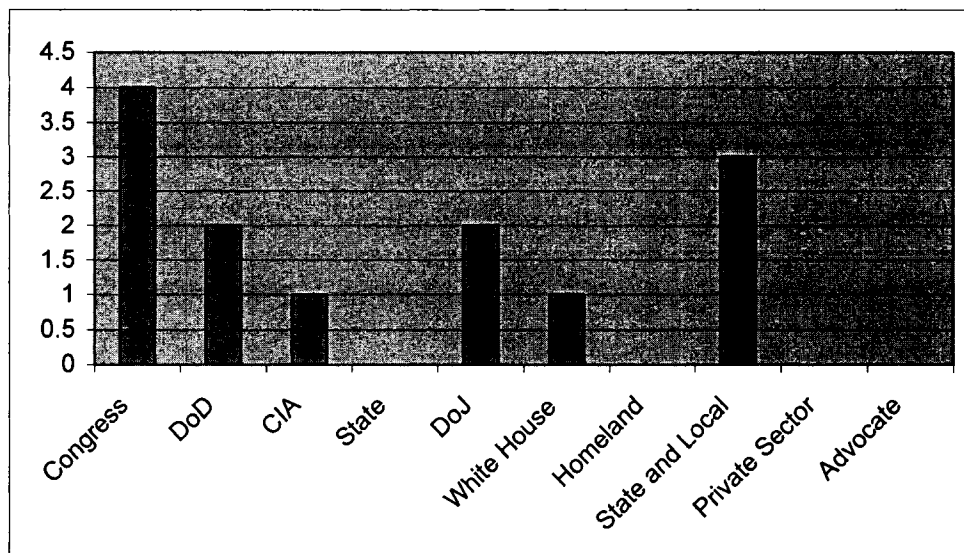
⁴⁵⁷ David Griffin, The 9/11 Commission Report: Omissions and Distortions, (Massachusetts: Olive Branch Press, 2004).

⁴⁵⁸ Zelikow served on the President's Foreign Intelligence Advisory Board, and was a trusted colleague of Bush's NSC advisor Condoleezza Rice. Skeptics argued that such political connections to the White House would serve to insulate both administrations from a thorough investigation. For a detailed discussion see Kean and Hamilton, Without Precedent: the Inside Story of the 9/11 Commission, (New York: Alfred A. Knopf, 2006). However, a recent New York Times article reported that Zelikow's opinions have frequently been at odds with White House policy, particularly its handling of the war in Iraq. See "Rice's Counselor Gives Advice Others May Not Want to Hear," *New York Times*, October 28, 2006.

produce a consistent trend between access and outcomes for stakeholder groups. It should also produce a null set for interest alliance influence, as the commission's publicized nature would make it much more difficult for interest alliance stakeholders to dominate the process.

The following section examines the professional credentials of commission members, staff, and witnesses who participated during the commission's year-long investigation. The chart below summarizes commissioners' professional affiliations.

Chart 11.1 9/11 Commissioner Credentials



The 9/11 Commissioners possessed a relatively wide range of government expertise. Between the ten members, during their careers, four formerly served in Congress; three members had considerable experience in state and local government; two members had extensive military backgrounds; two members were former U.S. attorneys under jurisdiction of the Department of Justice; one member had a protracted career as

White House counsel; and one member served in an advisory role at the CIA. No members had experience at the State Department or homeland agencies, nor were any advocate stakeholders included in the roster, though participants interviewed for this study were more or less satisfied with the range of experience. One commissioner stated, “It was a very well balanced membership with all of the requisite experience, and all with experience in government at many levels.”⁴⁵⁹ One commissioner did note that if any point of view were missing, it would have been that of “the right wing, to attract the White House more.”⁴⁶⁰

Interest alliance activity does not appear to have unduly shaped the debate despite the fact that several commissioners had business ties to industries that would be affected by proposed recommendations. Commission Chairman Thomas Kean’s investments included between \$250,000-\$500,000 in stocks in Honeywell, a technology-based company with an aerospace subsidiary linked to civilian and military consumers; Commissioner Fred Fielding listed thirty-six individuals and companies for which he did legal work, including China Aerospace Technology Import-Export Company and Motorola, a global communications company; Commissioner Jaime Gorelick earned \$90,900 as a director of United Technologies, one of the Pentagon’s biggest defense contractors and a supplier of engines to airline manufacturers; in 2002 Commissioner Tim Roemer joined a Washington lobbying firm, whose clients include Boeing and defense contractor Northrup Grumman; Commissioner John Lehman was an executive at an insurance company and had from one to five million dollars invested in a Colorado-

⁴⁵⁹ Personal interview with commissioner, May 17, 2006.

⁴⁶⁰ Personal interview with commissioner, May 9, 2006.

based company with an aerospace subsidiary. Yet an examination of the commission process suggests that members were not influenced by personal or professional gains.

The 9/11 Commission instituted specific guidelines at the outset about how members and their staff would avoid potential conflicts of interest: they would excuse themselves from participating in matters in which they might have a financial interest; they would be recused from investigating work they performed in prior government service; and where a commissioner or staff member had a close personal relationship with an individual, or either supervised or was supervised by an individual, the commissioner or staff member would not play a primary role in hearings including that person.⁴⁶¹

The 9/11 panel appears to have adhered to its guidelines as members with private industry interests stepped down during testimony where potential conflicts might arise. Commissioners James Thompson, Slade Gorton, and Jaime Gorelick bowed out of the hearings during testimony given by United Airlines and American Airlines, because all three were partners in law firms at which one of the airlines was a substantial client. Gorelick and Zelikow relinquished the right to ask questions of witnesses from the Clinton and Bush administrations respectively. Even though the professional interests of a number of commissioners might be affected by the policy recommendations they made, commissioners seemed to recognize that the credibility of their work relied on providing an objective review of events related to the 9/11 attacks, and thus disqualified themselves from participating during topics of potential conflict.

⁴⁶¹ See the commission's website page on recusals at www.911commission.gov/about/recusals.htm.

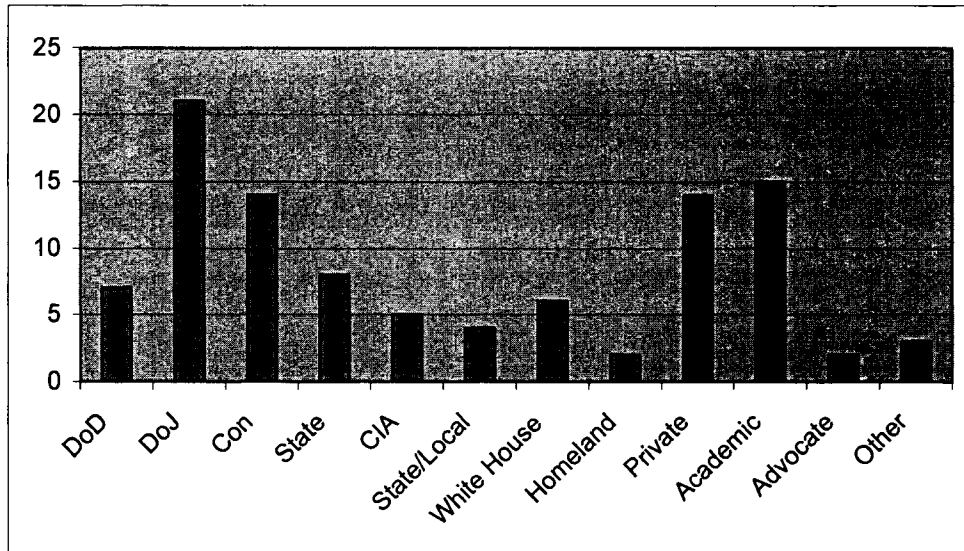
In cases where professional interests could not be reconciled with the commission's goal to remain objective, such individuals resigned from the commission. For example, President Bush initially appointed Henry Kissinger to chair the commission, but the former national security adviser stepped down within the first month of the commission's creation, after there was mounting criticism from advocate stakeholders over possible conflicts of interest between the commission's mandate and his private business holdings. Would-be vice chair George J. Mitchell, a former Senate majority leader, also renounced his position after advocate stakeholders raised similar concerns. Advocate stakeholders and other critics applied a significant amount of public pressure on the commission. It appears that their concerns influenced the process as the commission went to great lengths to ensure its commissioner roster maintained a relatively equal balance of government experience, while avoiding potential conflicts of interest posed by current working relationships.

It is also important to examine the staff affiliations as the staff had an enormous influence over the selection of witnesses. According to a commissioner interviewed for this study, "The initial screening and selection of witnesses was done by the commission staff for approval and addition by the commissioners, who did add names, but to my knowledge did not delete any proposed by the staff." A staff member's observations supported the commissioner's view: "The staff predominately determined the witnesses selected. The chairs had veto power and used it on one or two occasions. More often they intercepted to add, not subtract, people."⁴⁶² Were outcomes thus influenced by a

⁴⁶² Personal interview with staff member, May 4, 2006.

narrow level of expertise from the 9/11 staff? The commission's chair, Thomas Kean, and vice-chair, Lee Hamilton, selected all staff members. The following chart summarizes the backgrounds of the eighty-one staff members.

Chart 11.2 9/11 Staff Credentials



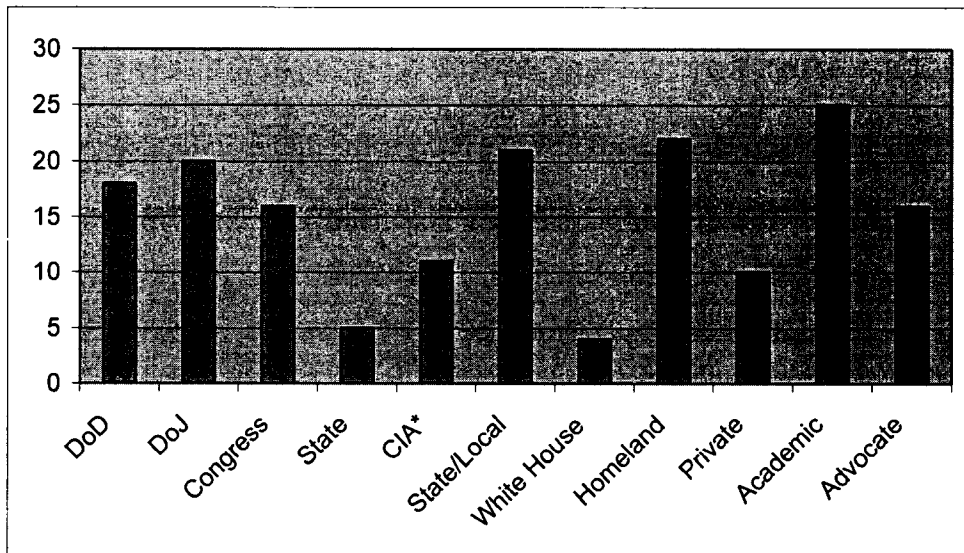
The commission's staff included stakeholders from each group examined in this study. Staff members with experience at the Department of Justice numerically dominated the commission with twenty-one participants (26%). This was followed by roughly equal representation by academics, Congress, and the private sector at fifteen (19%), fourteen (17%), and fourteen (17%) stakeholders respectively. Of the private sector participants, only two individual worked for a defense-related industry.⁴⁶³ The majority of the remaining members whose private sector experience was listed were attorneys from various law firms.

⁴⁶³ Mark Bittinger and Antwion Blount worked for Science Applications International Corporation (SAIC).

Also roughly equal were the number of staff members with experience at the State Department (eight or 10%), the DoD (seven or 9%), the White House (six or 7%), the CIA (five or 6%), and state and local agencies (four or 5%). Two staff members (2%) were advocates. Rounding out the roster were an additional three staff members (3%) whose areas of expertise that were not examined in this study (e.g., a retired postal inspector).

Additionally, the staff sought a broad range of representation in the witnesses invited to testify. The following chart summarizes the backgrounds of the 160 witnesses. The list includes federal, state, and local officials, as well as experts from the private sector.

Chart 11.3 Witness Credentials



* Total number from CIA is classified

It appears that the 9/11 Commission cast a wide net to include a diverse range of individuals possessing an aspect of knowledge that had direct relevance to the commission's mandate. Academics led the list with twenty-five participants (16%). Roughly equal were individuals with experience at Homeland agencies (twenty-two or 14%), State and local agencies (twenty-one or 13%), the DoJ (twenty or 13%), DoD (eighteen or 11%), Congress (sixteen or 10%), and advocate groups (sixteen or 10%). The CIA had at least eleven officials (7%), although the exact number remains classified. The commission invited ten (6%) individuals whose private sector experience was listed in the official biography list. The State Department and the White House had the fewest representatives at five (3%) and four (3%) respectively. Notably, of the private sector stakeholders invited to participate, not one came from the defense industry. What is more, a commissioner interviewed for this study "could not recall" any defense industry representatives ever soliciting the commission to testify. Additionally, all three commissioners interviewed for this study felt that the staff stayed on point, only requesting participation by actors with specific knowledge or subject expertise, or actors who played a key role in the events leading up to 9/11. This serves as further evidence that interest alliance activity did not crowd out the voices of a diverse range of stakeholders.

In addition to public witnesses, the commission also conducted a substantial number of interviews. According to the commission members and staff interviewed for this study, the commission sought to fulfill its mandate with the inclusion of as many relevant actors as possible. As one commissioner noted, "With some 1,250 people

interviewed, including two presidents, we interviewed all the ‘right’ people. We were denied access to only the al-Qaeda detainees, which could have been useful.”⁴⁶⁴

Although the public venue offered access to a wide range of actors, it did not stop stakeholder groups that had political or professional interests in mind from attempting to use the commission as a venue to defend and protect their turf. Nevertheless, the commission was rarely persuaded. The 9/11 Commission provided a detailed accounting of witness participation by providing fully disclosed transcripts from commission witnesses (only the two presidents, vice presidents, and a limited number of CIA officials were permitted to testify behind closed doors). The following section provides a critique of excerpts from witness testimony and highlights instances of interest politics in action. It also examines related efforts by witnesses to utilize interest alliance relationships with other stakeholder groups to influence the final outcomes of the commission.

President Bush initially rejected calls to establish an independent body to examine what went wrong with the nation’s security apparatus. The president maintained that the investigation into 9/11 should be confined to Congress, contending that the subject dealt with sensitive information that could reveal sources and methods of intelligence.⁴⁶⁵ However, critics argued that the president was actually reluctant to have such an independent and publicized study highlight the administration’s failed policies, particularly during an election year. A coalition of family groups issued a statement expressing their frustration with the administration for claiming to want to get to the bottom of what happened, “while apparently doing everything in its power to prevent the

⁴⁶⁴ Personal interview with 9/11 Commissioner, May 18, 2006.

⁴⁶⁵ Bush Opposes 9/11 Query Panel,” CBS News, May 23, 2002.

commission from being established.”⁴⁶⁶ A *New York Times* editorial complained, “How can an unstinting investigation of the truth of Sept. 11 not be of paramount concern to any official sworn to protect the public? The approaching presidential election makes the administration’s evasions even more suspect.”⁴⁶⁷

Indeed, former and current White House officials demonstrated defensive behavior by initially blocking the creation of the commission, limiting the parameters under which White House officials would be allowed to testify, withholding relevant information, and finally, once these tactics proved unsuccessful, redirecting the blame onto other stakeholder groups. Amid pressure from victim advocates, the president eventually retreated and supported the creation of an independent 9/11 Commission. Once the commission was under way, the administration sought to influence its agenda by insisting on naming the commission’s leadership. Yet pressure from advocates again obstructed President Bush’s ability to control the process when his choice for the chair of the commission, Henry Kissinger, was forced to resign.

Unable to control the participant roster, the administration impeded the commission’s ability to call senior White House officials as witnesses. The White House first declined the commission’s request to have National Security Advisor Condoleezza Rice testify in public. Only after intense public pressure from both the commission and advocate stakeholders did the Bush administration allow Rice to answer questions in open session. Additionally, both President Bush and Vice President Cheney refused to testify. After hard bargaining with the commission they eventually agreed to appear, but

⁴⁶⁶ “Two Senators Say White House is Thwarting 9/11 Inquiry,” *New York Times*, October 12, 2002.

⁴⁶⁷ “Facing the Truth of September 11,” *New York Times*, ed., October 29, 2003.

did so with a number of limitations. For example, they would only meet behind closed doors, and not under oath; no stenographer was to be admitted in the room, nor were any written records allowed to be kept. Former President Bill Clinton and Vice President Al Gore also testified in private, and not under oath, though a record of their testimony was kept. Senior White House officials were reluctant to answer questions about their failure to adequately assess the threat posed by international terrorism, and searched for ways to limit a public accounting of their pre-9/11 decisionmaking. While both current and former presidents and vice presidents managed to escape public scrutiny, others were less fortunate.

Current and former senior White House representatives who testified publicly shifted the blame onto others, largely pointing fingers at the intelligence community for not providing enough information to formulate a definitive policy toward al-Qaeda. Counterintelligence chief Richard Clarke argued that on his watch the White House had not been provided adequate intelligence regarding bin Laden's whereabouts to warrant authorizing attacks in Afghanistan. Former National Security Advisor Sandy Berger explained that CIA intelligence only offered "preliminary judgments" and the administration needed something more substantial on which to base their decisions. However, Berger did not provide all relevant documents requested. In preparation for his day in front of the commission, he was found guilty of having removed classified documents from the National Archives that were critical of the Clinton administration's response to the al-Qaeda threat.⁴⁶⁸

⁴⁶⁸ See Kean and Hamilton (2006), 183-4;

The commission's line of questioning for National Security Advisor Condoleezza Rice focused on the declassified intelligence memo given to President Bush on August 6, 2001, that stated, "The FBI indicates patterns of suspicious activity in the United States *consistent with preparations for hijacking*."⁴⁶⁹ Rice offered up few apologies, acknowledging that the United States had received terrorist threats in the spring and summer of 2001 but maintaining that they were not "specific as to time, nor place, nor manner of attack."⁴⁷⁰ She instead emphasized structural problems, in particular legal and bureaucratic impediments that kept the FBI and the CIA from communicating, and therefore effectively connecting the dots. In sum, White House stakeholders engaged in highly defensive testimony in efforts to limit criticism of their policy decisions leading up to the attacks.

Though aggressive campaigning by victims' advocates kept White House stakeholders from controlling the commission process outright, White House stakeholders eventually won out. Despite exposing weaknesses stemming from the executive branch, and the subsequent difficulty in getting executive branch officials to cooperate, the commission avoided making recommendations that would negatively affect the presidency. Critics such as Griffin or *Citizenswatch*, argue that this was in large part due to the close relationship between the Bush administration and the commission's executive director, Phillip Zelikow. Another explanation, however, might be that a discreet understanding, or alliance, had developed between the commission and

⁴⁶⁹ See 9/11 transcripts, testimony given by Condoleezza Rice, April 8, 2004; Emphasis added.

⁴⁷⁰ See 9/11 transcripts, testimony given by Condoleezza Rice, April 8, 2004.

the once reluctant president, as both sides needed each other to accomplish their particular goals.

Interest alliance activity might have played a part in the commission's final recommendations regarding the White House. The commissioners realized that gaining access to the information they needed to conduct their investigation would be a delicacy. Failure to strike the right balance between careful scrutiny and harsh criticism would present difficulties in getting access to information from executive branch agencies. In their insider account of the commission process, Kean and Hamilton (2006) note "If we came out and excoriated the executive branch, it would look like a witch hunt, and the agencies whose cooperation we needed might recoil."⁴⁷¹ They further noted, "We did not want to get boxed into attacking the White House."⁴⁷²

The commission also recognized that presidential backing was crucial to ensuring their recommendations would be turned into law. A *New York Times* article noted that "the commission needed the president to become personally involved in pressuring Congress to overhaul the nation's intelligence community, warning that the legislation recommended by the panel might die in Congress without Mr. Bush's intervention before the election next month."⁴⁷³ Commissioner Kean publicly acknowledged the commission's reliance on the president: "When [Bush] says he's for something, he's been for it, he's fought for it and he's gotten it passed. And my belief is and my hope is that he will do the same for this bill"⁴⁷⁴ Additionally, commissioners interviewed for this

⁴⁷¹ Kean and Hamilton (2006), p.75.

⁴⁷² Ibid. p 78.

⁴⁷³ "Sept 11 Panel's Chief Wants Help from Bush," *New York Times*, October 15, 2004.

⁴⁷⁴ Meet the Press with Tim Russert, NBC News, Transcript, November 28, 2004.

study were reluctant to elaborate on any resistance from the president. Only one commissioner noted the president's conduct, and did so in a positive light, insisting that "President Bush cooperated fully with the commission."⁴⁷⁵ In hopes of garnering presidential support for their recommendations, commissioners recognized that it was in their best interests to tone down their criticisms of the White House.

The Bush administration also found it important to strike a bargain with the well-publicized 9/11 Commission, particularly during the election year. The 9/11 Commission's findings not only came out during an election year, but were also scheduled to be released just weeks before citizens would go to the polls. There would be substantial political risk in failing to support reform in the event another terrorist attack occurred. As a result, President Bush's interests, which initially pitted him against the very creation of the commission, made him into an avid supporter, traveling the country to lobby on behalf of its work. In exchange for presidential support, the commission appears to have made a political decision to make it easier for the president to back the recommendations by avoiding any harsh condemnation of the administration's policymaking prior to 9/11.

Congressional witnesses also demonstrated defensive behavior. They were quick to point out flaws in other government entities, but reluctant to address similar problems in their own. For example, testimony by Senator Richard Shelby (R-Al) first deflects blame by placing full responsibility for 9/11 on the hijackers:

⁴⁷⁵ Confidential interview with commissioner, November 14, 2005.

During our joint inquiry last year, defenders of the intelligence community's performance during the Clinton administration and prior to September the 11th, insinuated that it was really the fault of Congress that the intelligence community failed to detect and deter the attacks on the World Trade Center and the Pentagon.I have never asserted, however, that the attacks of September the 11th were anyone's fault other than the murderous group of thugs that hijacked and crashed those planes into the symbols of American military and economic power. We should all keep that in mind as we search for the truth.⁴⁷⁶

Though Senator Shelby initially places full blame on the terrorist hijackers, in the same testimony the senator again denies congressional responsibility, but this time blames the intelligence community for its cultural problems and lack of leadership:

Money helps purchase technical systems and recruit large numbers of case officers, but you can't buy energy, enthusiasm, pride, professionalism, and aggressiveness. You can't purchase a commitment to share information with other agencies and pull together as a team in order to protect Americans from threats to their lives and well-being. You can't authorize and appropriate proper priorities, sensible management, and a vision of how to adapt complicated organizations to rapidly changing threats. You can't simply fund an appreciation of the information technology and the absolute necessity to integrate it into what is essentially an

⁴⁷⁶ See 9/11 transcripts, testimony given by Senator Shelby, May 22, 2003.

information enterprise. All these things have to be grown and nourished over time by wise and steady leadership. Congress can encourage these things, and they should. And we have certainly tried, but the legislature merely conducts oversight....We do not decide why someone gets promoted or punished. We can legislate, but there is little we can do to compel compliance.⁴⁷⁷

Senator Shelby's testimony points to cultural impediments within the intelligence community to explain its inability to prevent the 9/11 attacks. Nevertheless, by arguing that as members of Congress there is "little they can do," Senator Shelby essentially also admitted the need to improve the congressional oversight process. Nevertheless, he accepted very little if any responsibility for events leading up to 9/11.

Representative Nancy Pelosi (D-Ca) also redirected blame onto others. She shamed the White House for not making appropriate budget requests:

Adequate funding for homeland security presumes that it is accorded a high priority in budget submissions. But I'm sorry to say this has not been the case; for example, the Coast Guard maintains it needs \$6.6 billion over the next 10 years for port security and related activities. Yet, the Bush administration has requested only \$500 million thus far.... I bring this up because it points to the fact that resources that Congress devotes to any given agency or effort have been less

⁴⁷⁷ Ibid.

reflective of the organization of congressional committees and more reflective of the importance they are given by the Bush administration.⁴⁷⁸

Representative Pelosi was quick to point out the Bush administration's failure to adequately fund counterterrorism activities. She was much less willing, however, to volunteer reform for her own institution:

Although it is too early to judge what impact the changes already made in the House will have on the oversight process, I do not believe that additional changes are necessary at this point. You may reach a different conclusion, and if you do, I, of course, will respect and be interested in your thinking. My belief, however, is that the mechanisms are in place to conduct effective oversight and that it's up to the congressional leaders to make sure that those mechanisms are employed vigorously.⁴⁷⁹

Despite lawmakers' stated commitment to investigate the worst attack on domestic soil in American history, and despite their expressed willingness to reform the national security apparatus, professional interests and evasive politicking seemed to overshadow congressional reform. The 9/11 Commission was not persuaded by these attempts to defend both their pre-9/11 conduct and post-9/11 turf. By recommending the reorganization of the national security oversight committee structure, the commission

⁴⁷⁸ See 9/11 transcripts, testimony given by Representative Pelosi, May 22, 2003.

⁴⁷⁹ Ibid.

signaled that Congress was complicit in events that allowed 9/11 to occur. This goes a long way in further explaining why the commission needed to ally with the White House to transform its recommendations into national security policy and reform national government.

As interest politics proved unsuccessful for members of Congress within the confines of the commission environment, others attempted to utilize interest alliance partnerships outside of the forum. The following section describes conduct by one member of Congress and by DoD stakeholders who formed an alliance and attempted to use backdoor politicking to influence the debate.

Gen. Richard Myers, the chairman of the Joint Chiefs of Staff, and Defense Secretary Donald Rumsfeld were clearly opposed to the creation of the national intelligence director (DNI), as the post would seize a substantial amount of turf from the Pentagon. Both testified in opposition. General Myers stated:

It is imperative that we maintain the separate intelligence agencies within the national structure we have today in order to maintain the mission focus each of these components brings. The DoD must retain influence within the community to ensure we have the intelligence support for military forces crucial to the successful conduct of combat operations.⁴⁸⁰

⁴⁸⁰ See 9/11 transcripts, Gen. Richard Myers's prepared written statement, p. 10, June 17, 2004.

Secretary Rumsfeld further supported General Myers's beliefs that the military needed to have control over its intelligence components:

I've heard arguments in the wake of 9/11 that we need to consolidate all the intelligence agencies and put them under a single "intelligence czar." In my view, that would be doing the country a great disservice. There are some activities, like intelligence, and research and development, where it's a serious mistake to think that you're advantaged by relying on a single, centralized source. In fact, fostering multiple centers of information has proven to be better at promoting creativity and challenging conventional thinking. There may be ways we can strengthen intelligence, but centralization is most certainly not one of them.⁴⁸¹

Like General Myers, Secretary Rumsfeld testified that creating the post would directly affect the military chain of command on the battlefield and dangerously dilute the authority of the Pentagon on intelligence issues. Despite their pleas, the commission proceeded with its endorsement of the DNI post. Consequently, DoD stakeholders looked for alternative avenues of influence by seeking out interest alliances with members of Congress who would be responsible for voting on legislation to enact the changes.

General Myers found a staunch supporter in the chair of the Senate Armed Services Committee, Representative Duncan Hunter (R-CA). Duncan's committee controls 90 percent of the intelligence budget, and would be forced to share control with

⁴⁸¹ Ibid.

the newly established intelligence office. Consequently, both saw the DNI as a threat to their turf and looked for ways to sabotage the recommendation before it made it into legislation.

As chairman of the Joint Chiefs of Staff, General Myers had the legal right to provide lawmakers with military advice. Hunter requested that he express his views in writing. General Myers wrote a letter in October 2004 to Hunter that explained his concerns that the military's intelligence needs could suffer because "tactical" intelligence, or battlefield intelligence, could get less priority than "national" intelligence about threats to domestic security. Hunter then read excerpts of General Myers's letter before the Republican conference on the House side and pleaded with his colleagues to block the idea.

Hunter also "had the tacit support of Defense Secretary Donald Rumsfeld,"⁴⁸² who also reportedly used back-door channels to influence the debate.⁴⁸³ In November 2004, a *New York Times* editorial said "it seems obvious he lobbied against the president's stated policy." Representative Christopher Shays (R-CT) described Rumsfeld's lobbying as "blatant" and as having "trashed" the legislation in closed-door meetings on Capitol Hill.⁴⁸⁴

⁴⁸² "Intelligent Intelligence Reform," *Weekly Standard*, November 24, 2004.

⁴⁸³ News reports described Rumsfeld's private efforts to lobby for his version of intelligence reform. See for example, "Rumsfeld Denies Working Against Intel Changes: Says He Didn't Privately Lobby Against Overhaul," MSNBC, November 23, 2004; "Intel Reform Fight," Online News Hour with Jim Lehrer, November 24, 2004; "A Truly Lame Duck," *New York Times*, ed., November 23, 2004. See also Lowi (2006) p. 28.

⁴⁸⁴ "Rumsfeld Says He Backs Bush on Intelligence Overhaul Military Remains Against Changes," *Boston Globe*, November 24, 2004.

DoD stakeholders were unsuccessful in their attempts to steer the national security agenda toward more favorable outcomes for the Pentagon. Once their efforts were leaked to the press, politicians and victim advocates admonished President Bush for his inability to keep his lieutenants in line. Senator Charles Schumer (D-NY) warned, "The president's going to have to stand up to both the Defense Department and to the hard right. If we can't pass this bill, we are really letting the American people down."⁴⁸⁵ As the advocate group *September Eleventh Families for Peaceful Tomorrows* stated, "Mr. Bush campaigned on the idea that he is the man to handle the aftermath of 9/11. But if he could not deliver a sound bill with the Democrats, most Republicans, the entire 9/11 Commission, the 9/11 families and a lot of ordinary Americans backing him up, what will happen on something that is actually hard?"⁴⁸⁶

DoD stakeholders were in direct dissent from the administration at the height of an election year, and thus had to conduct damage control. They largely backed off their initial positions by issuing statements in support of the 9/11 Commission's recommendations. Myers contended that he opposed only a few specific details in the 9/11 Commission's recommendations, and ultimately reversed his position, stating that "the issue that I specifically addressed in a letter to Chairman Hunter has been accommodated, I'm told, in the bill."⁴⁸⁷ For his part, Secretary Rumsfeld flatly denied the charges: "I think you probably know me well enough to know I wouldn't be doing that. The fact that the *New York Times* editorial says that I'm obviously lobbying against the

⁴⁸⁵ "Delay in 9/11 Intelligence Overhaul Criticized: Lawmakers Blame Money Squabbles, Holdouts in Congress," CNN.com, November 21, 2004.

⁴⁸⁶ "A Truly Lame Duck," *New York Times*, November 23, 2004.

⁴⁸⁷ "General Says He No Longer Objects to Bill on Spy Post," *New York Times*, December 3, 2004.

President's stated policy is nonsense.”⁴⁸⁸ In the same interview Rumsfeld made his allegiance to the White House known: “I support the president’s position...I'm a part of this administration. If I didn't want to support the president's position, I wouldn't be in the administration, and I do intend to support it.”⁴⁸⁹

Maintaining alliances is a critical component to bureaucratic survival. By privately networking against the 9/11 Commission’s work, senior military officials threatened to sever parochial ties to an administration that was also hard pressed to ensure that substantial changes would take place in the post-9/11 era. These senior military officials eventually retreated from their positions after heightened media attention revealed their activities and created a rift between the military and the White House.

Both FBI and CIA senior officials also attempted to defend their turf in their testimony before the commission. Though there is evidence that the commission was influenced by stakeholder behavior, it appears more likely that the final outcomes were based on the commission’s own vision of intelligence reform, rather than the result of stakeholder attempts to curry favor.

Despite the Phoenix memo, and accusations by policymakers that 9/11 was a result of the legal wall between law enforcement and intelligence analysis, there was widespread agreement among the commission that counterterrorism was now the FBI's number-one priority, and there was no need to create an additional domestic intelligence agency similar to Britain’s MI5. One explanation is that a number of high-profile

⁴⁸⁸ “Rumsfeld Denies Blocking Intel Reform, CNN transcript, November 23, 2004; <http://transcripts.cnn.com/TRANSCRIPTS/0411/23/se.01.html>.

⁴⁸⁹ Ibid.

witnesses advised against the establishment of an MI5-like agency. The consensus from officials including former Attorneys General William Barr and Janet Reno, as well as university scholars and policy experts from the Brookings Institution, was that the FBI should continue as the lead agency in charge of domestic intelligence.

Perhaps the most successful attempt to persuade the 9/11 Commission was made by the FBI's current director, Robert Mueller, who recognized the commission as an authoritative and influential voice in developing the post-9/11 national security structure. Kean and Hamilton's insider book noted that "Mueller had recognized that a 9/11 Commission recommendation to create a new domestic intelligence agency could derail his efforts to reform the Bureau into a counterterrorism agency, and take away a large chunk of the Bureau's responsibility."⁴⁹⁰ The director made a point to influence the commission by staying in contact as much as possible. One commission source noted that "Mueller met with them more than did *any* other agency head or official"⁴⁹¹ During Mueller's hearing commissioner Ben-Veniste quipped "You have been responsive to our questions, you've come back, sometimes you've come back and showed up when you weren't invited. (Laughter.) But we appreciate that."⁴⁹² Kean and Hamilton noted "He called every commissioner, and probably had lunch with every one of us, usually going out of his way to come to us—atypical for a high-ranking member of government."⁴⁹³ Commissioner Roemer noted that "he knows how to play the system, how to play

⁴⁹⁰ Kean and Hamilton (2006), 117.

⁴⁹¹ "Fixing the FBI: This man is pushing some of the biggest changes in the Bureau's History. Think he's a popular guy?" U.S. News & World Report, March 28, 2005, p. 26.

⁴⁹² 9/11 transcripts, commissioner Ben-Veniste, Wednesday, April 14, 2004.

⁴⁹³ Kean and Hamilton (2006), 117.

Congress, and he certainly worked the 9/11 Commission.”⁴⁹⁴ Director Mueller clearly wanted to protect his agency’s turf and devoted a significant amount of time trying to establish an alliance, or at least cultivate a relationship with the commission’s membership.

However, the director was also served by the fact that his own interests coincided with the commission’s interests. The commission’s vision for a National Intelligence Director (DNI) and new National Counterterrorism Center (NCTC) depended on the FBI maintaining its current basic structure. The commission concluded:

We do not recommend the creation of a new domestic intelligence agency. It is not needed if our other recommendations are adopted--to establish a strong national intelligence center, part of the NCTC, that will oversee counterterrorism intelligence work....and to create a National Intelligence Director who can set and enforce standards.⁴⁹⁵

Because of the capabilities and resources to be provided the new entities, Director Mueller could rely on the commission’s interests coinciding with his own. The same was not to be the case for the Director of Central Intelligence, George Tenet.

⁴⁹⁴ “Fixing the FBI: This man is pushing some of the biggest changes in the Bureau's History. Think he's a popular guy?” U.S. News & World Report, March 28, 2005, p. 26

⁴⁹⁵ 9/11 Commission Report, p. 602, *New York Times* edition.

In his testimony, DCI Tenet sought to defend bureaucratic turf by downplaying the need for a newly created national intelligence director post, which in effect, would demote the director of Central Intelligence to a subordinate of the NDI. Tenet testified that the new position would just be “another layer of bureaucracy” that would distance the individual from the institution.”⁴⁹⁶ He continued:

We need to understand the relationship between the DCI and the secretary of defense in a very, very fundamental way....-- could a DCI be more powerful, have more executive authority, execute budgets, joint personnel policies....You can have all the authority you want; it may not matter....All I want to focus on is don't throw the baby out with the bathwater.⁴⁹⁷

DCI Tenet testified that the DCI-secretary of defense relationship was important and the new DNI post would significantly interfere with that relationship. The commission recognized that DCI Tenet was very good at building relationships with his peers in the national security apparatus, but that one of his successors might not be. It also referred to numerous previous reports that found that the DCI could not effectively serve as the president’s primary advisor on foreign intelligence, as well as manage the CIA and the entire intelligence community. In the end, the commission opted to endorse the creation of the NDI post.

⁴⁹⁶ Ibid.

⁴⁹⁷ See 9/11 transcripts, testimony given by DCI George Tenet, March 24, 2004.

A partial explanation is that Tenet did not devote as much time as Mueller did in efforts to persuade the commission. One commission source observed that “Mueller understood that his job was on the line...and he understood better than CIA Director George Tenet did that whatever we were going to say, people would listen.”⁴⁹⁸ However, it is probable that the DCI had very little hope of convincing the commission to forego the DNI recommendation, whether or not he devoted an equal amount of time to the commission process as did Mueller. The commission saw this as an opportunity to advance significant reform of the intelligence structure, and a new intelligence director would be the linchpin. Consequently, Tenet’s interests and those of the commission were simply not aligned. Thus it is doubtful whether increased lobbying by Tenet or any other CIA officials would have been enough to persuade the commission otherwise.

Neither was the 9/11 Commission persuaded by private sector witnesses. Insurance industry stakeholders took a defensive posture in testimony before the commission, but were unable to steer the agenda toward gains for the industry. For example, a witness from Chubb, one of the largest insurers of the World Trade Center and one of the companies hit hardest by the disaster,⁴⁹⁹ emphasized the enormous cost of rebuilding civilian infrastructure. The witness discussed the need to rethink private industry/government responsibility for paying terrorist-related claims.⁵⁰⁰

⁴⁹⁸ “Fixing the FBI: This man is pushing some of the biggest changes in the Bureau's History. Think he's a popular guy?” U.S. News & World Report, March 28, 2005, p. 26

⁴⁹⁹ Chubb estimated that it will pay out over \$3.2 billion in insurance claims to victims of the 9/11 attack. See 9/11 transcripts, testimony given by John Degnan, vice chairman Chubb Corporation, November 19, 2003.

⁵⁰⁰ The War Act exempts most insurance companies from paying any claims occurring during an act of war. The question raised was whether or not terrorism falls under the traditional definition of war.

We continue to believe, based on experience, that the private marketplace is unable to manage terrorism risk on its own because such risk is neither predictable nor accidental. Moreover, we believe that, philosophically, protection of the public and the economy from the effects of foreign attack is a fundamental responsibility of the federal government. Accordingly, only the federal government should bear the ultimate responsibility for making the economy and body politic whole again if there is a future attack.⁵⁰¹

The stakeholder proposed that a federal terrorism insurance fund be established to offset the major financial burden to the insurance industry in the event of another attack. Yet the 9/11 Commission did not recommend federal funding of such a program. It only encouraged businesses to comply with emergency preparedness standards, hopefully minimizing the amount of destruction that insurance companies would be obliged to cover.

We also encourage the insurance and credit rating industries to look closely at a company's compliance with the [safety] standard in assessing its insurability and creditworthiness. We believe that compliance with the standard should define the standard of care owed by a company to its employees and the public for legal purposes.⁵⁰²

⁵⁰¹ Fifth public hearing, Statement of John Degnan to the National Commission on Terrorist Attacks Upon The United States, November 19, 2003.

⁵⁰² The Official 9/11 Commission Report, p. 398.

Airline witnesses blamed the U.S. legal system by pointing out that federal laws protecting civil liberties had limited their ability to adequately screen passengers. United Airlines executive Edmond Soliday explained:

The law that you talk about, quite frankly when you read it as you do, it would presume that the burden is upon the carrier. But if I could share some history with you, how that law has been applied to us is that when we have tried to deny boarding--most recently after 9/11, 38 of our captains denied boarding to people they thought were a threat. Those people filed complaints with the DOT, we were sued, and we were asked not to do it again.⁵⁰³

The United Airlines representative was not the only stakeholder to complain about the industry's vulnerability to lawsuits brought on by alleged civil liberties violations. An American Airlines witness responded in kind:

There are privacy issues.... a visitor from the Justice Department who told me that if I had more than three people of the same ethnic origin in line for additional screening, our system would be shut down as discriminatory....

The American Airlines stakeholder continued:

⁵⁰³ Seventh public hearing, Statement of Edmond L. Soliday to the National Commission on Terrorist Attacks Upon the United States.

In a post-9/11 environment, we had situations where our crewmembers were uncomfortable with passengers on board the airplane, they hauled them off the airplane and I think -- there was 10 or 11 of them -- and today we're being sued by the DOT over each one of those cases.

Airline witnesses not only blamed their weak security efforts on civil liberties protections but also shifted the responsibility away from the airlines and onto the FAA for its lax regulatory role:

This commission has already heard a considerable amount of testimony about the roles of the government and industry in the aviation security system in the pre-9/11 environment. So I will not belabor the point here. Suffice to say that, at that time, *the FAA set the security standards for U.S. airports, U.S. airlines and foreign carriers flying into the United States.*⁵⁰⁴

Airline stakeholders continued to blame the FAA for failing to provide the airlines with an updated list of potential terrorists:

That list I think came out of the FAA's own threat assessment of what the industry should be trying to protect itself against, and they came up with that list and on the basis of that list we put in procedures to screen.

⁵⁰⁴ Statement of Gerard P. Arpey to the National Commission on Terrorist Attacks Upon the United States, January 27, 2004; emphasis added.

The stakeholder further reminded the commission that the airline industry's ability to effectively screen for dangerous passengers was only as good as the intelligence given them by the FAA:

Well again, Senator, I'll just be candid with you. If you go back to the morning of 9/11, the entire security paradigm that was in place given to us by the FAA did not anticipate this type of threat.⁵⁰⁵

Though the airline industry was highly defensive of its conduct, Commissioner Bob Kerrey's comments illustrate how the commission would not be swayed by the aviation industry's defensive testimony:

You keep saying that it's the FAA that's telling you about it. I must tell you that the law doesn't mention the FAA. The law says, quote, "An air carrier may refuse to transport a passenger or property the carrier decides is or might be inimical to safety." End of quote. It doesn't mention the FAA at all.

The aviation industry remained protective, defensive, unwilling to admit any missteps in events leading up to the attacks. In the end, however, the commission's recommendations did not favor the airline industry. Instead the final report focused on the need to reallocate resources *away* from aviation (which receives 90 percent of the

⁵⁰⁵ Ibid.

\$5.3 billion investment in transportation security⁵⁰⁶) and onto other transportation modes, particularly maritime ports. And while aviation is a multi billion dollar industry whose stakeholders maintain one of the most powerful lobbying machines in the United States, the report reflected little sympathy for the industry's concerns over profits, discriminatory lawsuits and fines. Key recommendations called for an even more stringent screening process than previously utilized, and proposed that the airlines pay "a fair share of the costs" for security updates.

Though critics maintained that the large number of commissioners with professional interests tied to the airline industry would present a problem, such an interest alliance dynamic did not appear to function. Part of the reason might be that airline stakeholders were simply unable to take advantage of interest alliance ties, particularly as three commission members with professional ties to American Airlines and United Airlines did not participate in that day's hearing. This made it difficult for the airlines to use interest alliance connections to guide the agenda and influence the outcomes.

In contrast, advocate groups were formidable players, and one of the few groups to successfully maneuver the commission process toward stakeholder gains before, during, and after the commission concluded its work. First, family advocate stakeholders were in large part responsible for the creation of the 9/11 Commission, pressing the Bush administration in a yearlong campaign to establish an independent body to investigate national security failures. They were also intellectually active, researching a wide array of topics on the Internet from Islamic radicalism to the Federal Aviation Administration's

⁵⁰⁶ 9/11 Commission Report, *authorized edition*, p. 391

protocols for hijacking. As a result family group advocates acquired sufficient knowledge to enable them to participate heavily in the commission process. Advocates testified, recommended other witnesses, supplied the panel with questions for those witnesses, helped revise the commission's hearing procedures, set up websites updating the public on the commission's progress, and traveled the country giving press statements and interviews. Members also lobbied Congress and the president to increase funding for the commission from the original \$3 million to \$15 million, and convinced policymakers to allow the commission a two-month extension, despite the fact that such a delay put the deadline on mark with the upcoming presidential election. They continued to lobby even after the conclusion of the commission, widening their missions to address issues such as immigration reform, the declassification and release of the still embargoed 9/11 CIA and FAA reports, and raising funds for proper burials and future memorials for loved ones.⁵⁰⁷

While stakeholders were unified in their desire to see the commission succeed, a number of family groups clashed with and over some of the commission's decisions. Citizenswatch protested Executive Director Zelikow's appointment to the commission; another group, Families for a Secure America, was in fundamental disagreement with the commission's failure to adequately endorse tough anti-immigration policies; the 9/11 Family Steering Committee, the group at the forefront of lobbying efforts, argued that it was more important to create a powerful national intelligence director than to be dragged into a debate on immigration rights.

⁵⁰⁷ See for example: <http://peacefultomorrows.org>, <http://911familiesforamerica.org>, <http://www.familiesofseptember11.org>.

Working against one another weakened the common cause and served to temporarily stall the legislative process, as the House and Senate developed competing bills based on the groups' divided lobbying efforts.⁵⁰⁸ This example illustrates a major difference between an interest alliance, whose traditionally unified front strengthens their ability to dominate the policy process, and the advocate stakeholder groups, whose ideological bond may be more easily severed. A major factor that helped advocate stakeholders overcome this obstacle was the fact that the media took interest in the politically charged issue, which served as a critical substitute for the advocate stakeholder group's lack of unity, political clout, or financial connections.

By utilizing media exposure, a core group of well-organized, vocal advocate stakeholders played a significant role in shaping the commission process. For example, the founding director of Voices of September 11th, demanded the release of key documents such as the August 6, 2001, intelligence briefing that allegedly forewarned of impending attacks. The White House first declined, but after months of public criticism the media blitz succeeded. The administration declassified the briefing on April 10, 2004. After National Security Advisor Condoleezza Rice failed to make an appearance despite numerous publicized pleas by the commission and advocates, a group of frustrated widows walked out of the day's hearings in silent protest. No election-minded incumbent could reject women, widows, and mothers, who had suffered the brunt of the

⁵⁰⁸ See "Opponents Say Republicans Plan Sequel to Patriot Act," *New York Times*, September 23, 2004.

nation's policies. The action was a very public, symbolic gesture that further pressured the White House to give in to the commission's request.⁵⁰⁹

A group of four 9/11 widows called "the Jersey Girls" gained substantial media interest by staging a Washington rally and staking out legislators in the halls of their political offices. Widow Kristin Breitweiser carried her dead husband's wedding ring, found at Ground Zero still attached to his finger, the only part of his body ever recovered.⁵¹⁰ They also gained considerable attention by endorsing Democratic presidential hopeful John Kerry in the upcoming election. In the public eye on a daily basis, and by virtue of their moral standing, these advocates were able to deflect normal partisan accusations, helping them become a political force in the commission process.

Conclusion

The 9/11 Commission case illustrates an important departure from the independent advisory commissions thus far studied, as there is not a consistent relationship between a stakeholder group's win/lose status and its ability to access the commission.

Chart 11.4 9/11 Actual Stakeholder Access

Stakeholder Group	Status	Predicted Access	Actual Access
State Department	Win	High	Low X
White House	Win	High	Low X
Congress	Lose	Low	High X
DoD	Lose	Low	High X
CIA	Lose	Low	High X
DoJ	Win	High	High ✓
Homeland	Win	High	High ✓

⁵⁰⁹ "9/11 Widows Skillfully Applied the Power of Question: Why?" *New York Times*, April 1, 2004.

⁵¹⁰ "Interview With Kristen Breitweiser," transcript, Larry King Live, CNN.com, September 8, 2006.

State and Local	Lose	Low	High X
Private Sector	Lose	Low	Medium X
Advocates	Win	High	HighX

In only two cases (the DoJ and Homeland) were stakeholder groups' win/lose statuses consistent with the amount of access allowed by the commission. In the majority of cases, stakeholder status was not correlated to a group's ability to access the commission process. DoD and CIA officials had a high level of representation, yet the commission's NCTC and DNI recommendations were strategic losses for both. State and local agencies also managed a large number of participants, yet were unable to secure a more prominent role in the national security equation. The defensive posture taken by congressional witnesses was not enough to convince the commission that the legislative body was not in need of significant structural changes.

On the winning side, the commission's recommendations focused heavily on proposals that the State Department would consider favorable (e.g., budget increases, heightened status as a counterterrorism agency), yet the State Department had few representatives at the table. There was a minimal showing from the White House, yet the administration secured a victory by avoiding harsh criticism of their slow response to spikes in the reports on terrorist activity prior to the attacks.

It is important to note that by endorsing homeland security products such as biometric scanning technologies and updated port security systems, the commission risked opening itself up to pressure from private sector companies in a newly emerging market of homeland security product--a market that has the potential to rival, if not out

perform, the influence of powerful pre-9/11 companies. As Senator Robert Byrd (W-Va) pointed out in 2003:

With a \$40 billion homeland security budget and the expectation that the Federal Government will spend hundreds of billions of dollars in the coming years on homeland defenses, corporate America is salivating over the money that is to be made from the grants and contracts being doled out by the Homeland Security Department.”⁵¹¹

Unlike the hearing stage of the previous commissions however, such private industry firms kept a low profile. This is further supported by the observations of one commissioner interviewed for this study who “could not recall” any defense industry representatives ever soliciting the commission to testify. The outcomes for the private sector stakeholders that *were* included (airline and insurance) were far from a clear win.

It appears that interest alliance participants were largely left to their own devices as groups were forced to defend themselves with little if any support from traditional allies. The decision by commissioners who had ties to the aviation industry and the White House to step down during testimony that might produce conflicts of interest illustrates the inability of stakeholder groups to take advantage of personal or professional relationships to shape the agenda. As a result, some stakeholders resorted to utilizing their interest alliances elsewhere, attempting to use back door channels to exert influence

⁵¹¹ Congressional Record: July 24, 2003 (Senate) Page S9857-S9887 Department of Homeland Security Appropriations Act, 2004-(H.R. 2555) Amendment No. 1373.

over policy outcomes in the final stages of legislation. For example, both JCS Chairman General Myers and Defense Secretary Rumsfeld attempted to rely on the customary relationship with the Senate Armed Services Committee to block the DNI proposal. Nevertheless, even outside the commission process the media-sensitive environment curbed even the quietest levels of interest alliance politicking.

A significant factor affecting the commission process was the fact that the 9/11 Commission was the single most publicized presidential advisory commission in American history. It held almost every hearing in public, disclosed the results of self-imposed financial disclosure requirements, and released extensive bios on the witnesses' professional activities, current and former employment, and business affiliations to ensure its members were free of bias. The large degree of transparency also allowed advocate stakeholders an unprecedented amount of access and influence in the decision making process. For instance, an advocate stakeholder who lost both her son and husband in the World Trade Center was quick to caution against letting professional interests corrupt the intelligence reform commission process:

I think there should be full disclosure for public officials of any of their business interests...we have talked a lot about conflicts on this commission. And you know, the onus is on you to rise above those conflicts. And I'm sure that you will be able to do that when it is this important of a job, but I think it's another area that has to be looked at that when we put people into office, whether it's a

Congressman or a Senator or a President, we have to take a look at what their business interests are so that there are no conflicts there either.⁵¹²

The influence of victim advocate stakeholders was evident early on as the commission process was modified to ensure that its decisions were played out under public purview, and free of conflicts of interests. While being a victim's relative might not qualify a person to give advice about how the disaster might have been prevented, it nevertheless entitled such stakeholders to play a decisive role in ensuring that the process maintained its integrity, free from the shackles of interest politics.

Interestingly, interest politics did succeed to some degree. But those that did successfully navigate the process did so only when their interests aligned with those of the commission: FBI Director Mueller's desire to protect his agency's turf coincided with the 9/11 Commission's vision of a new National Counterterrorism Center; the administration's interest in maintaining its reputation as a presidency devoted to counterterrorism, particularly during an election year, coincided with the commission's need for presidential backing. But advocates seemed to sense that it was an acceptable compromise to ensure that the commission's recommendations received the fullest amount of political support.

Chapter Twelve

WMD Commission: Case Study Summary

⁵¹² 9/11 transcripts, opening remarks, March 31, 2003.

On February 2, 2004, President George W. Bush appeared in front of the press to announce the creation of the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction (the WMD Commission). The president established the commission in response to congressional testimony by former U.S. weapons inspector David Kay, among others, who asserted that with regards to Iraq's WMD capabilities prior to Operation Iraqi Freedom, the intelligence community simply got it wrong.⁵¹³ Iraq had not reconstituted its nuclear weapons program; it was not producing or stockpiling chemical or biological weapons. The president took no questions from the press, signaling the start of a commission that would stay largely out of the grasp of public scrutiny.

The commission began its work on in May 2004. Its mandate would require its members to assess twenty-first century counter-proliferation efforts by the United States intelligence community. Its specific charge included the following:

- 1) Examine the intelligence prior to the initiation of Operation Iraqi Freedom and compare it with the findings of the multinational fact-finding group, the Iraq Survey Group and other relevant agencies or organizations concerning Iraq's capabilities, intentions, and activities relating to WMD.

⁵¹³ In congressional testimony, U.S. weapons inspector David Kay reported his failure to find weapons of mass destruction in Iraq, and flatly asserted that U.S. intelligence was wrong. Kay also recommended to Congress that an independent investigation be undertaken of this intelligence failure. Hearing of the Senate Armed Services Committee, Subject: Iraq Weapons of Mass Destruction, January 28, 2004.

- 2) Compare the intelligence community's intelligence concerning WMD and related threats in Libya prior to its recent decision to open its programs to international scrutiny, and in Afghanistan prior to removal of the Taliban government.
- 3) Assess whether the intelligence community is sufficiently authorized, organized, equipped, trained, and resourced to identify and warn of WMD proliferation efforts by rogue states and terrorist organizations.
- 4) Examine the capabilities and challenges of the intelligence community in collecting, analyzing, and disseminating intelligence concerning the capabilities, intentions, and activities of rogue states and terrorist organizations in the twenty-first century.
- 5) Evaluate the challenges of obtaining information regarding WMD proliferation in closed societies.

How well did the commission address these five areas of intelligence? The WMD Commission completed its mandate by presenting 162 detailed findings regarding U.S. intelligence assessments, successes, and failures on Iraq, Libya, and Afghanistan. It also evaluated the IC's monitoring capabilities regarding nuclear weapons development in North Korea and Iran (classified). Additionally, the commission looked at IC leadership and management; intelligence collection; analysis and information sharing; homeland security; and counterintelligence. The commission further examined covert action capabilities, which were not released in the declassified version of the report.

In what was arguably its most important conclusion, the WMD Commission found that the intelligence community had very little credible prewar information on Iraq's nuclear, biological, or chemical weapons programs. First, elements of the IC not only had an "incomplete picture of the Iraqi nuclear program"⁵¹⁴ but also failed to inform policy officials of mounting doubts about the reliability of incoming intelligence. The commission found that intelligence analysts relied on misleading information including inaccurate reports that Iraq had bought uranium from Nigeria (later found to be based on forged documents given to the CIA by Italy's intelligence service); the purpose for recent construction activity at a suspected nuclear facility was nuclear-related (it was actually for conventional missile production); and that Iraq meant to reestablish its nuclear program by transferring its former nuclear scientists to its Atomic Energy commission (most scientists had defected after the first Gulf War).

Additionally, analysts from the National Geospatial Intelligence Agency (NGA), CIA, DIA, NSA, and the U.S. Army's National Ground Intelligence Center (NGIC) misinterpreted the intended use of an intercepted shipment of high-strength aluminum tubes heading for Iraq. The intelligence agencies argued that the tubes were meant for building centrifuges for uranium enrichment despite a critical divergence in opinion from the Department of Energy and the International Atomic Energy Agency. Both had conducted independent inquiries and concluded (correctly) that the tubes were more adequately suited for building conventional rockets.

⁵¹⁴ The Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, chap. 1, p. 54.

Second, both the CIA and DIA relied too heavily on a single, dubious source for information on Iraq's biological weapons programs. In a series of interviews in early 2000, an Iraqi chemical engineer code named "Curveball" informed agents from an unidentified foreign intelligence agency that Saddam Hussein had reinstated a biological weapons program and had successfully built mobile biological weapons facilities. Curveball claimed to know the location of the facilities and provided over one hundred reports to describe the mobile units and their capabilities.

Yet skepticism about the validity of Curveball's information emerged from several areas. The foreign intelligence agency that initially debriefed the Iraqi defector began to have serious misgivings about his increasingly erratic behavior and inconsistencies in his story. The foreign agency cautioned the CIA's division chief: "You do not want to see him (Curveball) because he's crazy. Speaking to him would be 'a waste of time.'"⁵¹⁵ The representative further questioned Curveball's mental stability, worrying Curveball had had a nervous breakdown. Though the doubts were discussed inside the CIA's Directorate of Operations, the WMD Commission found that the information was not passed on to intelligence or policy officials outside the directorate.

Curveball initially agreed to be debriefed only by the unidentified foreign intelligence agency, claiming not to speak adequate English to recount his story to American intelligence officials. Yet a Defense Department official who eventually interviewed Curveball found that the Iraqi spoke nearly perfect English. What is more, Curveball arrived at the meeting with a "hangover," suggesting that he might be an

⁵¹⁵ WMD Commission, chap. 1, p. 56.

alcoholic. The meeting raised serious concerns from the DoD official about Curveball's reliability:

I do have a concern with the validity of the information based on Curveball having a terrible hangover the morning of [the meeting]. I agree, it was only a one time interaction, however, he knew he was to have a [meeting] on that particular morning but tied one on anyway. What underlying issues could this be a problem with and how in depth has he been vetted by the [foreign liaison service]?⁵¹⁶

The commission found that both the DIA and CIA continued to rely on the Iraqi defector's information despite reservations expressed by the foreign intelligence agency and the DoD official. Not until March 2004 did senior CIA officials finally concur that Curveball had fabricated information about an Iraqi biological weapons program that, in reality, no longer existed. The CIA's ultimate reversal was based on Curveball's description of a suspected mobile biological weapons facility, which contradicted satellite imagery showing the information to be a geological impossibility. Nevertheless, according to the WMD report, conclusive doubts about Curveball's description failed to make it out of the intelligence agency and into the appropriate senior-level policy channels.

Third, the WMD Commission found that the IC overestimated Iraq's stockpile of chemical weapons due to faulty calculations and dubious human intelligence reporting.

⁵¹⁶ WMD Commission, chap. 1, p. 91.

In 1998, weapons inspectors concluded that previous estimates about the amount of chemical weapons used during the Iran-Iraq War were exaggerated--Iraq had expended far fewer chemical munitions than initially thought. Because Iraq had not used as much of its chemical weapons as had been previously estimated, analysts therefore assumed (erroneously) that Iraq still possessed a large amount of chemical agents.

The IC's calculations were further supported by analysts' misinterpretations of satellite imagery at a suspected CW munitions facilities. Analysts mistakenly determined that the increased use of a particular type of tanker truck used in the first Gulf War to transfer chemical weapons material meant Hussein had reinstated Iraq's pre-Gulf War chemical weapons programs. The Iraq Survey Group (an international fact-finding group set up to investigate prewar intelligence) later determined the truck activity to be related to "conventional maintenance and logistical activity rather than chemical weapons."⁵¹⁷

Additionally, analysts accepted the word of a small set of Iraqi defectors who claimed to have information on various aspects of the process of manufacturing chemical weapons. The Iraqis' information was judged to be "moderately reliable" at best.⁵¹⁸ Coupled with incoming information about suspected nuclear and biological weapons programs, IC analysts asserted that Iraq had also reinstated its chemical weapons program.

The WMD Commission Report found one "bright spot" in intelligence reporting. The IC had successfully uncovered Iraq's ballistic missile program, a weapons system banned by the United Nations. The success was overshadowed, however, by the fact that

⁵¹⁷ WMD Commission, chap. 1, p. 123.

⁵¹⁸ WMD Commission, chap. 1, p 117.

the IC sorely misinterpreted Iraq's intentions for another weapon system--the unmanned aerial vehicle (UAV). The consensus among analysts was that Hussein meant to use the weapon's delivery system to release chemical and biological agents, when in fact the regime had only used the UAV for short-distance reconnaissance operations.

The WMD Commission further concluded that the IC was unable to accurately determine the intentions behind the regime's strategic and tactical decisions. Hussein obfuscated the true state of Iraq's weapons capabilities not because he possessed a substantial arsenal to conceal, but because after the first Gulf War a significant weapons program *no longer existed*, a fact having important implications for Iraq's regional security. The commission determined that because IC analysts continued to speculate and focused on their own interpretation of events, they did not adequately explore an alternative motivation: Hussein might have chosen to conceal the truth to hide internal vulnerabilities from regional adversaries. The paucity of verifiable information on Iraq's weapons programs led analysts to fill in the gaps with dangerous assumptions and misleading inferences.

The WMD Commission completed the first section of its mandate by concluding that the information collected by U.S. intelligence agencies was insufficient to warrant an invasion. IC assessments of Iraqi nuclear ambitions were based on poor analyses of aluminum tubes; its conclusion that Iraq was storing biological weapons was based on one unreliable person; its belief in Iraqi chemical weapons was based on flawed imagery. Yet the IC never questioned the assumption that Saddam had weapons of mass destruction. Because the focus was on locating on evidence for, instead of authenticating,

Iraq's WMD program, analysts from a range of agencies fell victim to a sort of tunnel vision that led them to assume away the more obvious (and accurate) explanations. What is more, intelligence community officials failed to include their misgivings in the reports they provided to senior policymakers. The result was a critical breakdown in communication, organizational management, and ultimately intelligence community leadership.

The commission found far more cogent intelligence efforts regarding the status of WMD programs in Libya and Afghanistan. Successful identification of Libyan proliferation attempts in the late 1990s resulted in Libya's ultimate surrender of the majority of its nuclear and biological weapons' stockpiles in December 2003. For the most part, the IC correctly assessed that, while taking refuge in Afghanistan, bin Laden's terrorist organization did not possess a nuclear device or a significant chemical or biological weapons program. Neither collection effort, however, was without its weaknesses. Though the IC correctly evaluated Libya's nuclear and missile programs, it produced less accurate analyses of the country's chemical and biological programs. The commission found that analysts equated procurement (acquiring the required materials) with actual weaponization of material, which Libya had yet to achieve. This led to an overestimation of Libya's actual chemical and biological weapons capabilities. In Afghanistan, the lack of human intelligence, together with technical challenges involved in accurately monitoring biological and chemical weapons procurement, led analysts to underestimate the sophisticated level of research and development of WMD undertaken by al-Qaeda. Nevertheless, the commission surmised that intelligence collection efforts

on Libya and Afghani/al-Qaeda weapons procurement were much closer to the mark than similar analyses of Iraqi capabilities.

The commission's mandate required it to not only look at past successes and failures in U.S. counter-proliferation efforts. It also instructed the commission to look to the future. Based on interviews regarding intelligence activity in Iraq, Libya, Afghanistan, and other rogue states,⁵¹⁹ the report concluded that the IC was not effectively equipped to monitor biological and chemical weapons production. The WMD Commission found substantial technological collection challenges in identifying and tracking chemical and biological weapons facilities. First, satellite imagery is of limited value as there are few characteristics that distinguish chemical or biological weapons facilities from any other commercial building. Second, the technology and materials used in such weapons programs often have dual-use purposes, meaning the material might also be used for manufacturing legal and benign substances. The report also noted the limited value of signals intelligence (SIGINT) against a highly centralized society like Iraq. Saddam Hussein kept his own small circle of security forces constantly guessing about the state of the country's weapons capabilities. As Hussein's own forces essentially did not know what they did not know, the conversations picked up by SIGINT were of dubious value.

Agencies not only lacked innovative equipment, but also individuals with sufficient authority. The WMD Commission concluded that a lack of effective IC leadership contributed to the community's inability to share information not only across

⁵¹⁹ The classified version included an examination of current counterproliferation efforts toward Iran and North Korea.

agencies but also with senior administration officials. The commission displayed confidence, however, in the reform legislation passed midway through the WMD Commission's deliberations. Congress passed the *Intelligence Reform and Terrorism Act of 2004*, which sought to enhance intelligence community leadership by creating a new post, the Director of National Intelligence (DNI). The reform bill granted the DNI considerably more power to develop and execute an estimated 80 percent of intelligence spending, including the budgets of the CIA, DIA, NSA, NRO, NGIA, and the intelligence shops of the FBI and the Departments of State, Homeland Security, Energy, and the Treasury.

Though the commission supported the new legislation, it remained wary of the law's ability to forge a truly unified community out of the fifteen disparate intelligence agencies. It contended that though the reform legislation provided a framework for a strong director of National Intelligence, the DNI still faces competition from the secretary of defense in terms of budget and acquisitions. It also concluded that the DNI would continue to confront resistance from leadership within individual agencies.

The commission also cited a lack of training and expertise available in the IC's cadre of analysts. In the Libyan case, for example, the commission found that inexperienced and inadequately trained analysts were unable to accurately assess the difference between procurement and the weaponization of such materials. What is more, the IC suffered from a hemorrhaging human talent pool. For example, in 2004 the FBI's WMD Integration and Targeting Unit had been decreased in staff from twenty-six full-

time staff positions the year prior to just two people--the unit coordinator and one analyst.⁵²⁰

The commission touched briefly on the role of homeland counterterrorism centers. It concluded that homeland agencies were inhibited by a drawn-out declassification system and vague threat reporting that filtered down from federal intelligence and law enforcement agencies. One Homeland Security official complained to the commission that the Department of Homeland Security analysts have “no mechanism for getting answers to hot questions they pose to the FBI and the National Counterterrorism Center.”⁵²¹ The commission also briefly mentioned state and local agencies, contending that even if the trickle of information turned into a free-flow, state and local agencies in particular were ill-prepared to receive an influx of intelligence data.⁵²²

The WMD Commission’s report offered seventy-four recommendations (seventeen of which remain classified) meant to right the intelligence wrongs of the past. Like the previous case studies, the commission’s final recommendations also produced a set of winners and losers out of the stakeholders examined in this study.

Department of Defense: “*Loser*”

The WMD Commission dressed down several elements of the Defense Department’s counterterrorism units. It found the Army’s National Ground Intelligence Center (NGIC) analysis of the aluminum tubes heading for Iraq to be “completely

⁵²⁰ WMD Commission, chap. 4, p. 297.

⁵²¹ WMD Commission, chap. 10, p. 25.

⁵²² WMD Commission, chap. 4, p. 287.

wrong,”⁵²³ and criticized the center for displaying “a disturbing lack of diligence and technical expertise.”⁵²⁴ The commission also faulted the NSA for agreeing with the NGIC’s position, as well as for relying on data collected from limited signals capabilities.⁵²⁵ But the agency most adversely affected by the commission’s recommendations was the Defense Intelligence Agency (DIA).

The commission concluded the DIA “had a responsibility to make sure that its bad source did not continue to pollute policy judgments; DIA did not fulfill this obligation.”⁵²⁶ It blamed the agency for allowing Secretary of State Powell to rely on inaccurate intelligence in his speech before the United Nations Security Council, “even though a Defense HUMINT official was present at the coordination session at CIA held before the speech.”⁵²⁷ And it further found that its HUMINT department’s reporting was “a major failure in operational tradecraft.”⁵²⁸

Because of its poor human intelligence collection efforts the WMD Commission felt that the DIA should relinquish a significant amount of control over such operations. Consequently, the commission recommended that the CIA have coordination control over the DIA’s human intelligence component. It proposed that “a new Human Intelligence Directorate be created within the CIA and that it be given the lead in coordinating the full spectrum of human intelligence activities.”⁵²⁹ It also found that the DIA, “lacks the staff,

⁵²³ WMD Commission, chap. 1, p. 66.

⁵²⁴ WMD Commission, appendix B, 562.

⁵²⁵ The majority of the commission’s discussion on the NSA’s role in faulty intelligence collection was not disclosed in the classified report. See WMD Commission, chap. 1 p. 164.

⁵²⁶ WMD Commission, chap. 1, p. 48.

⁵²⁷ WMD Commission, chap. 1, p. 109-110.

⁵²⁸ WMD Commission, appendix B, 558.

⁵²⁹ WMD Commission, chap. 7, p. 367.

budget, and authority to control the development and deployment of MASINT systems.”⁵³⁰ Instead of proposing ways to strengthen DIA’s capabilities, the WMD Commission recommended dividing the DIA’s measurement and signals intelligence (MASINT) responsibilities between the DIA, CIA, NGA, and other agencies, with lead coordination control given to the new Office of the Director of National Intelligence (ODNI), urging that the DoD’s requirements for national collection be, “funneled *through*, not around, the DNI’s integrated collection enterprise.”⁵³¹ Though the commission recognized that its recommendations would, “leave affected agencies unhappy,”⁵³² it nevertheless argued that the current structure allowed agencies to function autonomously, making it impossible to effectively coordinate.

The commission did offer a small concession to the DoD. It proposed giving the Counterintelligence Field Activity (CIFA) agency broader discretion and authority over department wide counterintelligence operations. The move would further wrest valuable turf from the DIA among other DoD agencies that were responsible for their own counterintelligence missions.

If implemented, the commission’s recommendations would have triggered significant changes within the DoD. The DIA in particular stood to lose operational control over a large portion of its turf to the CIA and ODNI. As the section regarding the NSA’s role remains classified, it is not possible to determine whether the agency would stand to lose a discernable amount of turf or responsibility for counterterrorism operations.

⁵³⁰ WMD Commission, chap. 7, p. 377.

⁵³¹ WMD Commission, chap. 6, p. 333.

⁵³² WMD Commission, chap. 6, p. 316.

Nevertheless, because the recommendations would initiate a substantial shakeup in the DoD's intelligence collection responsibilities, the DoD is considered a loser in the WMD Commission's outcomes.

CIA: "*Winner*"

The commission also strongly criticized the CIA, and proposed giving some of the agency's intelligence responsibilities to the newly established DNI. The commission noted a number of agency problems including its failure to rigorously vet its human assets (e.g., Curveball); cease its risk averse behavior; penetrate closed societies such as North Korea, Iran, and Iraq; and effectively coordinate with other human intelligence units detailed from the DIA and FBI. As a result, the commission endorsed the creation of a National Counter-proliferation Center under DNI leadership. The new entity would absorb an existing CIA unit responsible for tracking proliferation activity.

Despite endorsing a DNI-led Counter-proliferation Center, the CIA managed to maintain a relatively strong counterterrorism role. The commission commended the CIA on past human intelligence efforts, acknowledging its role in discovering A.Q. Khan's nuclear proliferation network, as well as other cold war successes against the former Soviet Union. Though the commission acknowledged the CIA's failure to properly vet Curveball, it nevertheless displayed confidence in the agency's HUMINT capabilities, by recommending the creation of the aforementioned Human Intelligence Directorate within the CIA, which would have exclusive coordination (though not operational) authority over the intelligence community's international human intelligence operations, including the FBI and DoD. It also proposed that the CIA train human intelligence officers from

other agencies (particularly the DIA) in the art of human asset validation. “The CIA--with a network of case officers around the globe--is uniquely situated to perform this function, and its power to insist on such coordination should be reaffirmed.”⁵³³ The commission further recommended that the CIA take the lead in a newly created Open Sources Directorate, responsible for the collection and coordination of IC-wide open source information. Additionally, and despite resistance from the FBI, the commission contended that the CIA should maintain its ability to conduct (within legal limits) intelligence operations within the United States.

The WMD Commission chastised the CIA for a series of intelligence misfires. But its decision to give the agency a substantial lead role in counterterrorism efforts signaled an important win for one of the agencies at the forefront of complaints about pre-war intelligence in Iraq.

Department of Justice: “*Loser*”

The commission believed that the FBI’s ability to build an effective intelligence capability was “still in doubt.”⁵³⁴ The commission endorsed a plan to give more authority to the newly established Director of National Intelligence over the FBI’s intelligence components. It proposed instituting a new National Security Service, which would pool all of the agency’s intelligence-related units under one assistant director. Though the new service would be housed within the FBI, it would be subject to the coordination and budget authority of the DNI. Additionally, its assistant director would not answer to the director of the FBI, but to the DNI. What is more, the commission advocated giving the

⁵³³ WMD Commission, chap. 7, p. 368.

⁵³⁴ WMD Commission, chap. 10, p. 451.

DNI a say in the appointment of the FBI's top intelligence official who would be in charge of the new office and report directly to the DNI. The office would essentially emasculate the director of the FBI by giving the DNI authority over budgetary, personnel, and collection activities of intelligence-related elements of the FBI.

The commission also examined whether the FBI should be the sole agency responsible for domestic intelligence collection. It argued that the agency's tendency to protect its turf had led to "unnecessary turf battles with the CIA."⁵³⁵ The CIA had been conducting domestic intelligence operations, which, the FBI claimed, created redundancy and threatened the FBI's ability to effectively cull its leads. The commission sympathized with the agency, recognizing that "the FBI will struggle to get its analytic cadre where it needs to be, in part because the Bureau must compete with other, better-established analytical entities within the Intelligence Community."⁵³⁶ But the report nevertheless supported the continuation of nonintrusive domestic intelligence-gathering by the CIA.

The FBI failed to convince the WMD Commission that the agency was capable of conducting the domestic intelligence collection alone. And the commission's recommendations would permit outside officials to dictate over coveted domestic turf. As such, the DoJ's primary intelligence gathering agency, the FBI, emerged a loser in the commission's final outcomes.

Congress: "*Loser*"

⁵³⁵ Ibid.

⁵³⁶ WMD Commission, chap. 10, p. 455.

The WMD Commission acknowledged its hesitancy in tackling Congress, stating, “As a commission established by the President, we tread onto the terrain of congressional reform with some trepidation.”⁵³⁷ It nevertheless proposed a series of reforms for the oversight body. It echoed the recommendations of the Hart-Rudman, Bremer, and 9/11 Commissions to consolidate the intelligence committee/subcommittee structure. It went further by suggesting limiting intelligence committees’ roles to “strategic oversight” rather than micromanaging “the crisis or scandal of the day.”⁵³⁸ The commission also proposed eliminating the committees’ ability to micromanage intelligence funding. It argued that the current system, which requires intelligence agencies to submit supplemental funding requests throughout a given year, reduces the IC’s ability to build comprehensive programs and operations. Instead, it suggested that the “Congress and the President develop annual budgets that include the Intelligence Community’s needs for the entire year and better allow planning for future years.”⁵³⁹ Doing so would wrest key sources of power away from individual intelligence committees responsible for separate areas of intelligence spending. Additionally, the commission recommended reorganizing budget jurisdiction in both the House and Senate (currently only the House enjoys full budget jurisdiction).⁵⁴⁰ While Senate intelligence committees might welcome the proposed expansion of budget jurisdiction, the House would most likely resist.

⁵³⁷ WMD Commission, chap. 6, p. 337.

⁵³⁸ Ibid.

⁵³⁹ Ibid.

⁵⁴⁰ WMD Commission, chap. 6, p. 338.

The commission freely intruded on sacred congressional ground by proposing recommendations that struck at the core of bureaucratic control by various intelligence committees. As a result, Congress emerged a loser in the WMD Commission's outcome.

State Department: "*Winner*"

The commission displayed confidence in the State Department's past counter-proliferation efforts. The commission found that the department's Bureau of Intelligence and Research (INR) was one of the few agencies to question evidence regarding Iraq's alleged possession of biological weapons and the use of aluminum tubes for building centrifuges. The commission offered just two recommendations meant to bolster the State Department's counter-proliferation role. The report encouraged the State Department to forcefully persuade foreign governments to enforce stringent laws against the possession and weaponization of biological pathogens. It also charged State to further strengthen bilateral ship-boarding agreements to better track and tag suspect and potentially harmful international shipments. As the commission recognized the important counter-proliferation role played by State, and did not make recommendations that would seize the department's turf or resources, the State Department should be considered a winner in the WMD Commission's findings.

Department of Homeland Security: "*Loser*"

As the last line of defense against a nuclear, biological, or chemical attack, the commission highlighted the critical national security role played by the Department of Homeland Security. Yet it found a critical flaw in the new department's handling of information. The commission criticized the department for holding on to antiquated laws

that stifle the information-sharing process. In particular, the commission disparaged the Department for operating under an old Treasury Order (T.O. 113-01), which requires the intelligence community to submit for approval all requests for information in writing, and to the secretary of treasury. It argued that such policies slow down the collaboration process and allow department employees to covet information not for security purposes, but for fear that other agencies might seize their turf: “Some law enforcement agents at Homeland Security have expressed unwillingness to share operational information out of concern that other agencies might seek to ‘steal’ their cases.”⁵⁴¹ The commission found it “highly disappointing that such a barrier to communication between law enforcement and intelligence agencies has survived in a department created to avoid the mistakes and miscommunications that led to the September 11 attacks.”⁵⁴² It therefore recommended that Treasury Order 113-01 be rescinded. As the commission’s proposal would make it more difficult for agency employees to hide behind antiquated laws in efforts to protect their turf, the agency emerged a loser in the report’s final outcome.

Private Sector: “*Unknown*”

Unlike the commissions previously examined, the WMD Commission chose to keep its recommendations regarding specific types of technological intelligence collection improvements tightly vested. “These technologies cannot be discussed in detail in an unclassified report.”⁵⁴³ It stopped short of discussing current technical

⁵⁴¹ WMD Commission, chap. 10, p. 491.

⁵⁴² WMD Commission, chap. 10, p. 492.

⁵⁴³ WMD Commission chap. 7, p. 374.

capabilities, or how such technologies might be improved upon, and whether the government should call on the private sector to do so.

The only specific reference to private sector industry focused on the expertise of the biotechnology sciences. The commission recommended the establishment of a not-for-profit research center that would employ and draw on the knowledge of the nation's top academic and bioscience experts, who have access to valuable knowledge but are less willing to work at government pay scales.⁵⁴⁴ Because the WMD Commission preferred not to reveal specifics about the methods or technologies it endorsed, it is only possible to make assumptions about the types of private sector companies that might benefit from recommendations. As such, the status of private sector stakeholders in the commission's final outcomes remains unknown.

Advocate Stakeholders: "*Losers*"

Civil liberties advocate stakeholders clearly lost on a number of fronts. From the outset, the commission rejected demands by advocates to open more of the commission process to the public, leading one such group to sue for access to unclassified details of the commission's work. Advocate stakeholder groups also publicly criticized the appointment of the commission's co-chair, Laurence Silberman. The liberal advocacy group, People for the American Way, accused Silberman of being the "the most partisan and most political federal judge in the country," saying that his appointment to the WMD Commission was "stunning and disgraceful."⁵⁴⁵ Yet, unlike advocate stakeholder groups in the 9/11 commission case (at to some extent the Bremer Commission), advocates

⁵⁴⁴ WMD Commission, chap. 13, pp. 510-515.

⁵⁴⁵ "The Partisan 'Mastermind' in Charge of Bush's Intel Probe," www.Salon.com, February 10, 2004.

interested in the WMD Commission were unable to influence the makeup of the commission roster.

Additionally, a number of key recommendations aroused concern by civil liberties groups including proposals that: supported loosening restrictions on domestic spying and extended the ninety-day limit on surveillance to a full year period; endorsed making more open source information secret; and recommended that the DNI be given more authority over the FBI's domestic intelligence activities. By requiring the domestic arm of FBI intelligence to report directly to the DNI instead of to the director of the FBI, the new director of National Intelligence could completely circumvent oversight procedures embedded in the legal system, advocates argued. As American Civil Liberties Union representative Timothy Edgar said, "Spies and cops play different roles and operate under different rules for a reason. ...The FBI is effectively being taken over by a spymaster who reports directly to the White House."⁵⁴⁶ Such recommendations would essentially erode civil liberties at the expense of national security.

The WMD Commission came down on the opposite side on issues of importance to civil liberties advocates. As such groups lost considerable ground in the commission's final outcomes, advocate stakeholders ultimately lost in the WMD Commission report.

White House: "*Winner*"

The White House was the primary winner in the WMD Commission's findings as it was able to shield itself from increasing criticism over policy failures leading up to the invasion of Iraq. Critics accused the Bush administration of two major mistakes in its

⁵⁴⁶ "Bush Approves Spy Agency Changes," *Washington Post*, June 30, 2005.

handling of pre-war intelligence. First, administration officials made misleading public statements about Iraq's weapons capabilities to build up public support for war in Iraq. Second, administration officials exerted undue pressure on intelligence analysts to produce assessments that fit a specific policy agenda.

“By early March, 2002, ...the President, in his own mind, had decided to go to war against Iraq.”⁵⁴⁷ Seymour Hersh was but one critic to raise serious questions about whether the Bush administration overstated the threat posed by the Iraqi regime as it made the case for going to war. A former senior-level CIA analyst who oversaw intelligence assessments in the Middle East concurred: “It has become clear that official intelligence analysis was not relied on in making even the most significant national security decisions, that intelligence was misused publicly to justify decisions that had already been made.”⁵⁴⁸ Critics based their accusations on a series of unequivocal public statements by the Bush administration about the impending threat posed by Iraq. In a September 12, 2002 speech before the UN General Assembly President Bush warned the international community of Iraq's intentions to build up its nuclear arsenal: “Iraq has made several attempts to buy high-strength aluminum tubes used to enrich uranium for a nuclear weapon;”⁵⁴⁹ In the 2003 State of the Union Address, the President informed the nation, “The British government has learned that Saddam Hussein recently sought

⁵⁴⁷ Seymour Hersh, “The Stovepipe: How Conflicts Between the Bush Administration and the Intelligence Community Marred the Reporting on Iraq's Weapons,” *New Yorker*, October 20, 2003.

⁵⁴⁸ Paul Pillar, “Intelligence, Policy, and the War in Iraq,” *Foreign Affairs*, 85, no. 2 (March-April 2006).

⁵⁴⁹ “President's Remarks at the United Nations General Assembly,” Remarks by the President in Address to the United Nations General Assembly, September 12, 2002; <http://www.whitehouse.gov/news/releases/2002/09/20020912-1.html>.

significant quantities of uranium from Africa;”⁵⁵⁰ A speech addressing the nation on March 17, 2003, by the president had concluded by saying that “Intelligence gathered by this and other governments leaves no doubt that the Iraq regime continues to possess and conceal some of the most lethal weapons ever devised.”⁵⁵¹

Senior officials further supported the president’s convictions. Secretary of Defense Donald Rumsfeld assured the public in a March of 2003 speech that “we know where they [weapons of mass destruction] are. They’re in the area around Tikrit and Baghdad and east, west, south, and north somewhat.”⁵⁵²

A month before the war began in March 2003, Secretary of State Colin Powell made the case before the UN Security Council:

Iraq's behavior demonstrate[s] that Saddam Hussein and his regime have made no effort--no effort--to disarm as required by the international community. Indeed, the facts and Iraq's behavior show that Saddam Hussein and his regime are concealing their efforts to produce more weapons of mass destruction.⁵⁵³

Secretary Powell affirmed to the international body that “every statement I make today is backed up by sources, solid sources. These are not assertions. What we're giving

⁵⁵⁰ “President Delivers State of the Union,” January 28, 2003; <http://www.whitehouse.gov/news/releases/2003/01/20030128-19.html>.

⁵⁵¹ “President Says Saddam Must Leave Iraq Within 48 Hours,” Remarks by the President in Address to the Nation, March 17, 2003; http://www.whitehouse.gov/news/releases/2003/03/images/20030317-7_addressphoto-515h.html.

⁵⁵² Secretary of Defense Donald Rumsfeld’s Interview on ABC’s *This Week with George Stephanopoulos*, March 30, 2003.

⁵⁵³ Remarks to the United Nations Security Council, Secretary Colin L. Powell, New York, February 5, 2003; <http://www.globalsecurity.org/wmd/library/news/iraq/2003/iraq-030205-powell-un-17300pf.htm>.

you are facts and conclusions based on solid intelligence.”⁵⁵⁴ Yet critics argued that policymakers’ conclusions were not based on solid, finished intelligence, but rather on raw intelligence data carefully selected because it agreed with the administration’s policy position.

Administration officials themselves acknowledged that they had bypassed traditional intelligence filtration, which allowed only polished intelligence to reach senior officials. By going directly to the source, policymakers argued, they were trying to access a free flow of information. In an interview with journalist Seymour Hersh, Undersecretary of State for Arms Control John Bolton explained that he had changed the procedures for handling intelligence in an effort to extend the scope of the classified materials available to his office:

I found that there was lots of stuff that I wasn’t getting and that the INR analysts weren’t including. ...I didn’t want it filtered. I wanted to see everything--to be fully informed. If that puts someone’s nose out of joint, sorry about that.⁵⁵⁵

Bolton’s description might be viewed as a noble attempt by decisionmakers to take a more hands-on approach to understanding the threat environment. Hersh’s response to Bolton’s explanation, however, was far from forgiving:

⁵⁵⁴ Ibid.

⁵⁵⁵ Seymour Hersh, “The Stovepipe: How Conflicts between the Bush Administration and the Intelligence Community Marred the Reporting on Iraq’s Weapons,” *New Yorker*, October 20, 2003

The point is not that the President and his senior aides were consciously lying. What was taking place was much more systematic--and potentially just as troublesome. ... What the Bush people did was dismantle the existing filtering process that for fifty years had been preventing the policymakers from getting bad information. They created stovepipes to get the information they wanted directly to the top leadership.⁵⁵⁶

Despite mounting criticism about the executive branch's handling of pre-war intelligence, the WMD Commission found no conclusive proof to fault the White House. The report stated the following:

The commission found no evidence of political pressure to influence the Intelligence Community's pre-war assessments of Iraq's weapons programs. ... Analysts universally asserted that in no instance did political pressure cause them to skew or alter any of their analytical judgments. We conclude that it was the paucity of intelligence and poor analytical tradecraft, rather than political pressure that produced the inaccurate pre-war intelligence.⁵⁵⁷

The WMD Commission based its judgments on a 2003 report from the CIA's own ombudsmen for politicization and on interviews with analysts who had come into direct contact with senior policymakers. The CIA report declared that there was no evidence

⁵⁵⁶ Ibid.

⁵⁵⁷ WMD Commission, chap. 1, p. 51.

that the CIA's Iraq assessments were based on political pressure or manipulation of information. Yet intelligence experts and former CIA analysts who worked on Iraq have questioned the office's ability to effectively communicate potential politicization.⁵⁵⁸ Critics also argued that the WMD Commission would not get an accurate picture of the environment surrounding analysts because analysts would likely resist admitting they succumbed to politicization of their work: "It is unlikely that analysts would ever acknowledge that their own judgments have been politicized, since that would be far more damning than admitting more mundane types of analytic error."⁵⁵⁹ Whether or not claims about the administration's pre-Iraq War public rhetoric had merit, critics remain skeptical that the WMD Commission pursued the allegations with rigor.

But the commission cannot be faulted for failing to aggressively scrutinize the White House, as the executive order establishing the commission did not require the commission to investigate potential policy failures in the commission's mandate. The report reminded its readers: "We were not authorized to investigate how policymakers used the intelligence assessments they received from the Intelligence Community."⁵⁶⁰

The report continued:

Our review has been limited by our charter to the question of alleged policymaker pressure on the Intelligence Community to shape its conclusions to conform to the policy preferences of the administration. There is a separate issue of how

⁵⁵⁸ See Rahul Mahajan, "WMD Commission: Yet Another Intelligence Failure," *Counterpunch* 2005; David Corn, "WMD Commission Stonewalls," *Nation*, April 4, 2005; Paul Pillar, "Intelligence, Policy and the War in Iraq," *Foreign Affairs*, vol.85, April 2006.

⁵⁵⁹ Paul R. Pillar, "Intelligence, Policy, and the War in Iraq," *Foreign Affairs*, 85, no.2 (March-April 2006).

⁵⁶⁰ WMD Commission, Overview of the Report, p. 24.

policymakers used the intelligence they were given and how they reflected it in their presentations to Congress and the public. That issue is not within our charter and we therefore did not consider it nor do we express a view on it.⁵⁶¹

As the WMD Commission’s mandate absolved its members from investigating critics’ claims, the White House managed to escape official criticism, marking the White House as one of the clearest winners, by default, in the outcomes of the WMD Commission’s report.

In sum, the WMD Commission report produced the following winners and losers out of the national security stakeholder groups studied in this project.

Chart 12.1 WMD Win/Lose Chart

Stakeholder Group	Status
White House	Win
Congress	Win
State Department	Win
CIA	Win
Homeland Agencies	Lose
Advocates	Lose
DoJ	Lose
DoD	Lose
State and local	N/A
Private Sector	Unknown

⁵⁶¹ WMD Commission, chap. 1, p. 204, n. 830.

Which groups had access to the commission process? The study predicts that if the commission process took place absent public scrutiny, the winners had significant access to the commission and were therefore able to establish important interest alliances that helped them influence the debate. Losing groups should have had less access, and therefore limited opportunity to influence outcomes.

Chart 12.2 WMD Win/Lose Chart Predicted Access

Stakeholder Group	Status	Predicted Access
White House	Win	Win
Congress	Win	Win
State Department	Win	Win
CIA	Win	Win
Homeland Agencies	Lose	Low
Advocates	Lose	Low
DoJ	Lose	Low
DoD	Lose	Low
State and local	N/A	N/A
Private Sector	Unknown	Unknown

The next chapter examines the amount of public scrutiny afforded the WMD Commission and the stakeholders who accessed the commission process.

Chapter Thirteen

WMD Commission: Case Study Analysis

After twenty-six commission meetings and interviews with government officials, military personnel, and private citizens, the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction submitted its report to the president on March 31, 2005. The report determined that the intelligence community “was dead wrong” in most of its pre war intelligence, and consequently bore the brunt of the blame for events leading up to the U.S.-led invasion of Iraq in 2003. Yet the manner in which the commission came to its conclusions has left outsiders skeptical about the comprehensiveness of its efforts. Critics were alarmed that the WMD Commission process took place without a significant amount of public scrutiny, leaving many to wonder whether the lack of accountability affected the commission’s final outcomes. They also disparaged the commission for largely sidestepping an investigation into allegations that the White House distorted prewar intelligence to make the case for war against Iraq.

This chapter examines the amount of public scrutiny the WMD Commission experienced, measured by how accessible the commission process was to outsiders and the amount of media coverage produced. It analyzes the background affiliations of commission participants, and includes the observations of one commissioner who agreed to be interviewed for this study. As with the previous cases, if the WMD Commission lacked significant public scrutiny, the study seeks to determine whether the same

stakeholders groups who managed wins in the final report were also able to access the commission process.

Public Scrutiny

The executive order establishing the WMD Commission required that its members adopt strict procedures regarding access to information. Prior to releasing any information including physical location, communications, documents, or the name of personnel, the commission was to first consult with the secretary of defense, the attorney general, and director of Central Intelligence. The president, however, had the ultimate word on accessibility, as the executive order stated: "The President may at any time modify the security rules or procedures of the commission to provide the necessary protection."⁵⁶²

The WMD Commission obeyed from the outset by announcing that its work would be conducted behind closed (and unidentifiable) doors. In its only publicly accessible forum, the commission's website explained that "due to the sensitive nature of our work, which concerns highly classified matters of national security, these meetings are not open to the public."⁵⁶³ Former defense official and commission member Walter B. Slocombe described the commission's pledge to keep the commission out of public view: "We and the staff have made a commitment in blood not to discuss the report in advance."⁵⁶⁴ Even the location of its proceedings was kept under lock and key. Commission counsel Stewart Baker described the location of the offices to be contained

⁵⁶² Executive Order Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, February 6, 2004.

⁵⁶³ See the commission's official website: www.wmd.gov.

⁵⁶⁴ "Panel Criticizes CIA for Failure on Iraq Weapons," *New York Times*, March 29, 2005.

“within a Sensitive Compartmentalized Information Facility (SCIF).”⁵⁶⁵ Commission spokesman Larry McQuillan reiterated, “To say it’s a super secret, super secure area is an understatement.”⁵⁶⁶ From the location of its proceedings, to the names of most of its witnesses, to the financial reports of its members,⁵⁶⁷ details of the WMD Commission’s fourteen-month-long process were kept secure.

The commission’s website further stated, however, its commitment to keep the procedure as accessible as possible: “We nonetheless intend to keep the public informed of our work, and as we progress we welcome public input and comment.”⁵⁶⁸ Yet outsiders remained skeptical of the commission’s sincerity. Advocate stakeholder groups complained about the ambiguous nature of the information released on the commission’s website. The information dealt with procedural rather than substantive issues, such as welcoming a new member:

We are pleased to welcome Walter B. Slocombe as a member of the commission. Walt brings a wealth of relevant defense and national security expertise to the commission, and will be an invaluable asset as we press forward with our inquiry.⁵⁶⁹

⁵⁶⁵ “Pep Talk Fails to Meet Expectations,” *Washington Post*, May 21, 2004.

⁵⁶⁶ “WMD Commission to Hold First Hearing,” *Washington Post*, May 14, 2004.

⁵⁶⁷ “Intelligence Panel’s Finances Will Stay Private,” *New York Times*, February 14, 2004.

⁵⁶⁸ See press releases at <http://www.wmd.gov/pr.html>, May 26, 2004.

⁵⁶⁹ See press releases at <http://www.wmd.gov/pr.html>, July 14, 2004. Commissioner Slocombe was selected after Commissioner Cutler stepped down after just a few sessions due to health reasons. Cutler died in May 2005.

In addition to announcing new members, the website described meetings with senior policymakers in vague detail:

Secretary of State Colin Powell met with the commission on December 16 to provide his views and perspectives of the Intelligence Community. Stephen Hadley, Deputy National Security Advisor, met with the commissioners on December 17 to discuss a wide range of intelligence and policy issues.⁵⁷⁰

The commission continued to provide ambiguous detail by only listing the general topics discussed by participants:

Throughout the three-day meeting, commissioners received more than a dozen briefings from the commission's working groups on a full range of intelligence topics and issues. Additionally, the commissioners reviewed and discussed a proposed framework that will guide the preparation of the commission's report in the upcoming months.⁵⁷¹

Though the website stated that participants' views and the framework to be used would be discussed, it did not provide substantive description of what those views or the framework might be. Unsatisfied by vague procedural descriptions, advocate groups further pressed the commission to release all unclassified documents. In communications with the WMD Commission's counsel, the National Resources Defense Council

⁵⁷⁰ See press releases at <http://www.wmd.gov/pr.html>.

⁵⁷¹ Ibid.

questioned the commission's commitment to the 1972 FACA laws that require that all "the records, reports, transcripts, minutes, appendices, working papers, drafts, studies, agenda (and) other documents which were made available to or prepared for or by each advisory committee" be made available to the public.⁵⁷² The WMD Commission responded by providing a public reading room for access to additional unclassified documents. In addition, the Center for Arms Control and Non-Proliferation complained that because the address of the commission's location was not disclosed, they were unable to contribute to the intelligence debate through written testimony.⁵⁷³ The nonprofit organization grew frustrated and eventually sued the commission for non-compliance with the disclosure requirements of the FACA laws.⁵⁷⁴

The WMD Commission maintained its silence until the completion of its work, when it published a 692-page report of its unclassified findings. Though similar in style to the book published by the 9/11 Commission, the WMD report received considerably less fanfare; it did not make any best-seller lists, like its predecessor did. In a further comparison, the same year the WMD report was released, former senior counterterrorism policy official Richard Clarke's version of pre-Iraq war intelligence, *Against All Enemies: Inside America's War on Terror*, not only topped numerous best-seller lists, but

⁵⁷² The complaint was filed by the Center for Arms Control and Non-Proliferation. See <http://www.fas.org/sgp/jud/wmdfaca.pdf>.

⁵⁷³ The advocate stakeholder group sued the commission for not adhering to FACA laws requiring that commissions publish unclassified materials. See "WMD Commission Sued over Public Access," *United Press International*, April 26, 2005.

⁵⁷⁴ As of this writing the case is still pending.

was also optioned for a movie deal by Sony Pictures.⁵⁷⁵ The WMD Commission was afforded no such attention.

A Lexis Nexis search of major newspapers from the initial announcement of the commission's establishment in February 2004 until now (July 2006) produced a combined 78 articles referring to the commission's formal title, "the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction," or to one of two popular informal titles, the "WMD Commission" and the "Silberman Robb Report." Critics still warned that the closed-door policy of the WMD Commission meant it would be difficult to effectively draw in the general public. The *Denver Post* noted:

The Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction invites distrust. With few exceptions, its meetings have been secret, its hearings held behind closed doors, and its few terse press releases are notable mostly for lack of detail or meaningful exploration of the issues. Many Americans, in fact, may not know that the commission even exists-- although Vice President Dick Cheney said this weekend on Fox News that the WMD Commission is "one of the most important things going forward today."⁵⁷⁶

⁵⁷⁵ See "Sony Purchases Movie Rights to Richard Clarke's Book," *USA Today*, March 10, 2004. Clarke's account of pre war intelligence is found in his book, *Against all Enemies: Inside America's War on Terror* (New York: Free Press 2004).

⁵⁷⁶ "What WMD Commission?" *Denver Post*, February 8, 2005.

If media references serve as any indication of the general public’s interest in the commission’s work, the commission failed to capture an audience. Despite the 9/11 attacks and the ongoing war in Iraq, the WMD Commission was not placed in bold relief. At least a partial explanation is that the commission process was set up to ensure that the commission could work in virtual isolation. Given the secretive nature of the commission process, how can outsiders be assured that the WMD Commission produced a fully informed, accurate, and objective report of the state of U.S. intelligence post-9/11? Was the isolated environment enough to limit public scrutiny, while creating a suitable breeding ground for interest politics to take shape? If so, we might predict the following level of access by stakeholder groups based on the win/lose categorizations from the previous chapter.

Chart 13.1 WMD Win/Lose Chart Predicted Access Revisited

Stakeholder Group	Status	Predicted Access
White House	Win	Win
Congress	Win	Win
State Department	Win	Win
CIA	Win	Win
Homeland Agencies	Lose	Low
Advocates	Lose	Low
DoJ	Lose	Low
DoD	Lose	Low
State and local	N/A	N/A
Private Sector	Unknown	Unknown

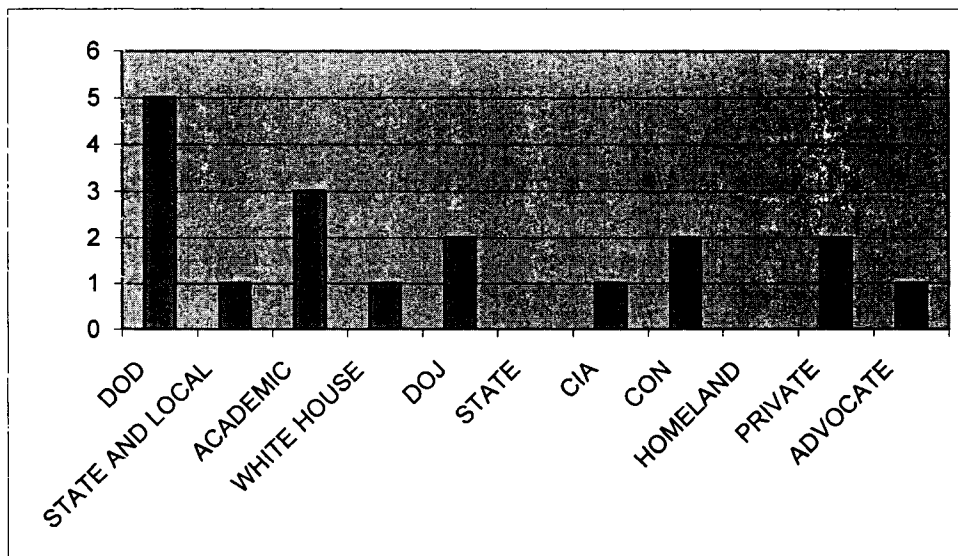
The following section examines more closely the commission’s participant affiliations to determine the range of stakeholder groups who managed to access the discussion. It further draws on participant observations and publicly accessible

documents to determine whether or not personal or professional gains were tied to the commission's final conclusions.

Commissioner Credentials

The president appointed all ten of the WMD Commission's members.⁵⁷⁷ The following chart summarizes their combined credentials based on the brief biographies provided in the commission's final report.

Chart 13.2 WMD Commissioner Credentials



The chart indicates that five commissioners (45%) had prior backgrounds at the DoD. Three members (27%) had substantial experience in academia. Two members (18%) worked under the jurisdiction of the DoJ. An additional two members (18%) served in Congress (one former, one incumbent). With 1 each (9%), there were an equal

⁵⁷⁷ The president technically appointed 11 individuals to the commission. Due to health concerns, one commissioner was replaced.

number of members with experience at the State Department, in state and local government, the White House, and the CIA. As for related experience outside of government, according to the published biographies, one member (9%) was affiliated with advocate stakeholder organizations concerned with government transparency and human rights law. Two members (18%) had private sector experience at technology-related companies. No standing members had experience at any homeland security agency.

This study posits that a stakeholder group's win/lose status should reflect the group's ability/inability to access the commission. However, the hypothesis does not appear to predict stakeholder access in terms of the WMD Commissioner list. The Defense Department lost significant turf in the report's recommendations, yet five out of ten commission members had prior DoD experience. Commissioner William O. Studeman served over ten years combined between Naval Intelligence and the NSA. Most of Commissioner Henry Rowen's government service took place within the Office of the Secretary of Defense. Walter Slocombe held several high-level positions at the Pentagon, including undersecretary of defense for policy in the Clinton administration. Senator John McCain was a decorated war veteran and former POW, currently serving on the Senate Armed Services Committee. Former Senator Charles Robb served in the Marines in the 1960s, and remained a member of the Marine Corps Reserve until 1991.

In contrast, the CIA emerged with important wins in the report, though only one commissioner, William Studeman, had ever had considerable professional experience at

the agency.⁵⁷⁸ The commissioner interviewed for this study further acknowledged that Studeman was “the only real insider” with any intelligence experience to speak of at all.⁵⁷⁹ Nevertheless, the CIA was not only able to retain the bulk of its counterterrorism responsibilities but also take on an enhanced role in human and open source intelligence collection activities. The State Department also emerged as a winner, though only one commissioner had ever worked at the State Department. While the CIA and State managed wins with one representative each, advocates lost, though one commissioner had been affiliated with advocate groups prior to serving on the commission. Congress was unable to stave off considerable structural reforms, despite the fact that two commission members had served in Congress, one of whom was still in office.

If past affiliations were not enough to produce a consistent relationship between access and outcomes, perhaps members’ current professional interests came into play. During and up to two years following the end of the commission, at least four commissioners were linked to private sector companies that might benefit from recommendations supporting high-tech national security products. Both during and after his time on the commission, William Studeman worked as vice president and deputy general manager of homeland security activities at defense contractor Northrop Grumman. Commissioner Charles M. Vest sat on the board at IBM, a high-tech company with its own homeland security contracts division.⁵⁸⁰ Vest also served on the board of

⁵⁷⁸ Henry Rowen also had limited experience as a member of the National Intelligence Council from 1981 to 1983.

⁵⁷⁹ Personal interview with commissioner, May 3, 2006.

⁵⁸⁰ See “Homeland Security,” <http://www-1.ibm.com/services/us/index.wss/offering/igs/a1005300>, also see “Mississippi Deploys New IBM-Powered Homeland Security System,” <http://www-03.ibm.com/industries/government/doc/content/contact/1136165109.html>.

directors at DuPont. Though a household name for refrigerators and other domestic products, the company is also an active defense contractor. Its website states:

For over 200 years, DuPont has worked tirelessly to meet the needs of Government....from protective vests and helmets, to durable building materials, to apparel that helps guard against chemical and biological agents, DuPont has invested in science and research to create a full range of innovative, best-in-class offerings for government.⁵⁸¹

Since 2003, Commissioner Richard Levin had been on the board of directors at Lucent Technologies, a company specializing in the types of communications technology that might be used by SIGINT analysts at the NSA. Senator Charles Robb was on the board of directors at the MITRE Corporation that same year. Though a nonprofit organization, the company was specifically created to develop new technologies for the Defense Department.

Though several members had professional careers in private sector industries affected by decisions about future national security policies, it is not possible to determine whether or not such stakeholders managed gains, as the commission chose to keep recommendations regarding specific high-tech solutions classified. It is important to note, however, that any private interests might have been counterbalanced by the position of commissioner and congressional incumbent John McCain, an outspoken

⁵⁸¹ See http://www2.Dupont.com/Government/en_US.

supporter of campaign finance reform and a vocal critic of political earmarks. For example, in December 2005 the senator introduced the Lobbying Transparency and Accountability Act of 2005, a proposal to “provide greater transparency into the process of influencing our government, and to ensure greater accountability among public officials.”⁵⁸² The bill would require a more thorough review of lobbyists’ activities and “get behind anonymous coalitions and associations and discover who actually is seeking to influence government.”⁵⁸³

Although the WMD Commission did not provide public transcripts of its deliberations, McCain’s stance against pork-barrel politics may have had an impact on the commission’s final decisions regarding the private sector’s role in future national security strategy decisions. Nevertheless, as the recommendations dealing with tech-related intelligence remained classified, it is simply not possible to determine conclusively if the commission’s outcomes benefited members with defense-related business ties.⁵⁸⁴

In most instances it is less than clear that a strong correlation exists between commissioners’ past or present affiliations and a stakeholder group’s win/lose status. However, one stakeholder group’s agenda was clearly supported by the commission’s membership roster: the White House. By selecting all ten commissioners, there was significant potential for alliances between the Bush administration and commission

⁵⁸² “Senator McCain Introduces Lobbying Reform Bill,” News Center, U.S. Senator John McCain, December 16, 2005, www.mccain.senate.gov/index.cfm?fuseaction=Newscenter.ViewPork&Content_id=1629.

⁵⁸³ Ibid.

⁵⁸⁴ Though one commissioner had extensive experience as White House counsel, the commissioner member died early on in the commission’s proceedings, and therefore could not be considered a major player in the commission’s final outcomes.

members with ideological similarities, or others who might have been awarded professional paybacks.

A deeper examination of commissioner backgrounds reveals that in some cases the president could rely on individuals whose public behavior prior to their appointment to the WMD Commission indicated that they likely would be ideologically allied with the administration. For example, scholars, politicians, and advocate stakeholder groups criticized the president's decision to appoint Judge Laurence Silberman to the WMD Commission, citing evidence that the senior judge was at the center of several controversies defending prior Republican administrations. According to ex-Nixon aide and scholar Kevin Phillips, "Silberman has been more involved with cover-ups in the Middle East than with any attempts to unravel them."⁵⁸⁵ For example, Silberman was accused of participating in the 1980 "October Surprise," a plan by election hopeful Ronald Reagan to strike a deal with the revolutionary government in Iran to confine the U.S. hostages until after the election. The goal was purportedly to ensure that the release of hostages would not influence the upcoming election in favor of incumbent president Carter.⁵⁸⁶ Also during the Reagan presidency, Silberman served on the Court of Appeals, which supported the administration by voiding the convictions of Col. Oliver North and Adm. John Poindexter during the Iran-Contra scandal. Silberman was also accused of furthering the Republican agenda during domestic scandals. Former right-wing journalist

⁵⁸⁵ Michelle Goldberg, "The Partisan 'Mastermind' in Charge of Bush's Intel Probe," Salon.com; <http://dir.salon.com/story/news/feature/2004/02/10/silberman/index.html>.

⁵⁸⁶ See John Prados, "Intelligence Manipulation," www.TomPaine.com, April 4, 2005. See also Lawrence Walsh, *Firewall: The Iran-Contra Conspiracy and Cover-Up*, (1998); Michael Stokes Paulsen, "Hell, Handbaskets, and Government Lawyers: The Duty of Loyalty and Its Limits," *Law and Contemporary Problems*, 61, no. 1, (Winter 1998) 83-106.

and Silberman protégé David Brock describes extreme partisanship behavior by Judge Silberman during the Clinton administration, as Silberman accused President Clinton of “declaring war on the United States” by allowing his presidential aides to attack Independent Counsel Kenneth Starr during his investigation into the Whitewater financial scandal.⁵⁸⁷

Whether or not the allegations of partisanship were true, the claims were enough to prompt critics to call on the president to rescind Silberman’s nomination to the WMD Commission. Based on such accusations, the advocate group, People for the American Way, complained, “After reviewing this criticism, along with Silberman’s own statements, it becomes clear that Silberman is ill-suited for a role on the intelligence commission.”⁵⁸⁸ In a speech before the Senate, Senator Harry Reid (D-Nev) protested, “All one needs to do to understand how this panel is not serious is to look at who is the co-chair of this panel. One of the most partisan people in all America is a man by the name of Judge Silberman.” The senator continued:

This crucial investigation as to what went wrong with our intelligence operations cannot be tainted with any hint of bias or prejudice--and it is. It is not tainted, it is smeared with partisan prejudice because of this man.⁵⁸⁹

⁵⁸⁷ David Brock, *Blinded by the Right: The Conscience of an Ex-Conservative* (2002). See also “Senator Reid on the Independent Commission to Investigate Iraq Intelligence,” *Congressional Record*, February 11, 2004 (Senate) Page S974-S978. For a copy of Silberman’s letter accusing Clinton of “declaring war,” see “Appeals Court on Secret Service Testimony,” *Washington Post*, July 16, 1998.

⁵⁸⁸ “Laurence Silberman: The Right Man or the Right’s Man?” People for the American Way, February 13, 2004, www.pfaw.org/pfaw/general/default.aspx?oid=13902.

⁵⁸⁹ “Senator Reid on the Independent Commission to Investigate Iraq Intelligence,” *Congressional Record*, February 11, 2004 (Senate) Page S974-S978.

By appointing Silberman, Bush appointed an individual with a legacy of protecting Republican administrations under fire. Whether or not the accusations were true, the president's decision to select the semi-retired federal judge raised concerns by skeptics that, in Judge Silberman, the president had chosen a political ally with a reputation as a staunch conservative and devout defender of Republican presidencies.

The president also had an ideological ally in commissioner Senator John McCain (R-Az), whose views in support of preemptive action were on record both prior to and during his appointment to the WMD Commission. For example, in a 2000 GOP debate on Larry King Live, McCain was asked about his stance on policies concerning rogue states:

Iraq, Libya, North Korea--those countries that continue to try to acquire weapons of mass destruction and the means to deliver them. I'd institute a policy that I call "rogue state rollback." I would arm, train, equip, both from without and from within, forces that would eventually overthrow the governments and install free and democratically elected governments.⁵⁹⁰

McCain voted in favor of a 2002 congressional resolution that authorized preemptive attacks against Iraq. He explained his case in a series of public venues,

⁵⁹⁰ "GOP Debate," A Newshour with Jim Lehrer, transcript, February 16, 2000.

including a speech before the Center for Strategic and International Studies in February 2003:

A strategy of containment that tolerates Saddam Hussein's threat by allowing him the means to achieve his ends is a triad of failure: a failure of policy that risks devastating consequences based on hope without cause; an intellectual failure to come to grips with a grave and growing danger' and a moral failure to understand the evil and our obligation to confront it⁵⁹¹

In a March 2003 New York Times op-ed piece McCain stated:

After 12 years of economic sanction, two different arm-inspection forces, several Security Council resolutions and, now, with more than 200,000 American and British troops at his doorstep....only an obdurate refusal to face unpleasant fact--in this case, that a tyrant who survives only by the constant use of violence is not going to be coerced into good behavior by nonviolent means--could allow one to believe that we have rushed to war.⁵⁹²

McCain consistently defended the Bush administration's policies throughout his tenure on the commission. The senator again made clear his view in defense of the Bush

⁵⁹¹ "Remarks by Senator John McCain to the Center for Strategic and International Studies Regarding Iraq," Center for Strategic and International Studies, Policy Forum, February 13, 2003.

⁵⁹² "The Right War for the Right Reasons," *New York Times*, March 12, 2003.

administration's decision to go to war at a security conference in Munich: "The president of the United States, I believe, wouldn't manipulate any kind of information for political gain or otherwise."⁵⁹³ He further expressed his personal views in a 2004 Republican National Convention speech:

Whether or not Saddam possessed the terrible weapons he had and used, he would have acquired them again. The central security concern is to keep such devastating weapons beyond the reach of terrorists who can't be dissuaded from using them by the threat of mutual destruction. We couldn't afford the risk posed by an unconstrained Saddam in these dangerous times. By destroying his regime we gave hope to people long oppressed that if they have the courage to fight for it, they may live in peace and freedom.

McCain continued:

The mission was necessary, achievable and noble. For his determination to undertake it, and for his unflagging resolve to see it through to a just end, Bush deserves not only our support, but our admiration. We are safer than we were on 9/11, but we're not yet safe. We are still closer to the beginning than the end of this fight. We need a leader with the experience to make the tough decisions and

⁵⁹³ "Bush Did Not Manipulate Iraq Intelligence," *Rueters*, February 6, 2004.

the resolve to stick with them; a leader who will keep us moving forward even if it is easier to rest.⁵⁹⁴

Senator McCain not only made clear his views about the Iraq War and the Bush Administration's policies regarding prewar intelligence prior to his selection to the WMD Commission but also publicly expressed his convictions during his service on the commission--well before the commission had completed its full investigation.

McCain was not the only commissioner to express his convictions prematurely. Commissioner Walter Slocombe was also an acknowledged supporter of an aggressive policy toward Saddam Hussein's regime. In a statement before the Senate Armed Services Committee in September 2000, Slocombe, then under secretary of defense for policy, explained his position:

Nearly ten years after the defeat of Iraq's invasion of Kuwait, Saddam Hussein remains a threat to the region and our interests. His efforts to provoke a military confrontation on his terms demonstrate his continuing recklessness and aggressive potential. His efforts to maintain a capability to develop and produce long-range missiles and terror weapons for them to carry make clear that he is a danger to the whole region and indeed the world, not just his immediate neighbors.As a result, the U.S. has, since 1991, joined with our friends and allies to pursue a policy....that has as its objective to contain Iraq and prevent

⁵⁹⁴ Senator John McCain, "Only the Most Deluded of Us Could Doubt the Necessity of This War." Republican Convention speech , August 30, 2004.

renewed aggression, pending the time when a different regime in Iraq is prepared to take the actions necessary for Iraq no longer to be a threat to its neighbors and international security generally.⁵⁹⁵

Slocombe would go on to serve as senior advisor for national defense in the Coalition Provisional Authority for Iraq after the invasion occurred in 2003. His views in support of the war remained consistent upon his return from Iraq and subsequent appointment to the WMD Commission in 2004. For example, he publicly clarified his position in support of the Iraq invasion in the fall of 2004:

I believe, and continue to believe, that for all the things that have turned out different and in many ways more difficult than we expected, that dealing with Saddam, because of his weapons of mass destruction programs, was something we were going to have to do sooner rather than later, and that broadly it was right to do it given that he was not cooperating with inspectors and that it was important to do it.⁵⁹⁶

Based on such public statements before and during the commission's investigation, it appears that President Bush could rely on an ideological alliance with commissioners Silberman, McCain, and Slocombe. The president could also be

⁵⁹⁵ Statement of the Honorable Walter B. Slocombe, under secretary of defense for policy to the Senate Armed Services Committee, September 19, 2000.

⁵⁹⁶ "Rumsfeld's War: Interview with Walter Slocombe," *Frontline*, October 26, 2004 www.pbs.org/wgbh/pages/frontline/shows/pentagon/interviews/slocombe/html.

relatively sure of support from former senator and co-chair Charles Robb, who was one of a handful of Democrats to support a military solution to the Iraq invasion of Kuwait in 1991.⁵⁹⁷ In 2006, after serving on the commission, Robb was appointed to the President's Foreign Intelligence Advisory Board. Though admittedly speculative, the appointment to the prestigious intelligence board by an individual with no prior expertise on the subject suggests that political paybacks might have played a role.

Personal or professional paybacks might have also played a part in contributions by Commissioner Richard Levin. Critics raised concerns over the Yale president's appointment to the commission, citing the potential for conflicts of interest due to personal ties between the university and American presidents. Concerns were raised due to the fact that Bush was a '68 graduate of Yale, his daughter currently attended Yale, Bush had invited Levin and his wife to stay at the White House as early as 2001, and the Yale president reciprocated by later inviting President Bush to stay with his family.⁵⁹⁸

An interest alliance might have developed between President Bush, seeking protection from harsh criticisms for alleged exaggerations of prewar intelligence, and the Yale President Levin, who was under pressure by student groups to persuade policymakers to loosen student visa restrictions put into place after the September 11 attacks.

Levin appears to have lobbied the president for visa reform at least once while the president visited the Yale campus for his daughter's graduation. According to the

⁵⁹⁷ See Betty Jean Craige, *American Patriotism in a Global Society* (1996). Andrew Cortell and James W. Davis Jr., "How Do International Institutions Matter? The Domestic Impact of International Rules and Norms," *International Studies Quarterly* 40, no. 4 (December 1996): 451-78.

⁵⁹⁸ See "Hillhouse, White House May Be a Step Away," www.Yaledailynews.com, April 21, 2004.

university newspaper, “Levin’s efforts paid off,” with respect to the student visa issue. “Two days later, Tom Ridge, then head of the U.S. Office of Homeland Security called and said, ‘You really got the president’s attention, what can we do to help?’ Then, they mobilized.”⁵⁹⁹ The newspaper further described Levin’s responsibility to establish a rapport with the president: “One of his obligations as Yale president is to maintain ties with Yale alumni and parents. With Bush--who is both--in the White House, this responsibility has fostered a connection with the political leader.”⁶⁰⁰

Levin additionally commented about his relationship with President Bush, “He’s a Yale alum and parent so there’s a personal dimension. ...And because I’m an economist who has served on his committees, there’s something of a professional dimension.” Levin continued to explain his interests in cultivating a relationship with the Yale alumni: “Presidents with connections to Yale are also more likely to visit the University or hold it in high esteem, thereby strengthening the relationship between Yale and the White House.”⁶⁰¹ Though again highly speculative in nature, Levin may have viewed his service on the commission as an additional opportunity to secure gains for his home institution.

Not all of the commission’s appointees had close ties to the president, however. Commissioner Patricia Wald was a former chief judge of the U.S. Court of Appeals with an outspoken liberal position and she was a vocal critic of national security policies of the

⁵⁹⁹ Ibid.

⁶⁰⁰ Ibid.

⁶⁰¹ Ibid.

Bush administration.⁶⁰² Prior to her appointment to the commission, Wald served as chairman of Open Society Justice Initiative, a liberal group advocating for human rights law reform and government transparency. She had publicly opposed the trial of Saddam Hussein for its tendency to take place behind closed doors:

If the debacles of the last few decades [including the Watergate break-in and the Vietnam War] have taught us anything, they have taught us that too much secrecy breeds irresponsibility. An excessive, and sometimes obsessive, passion for governmental secrecy can threaten a secure constitutional democracy. Because the match between the interests of those who exercise power and the interests of the citizens at large is far from perfect, politics cannot be left solely to the politicians. In retrospect, it seems that something like the Freedom of Information Act had to be invented to prevent a curtain of fog and iron from falling between the American public and its government.⁶⁰³

Wald maintained her opposition to the Bush administration's policies after her service on the WMD Commission, suggesting that political paybacks were not on the agenda of the former judge. For instance, as a member of the board of governors of the American Bar

⁶⁰² Before the proceedings began, Wald told CBS News that "the Iraqi tribunal should be operated like an international court.The worst possibility would be a truly Iraqi body with Iraqi jurists and purely American advisers." See "Debate Rages over Saddam Trial," CBS News, December 16, 2003; <http://www.cbsnews.com/stories/2003/12/15/iraq/main588752.shtml>.

⁶⁰³ Patricia M. Wald, "The Freedom of Information Act: A Short Case Study in the Perils and Paybacks of Legislating Democratic Values," *Emory Law Journal* 33 (1984): 649-83.

Association, Wald set out in June 2006 to investigate whether Bush had exceeded his constitutional authority by ignoring over 750 laws enacted since he took office.⁶⁰⁴

Advocate stakeholder groups critical of the administration might have found a sympathetic ear in commission member Patricia Wald. It is difficult however, to determine whether Wald was able to effectively vocalize against more the conservative views of her colleagues, in particular co-chair Laurence Silberman, whose reputation as an aggressive, hostile conservative might have had a strong impact on the commission's deliberations.⁶⁰⁵ The advocate group, People for the American Way, commented, "Of particular concern is Silberman's treatment of another colleague from the DC Circuit, Judge Patricia Wald." The group cited David Brock's insider account, which contended that "Silberman hated [Wald] with a passion."⁶⁰⁶ The stakeholder group further wondered, "How can Wald and her colleagues on the commission expect fair and respectful treatment from Silberman given his record?"⁶⁰⁷ No evidence exists that Silberman's alleged negative opinion of Wald played a part in the WMD Commission's deliberations. Nevertheless, observations from the commissioner interviewed for this study did reveal that Silberman was a dominant force on the commission: "The co-chairs played a very strong role, but especially Silberman."⁶⁰⁸

⁶⁰⁴ See "Bar Group Will Review Bush's Legal Challenges," *Boston Globe*, June 4, 2006.

⁶⁰⁵ For example, Silberman is on record threatening a colleague, Judge Abner Mikva. In the article, "Ken Starr will not be Denied," Reporter Michael Winerip wrote that in a federal courthouse Silberman exploded, "'If you were 10 years younger, I'd be tempted to punch you in the nose.'" *New York Times Magazine*, September 6, 1998.

⁶⁰⁶ David Brock (2002), 113.

⁶⁰⁷ "Laurence Silberman: The Right Man or the Right's Man?" People for the American Way, February 13, 2004; www.pfaw.org/pfaw/general/default.aspx?oid=13902.

⁶⁰⁸ Personal interview with commissioner, May 3, 2006.

Without access to the WMD Commission's transcripts, and with the personal observations of just one commissioner, it is difficult to fill in the gaps with respect to the decision-making dynamic that occurred during the WMD Commission's deliberations. Several members had private sector careers that could benefit from particular outcomes related to weapons capabilities. But because that section of the report remains classified, it is not possible to make a connection between professional interests and outcomes. Furthermore, there does not appear to be a consistent trend between most other stakeholder groups' win/lose status and the past or present affiliations of commissioners. A strong case can be made, however, for the outcomes for the White House. The public record supports the point that the president selected several members whose strong personal convictions in support of the war in Iraq were well known prior to their appointments.

It is important to note, however, that commissioners enlisted the support of over eighty staff members who worked on a full-time basis (commissioners only worked part time). According to both the commission's website and the commissioner interviewed for this study, staff members were an integral part of the commission process, actively contributing by reviewing U.S. intelligence capabilities and proposing recommendations. Who participated as staff members, and what affiliations did they maintain?

On its official website, the WMD Commission offered a brief background description of the commission's executive director, Vice Adm. John Scott Redd, a former heavyweight on the Joint Chiefs of Staff and current CEO of a high-tech education firm. It also profiled the two deputy directors, a former deputy director at the DIA and a former

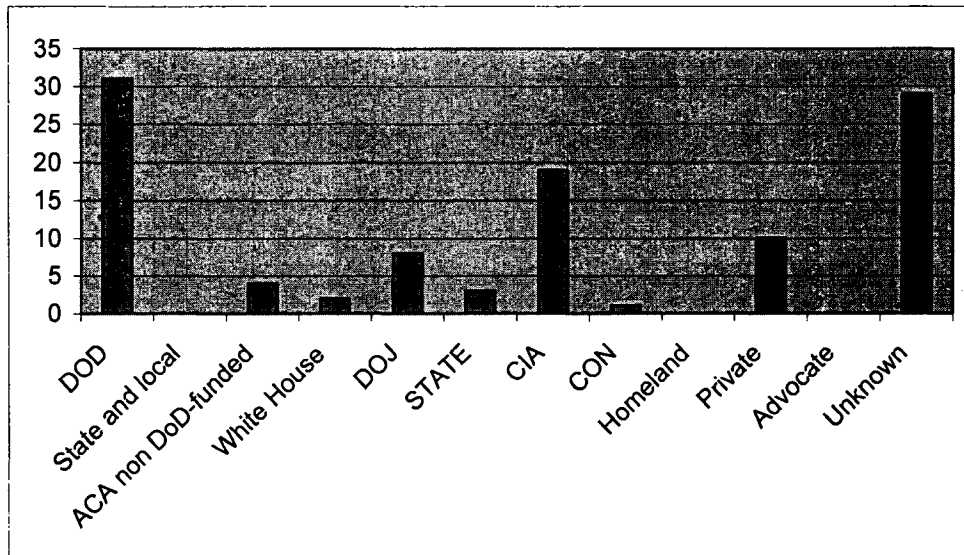
senior-level counter-proliferation official at the CIA. The commission also included brief details on its general counsel, who served formally as general counsel at the NSA, and the two associate general counsels. Both associates had judicial clerk experience. One was a former U.S. Navy officer. The other served under Judge Silberman at the U.S. Court of Appeals for the D.C. Circuit.

Unfortunately, the WMD Commission's report offered a relatively cryptic description of the remainder of its full-time staff membership. The commission's appendix E provided what at first appears to be the complete list of staff eighty staff members, but the descriptions of each member were vague in detail. The list included: forty-four "Intelligence Professionals," though it failed to provide specific agency affiliations; ten "Information Technology Specialists," though it neglected to mention whether the individuals worked for the private sector or for government agencies; and eight "Consultants," though it omitted the individual's area of expertise. It also included an additional assortment of administrative support terms like "Documents Control Officer," "Human Resources Liaison," and "Facilities and Logistics Manager."⁶⁰⁹

The commission did list a more detailed affiliation description of fifty of the eighty-eight staff members, found in separate portal on its website. The following chart captures the combined experience of the staff members listed by the WMD Commission.

⁶⁰⁹ See www.wmd.gov/commissioners.html.

Chart 13.3 WMD Staff Credentials



At thirty-one (35%), the majority of staff members whose backgrounds were listed had extensive experience at the Defense Department, followed by nineteen members (22%) with significant backgrounds at the CIA. The commission's list included ten individuals (11%) with experience in the private sector, though in only one case did the commission offer a company name.⁶¹⁰ The remaining staff members listed included eight individuals (9%) with DoJ experience, four (5%) with academic backgrounds, three (3%) from the State Department, two (2 percent) with prior White House experience, and one member (1%) with a congressional background. The remaining twenty-nine staff members (33%) were not included in the list of biographies.

⁶¹⁰ The commission listed Justin Longcor as a facilities and logistics manager for Anteon Intelligence Systems Group. The company's website states its expertise as "integrating commercial-off-the-shelf technology to collect, process, exploit, and share information for any mission." See www.anteon.com.

The commissioner interviewed for this study highlighted the crucial role played by the commission's staff in selecting witnesses to be interviewed. Unfortunately, as in the case of the staff member list, the commission also stopped well short of providing a comprehensive list of witnesses invited to inform the commission, stating only that "the commission has solicited working papers from a host of research institutes and universities, and commission members and staff have met with several scholars and former government officials to obtain their advice."⁶¹¹ Furthermore, commission spokesman Larry McQuillan announced upfront that "there will be experts appearing before the commission....And at this point I'm being asked not to name any."⁶¹²

Though the commission did not publish a complete witnesses docket, an examination of its press releases reveals that the commission met with at least six high-profile individuals with DoD experience including: former Secretaries of Defense James Schlesinger and Colin Powell; Under Secretary of Defense for Intelligence Stephen A. Cambone; the Department of Defense's Under Secretary of Defense for Policy Douglas Feith; Deputy Under Secretary of Defense for Intelligence, Intelligence and Warfighting Support, Office of the Under Secretary of Defense for Intelligence, Army Lt. Gen. William G. Boykin; and Commander, United States Strategic Command, Marine General James E. Cartwright, who all shared their perspectives on Defense Department intelligence support requirements and initiatives.

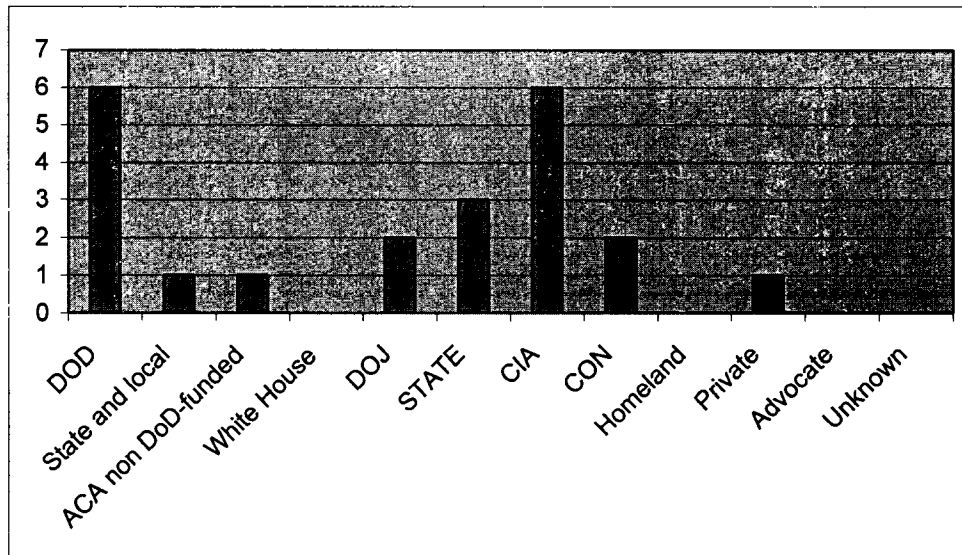
⁶¹¹ See WMD Commission website, www.wmd.gov/faqs.html.

⁶¹² "WMD Commission to Hold First Hearing," [Washingtonpost.com](http://www.washingtonpost.com/wp-dyn/articles/A27794-2004May14.html), May 14, 2004; <http://www.washingtonpost.com/wp-dyn/articles/A27794-2004May14.html>.

Additionally, the commission met with seven former and one current senior-level CIA officials: former Directors of Central Intelligence James Woolsey, James Schlesinger, John Deutch, William Webster, and George Tenet; former Acting Director of Central Intelligence John McLaughlin; then active Central Intelligence Agency Director Porter J. Goss; and former weapons inspector David Kay, whose work at the CIA is what initially revealed that Iraq did not have large WMD stockpiles.

The commission also met with two high-profile DoJ representatives in former FBI Directors William H. Webster and Robert Mueller; two former U.S. Secretaries of State, Madeline Albright and Colin Powell, and the current Secretary of State Condoleezza Rice; two former members of Congress, Porter Goss and Lee Hamilton; one individual with state and local experience, former New Jersey Governor Thomas Kean. Gilman Louie, CEO of a private/public partnership technology firm, In-Q-Tel, briefed the commission members and staff on initiatives to address analytical trends within the intelligence community. The commission included one academic participant in Harvard University's Graham T. Allison, who according to a commission press release, discussed his viewpoints on the WMD threat facing the United States. The WMD Commission provided an incomplete list of commission participants who contributed to its efforts. The following chart combines participant background affiliations based on the available data.

Chart 13.4 WMD Available Witness Credentials



Here again, the majority of witnesses selected to participate had extensive experience at the Department of Defense and the CIA. The remaining few witnesses listed had experience at the State Department, Congress, state and local government, academia, and the private sector. The commission did not mention any individuals with experience at the White House, homeland security agencies, or any advocate group.

The commission did not make available transcripts from any witnesses. The only indication of what might have occurred is revealed by the observations from the one commissioner interviewed for this study. The commissioner noted that contributions or testimony by “active duty representatives were protective of their agencies. Individuals out of government service were not as defensive of their old agencies.”⁶¹³

⁶¹³ Personal interview with commissioner, May 3, 2006.

In sum, the WMD Commission reveals a mishmash of results. The available data estimates high access by the DoD, which lost in the outcomes. Yet in the case of the CIA, high access equaled a win. Though official numbers for the White House were low, the White House won, while low numbers for advocates equaled a loss. Congress and the State Department also enjoyed wins despite low access by each stakeholder group. Private sector results remain unknown. The following chart summarizes the results.

Chart 13.5 WMD Actual Stakeholder Access

Stakeholder Group	Status	Predicted Access	Actual Access
White House	Win	High	Low ×
Congress	Win	High	Low ×
State Department	Win	High	Low ×
CIA	Win	High	High ✓
Homeland Agencies	Lose	Low	Low ✓
Advocates	Lose	Low	Low ✓
DoJ	Lose	Low	Low ✓
DoD	Lose	Low	High ×
State and local	N/A	N/A	N/A
Private Sector	Unknown	Unknown	Unknown

Conclusion

A closer examination of the Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction unfortunately leaves much to be desired. The lack of public transcripts and incomplete commission participant rosters leave researchers guessing about the totality of information that ultimately fed the report; the report's classified findings regarding future technological capabilities impede the ability to make connections between final outcomes and potential private sector gains. Though one commissioner agreed to be interviewed for this study, the lack of competing

versions of what transpired behind closed doors severely limits the range of perspectives from which to piece the puzzle together. Consequently, it is simply not possible to capture an accurate picture of the commission process, nor to judge the WMD Commission's work on its merits.

Though the classified nature of the WMD Commission, makes it difficult to detect the absence or presence of interest alliance activity, what the available data does suggest is that the commission was a prominent success for one stakeholder group: the White House, which was able to deflect blame for its alleged role in distorting intelligence to make the case for a preemptive war against Iraq.

The White House was able to control the commission process from the outset and was able to determine the agenda and outcomes in a number of key ways. First, the release of any information regarding documents, communications, or personnel involved with the commission was at the president's discretion, limiting the degree of public scrutiny afforded the process.⁶¹⁴ Second, all ten members of the commission were presidential appointees, allowing the president to select from among political allies. Third, the administration limited the commission's mandate to focusing on the intelligence community's ability to gather intelligence, without expanding it to examine potential flaws by policymakers in their ultimate use of the intelligence product. The administration further protected itself during an election year by setting the report release date for March 2005, avoiding attention until well after the election.

⁶¹⁴ See Executive Order, Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction, Section 5b, February 6, 2004.

In condemning the intelligence community, the commission's report had reiterated the importance of conducting a comprehensive analysis of events, stating, "It is imperative that the analysis on which such judgments are based be as rigorous, thorough, and candid as possible."⁶¹⁵ Ironically, the WMD Commission itself seems to have suffered from the same problem. By shrouding its deliberations in isolation, and funneling out alternative, complementary, or unpopular possibilities, like political pressure, in its investigation, the WMD Commission effectively succumbed to its own form of tunnel vision. In essence, commissioners too failed to paint a full picture of events leading up to mistakes in Iraq, consequently providing critics ample ammunition for their suspicions.

For all intents and purposes, the WMD Commission could very well have produced a thorough, intellectually honest, and objective investigation and report. Nevertheless, keeping a tight lid on its operations allowed room for critics, skeptics, and scholars alike to disparage the commission's efforts with impunity. For example, intelligence expert John Prados warned that the WMD Commission lacked substantial expertise: "Given that only one member of the White House's WMD Commission has any intelligence experience, why should the American public take its conclusions seriously?"⁶¹⁶ A more thorough investigation of the commission's staff and witness rosters, however, suggests that there were indeed numerous intelligence experts from the CIA and the Defense Department's intelligence agencies on the commission. Critics like

⁶¹⁵ WMD Commission, chap. 8, p. 184.

⁶¹⁶ John Prados, "Why Should the WMD Commission Be Taken Seriously?" *Nieman Watchdog*, March 30, 2005; http://www.niemanwatchdog.org/index.cfm?fuseaction=ask_this.view&askthisid=00107.

Chalmers Johnson complained about the Bush administration's decision to "investigate itself" by appointing "a group of men, deeply protective of their former colleagues, friends, and Washington connections."⁶¹⁷ Yet the WMD Commission also included a woman, Judge Patricia Wald, a liberal who was far from a supporter of the Bush Administration before or after her appointment to the commission. Critics complained that Yale University President Richard Levin had no prior experience in national security. Yet there are two alternative stories to consider: One, if Levin did not bring experience in intelligence to the table, then he might have offered the panel the objectivity only a true outsider could provide; or two, as a board member at Lucent Technologies, a company serving the Departments of Defense and Homeland Security and other intelligence agencies, Levin may have had more experience with the technical side of intelligence capabilities than most had taken into account. If one accepts the second story, however, either way Levin had professional gains on the line (university agenda or private sector gains). Once more, however, absent details of the methodology and process upon which the commission drew its conclusions, it is impossible to determine whether or not the commission's outcomes were based on legitimacy and appropriate knowledge.

In conclusion, I return to intelligence scholar John Prados, who reminds us, "It is central to research methodology that outside observers be able to replicate the data and reasoning of an inquiry. But how is this possible when the inquiry is undertaken in absolute secrecy?"⁶¹⁸ Referring to the WMD Commission, Prados continues, "The story

⁶¹⁷ Chalmers Johnson, "A Modest Proposal," www.TomDispatch.com, February 5, 2004.

⁶¹⁸ John Prados, "Why Should the WMD Commission be Taken Seriously?" *Nieman Watchdog*, March 30, 2005; http://www.niemanwatchdog.org/index.cfm?fuseaction=ask_this.view&askthisid=00107.

thus serves as a textbook case of how the opaque ways of Washington's bureaucratic warfare undermine sound policy. Insiders used both official and unofficial levers of power to keep as much of their turf intact as they could.” Absent a more candid look at the commission dynamic, Prados is left with the final word:

If the object was to create a commission that was not going to look too deep, and would pay attention to White House interests, it was well selected. If the object was a serious study of intelligence on proliferation issues, then you could argue that their skills were not well suited for the job.⁶¹⁹

Chapter Fourteen

Conclusion

This project has endeavored to do two things: (1) document the trend in thinking by policymakers, national security officials, and scholars about the growing threat of international terrorism since the end of the cold war period; and (2) examine more closely the influential actors and the complex relationships that converge over security policy but have thus far been overlooked because of the methodological challenges scholars face in identifying them. Both were achieved by analyzing the major independent national security advisory commissions established during the post-cold war. The concluding chapter summarizes the

⁶¹⁹ Ibid.

findings, explains their implications, and offers suggestions for scholars and policy makers interested in maximizing the utility of the independent advisory commission for the purposes of making sound future national security policy judgments.

So much of politics is casual, unstructured bargaining, whose path is difficult to clearly trace. The independent advisory commission offers one such roadmap to follow as it provides a unique and controlled set of circumstances from which scholars can study the frequently opaque decision-making process that helps shape national security policy. The research first analyzed the six major independent national security-related advisory commissions established in the post-cold war period: the *Commission on the Roles and Capabilities of the United States Intelligence Community* (the Aspin-Brown Commission); the *U.S. Commission on National Security in the 21st Century* (the Hart-Rudman Commission); the *National Commission on Terrorism* (the Bremer Commission); the *Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction* (the Gilmore Commission); the *National Commission on Terrorist Attacks Upon the United States* (the 9/11 Commission); and the *Commission on the Intelligence Capabilities of the United States Regarding Weapons of Mass Destruction* (the WMD Commission). The project analyzed the commissions' recommendations to determine whether outcomes were in line with the commissions' stated mandates. It then explored the amount of public scrutiny surrounding each commission as a prerequisite for examining how stakeholder groups managed to access the debate. In doing so, the project found that the six cases ran the

gamut in terms of access, influence, and outcomes. I include here a summary of the results and the subsequent lessons that can be drawn.

The commissions unanimously concluded that international terrorism would pose a formidable threat after the fall of the Soviet Union, though they did so to different degrees. The 1996 Aspin-Brown Commission was the first independent advisory commission to take an in-depth look at the scope and mission of the intelligence community in the post-cold war period. Though the commission recognized international terrorism as a security threat, the issue took a backseat to myriad of other pressing problems. There were three major areas of concern: the community's inability to predict the collapse of the Soviet Union (one of its primary targets since its inception in 1947); its failure to detect the strength of insurgent forces in Somalia; and bureaucratic cultural impediments that allowed for abuses, like the NRO budget scandal, to occur. The public disclosure of the Ames spy case rocked the very foundation of trust in the community's ability to conduct internal oversight. Though the Somalia case in particular offered key potential insights into the emerging threat posed by Islamic extremism, the commission instead concerned itself with protecting the public image of the community, and the cold war defense contractors upon which the IC was reliant.

The next three advisory commissions, the Hart-Rudman (1998-2001), Bremer (1999), and Gilmore Commissions (1999-2003) operated during a time of increasing attacks by sub-national actors on American interests. The 1996 fuel truck explosion on the Khobar Towers in Saudi Arabia, the simultaneous car bombings at U.S. embassies in Tanzania and Kenya in 1998, and the water-borne attack on the U.S.S. Cole, in a Yemeni

harbor in 2000, were just a few events that signaled a growing trend by terrorist groups toward targeting American interests abroad.

The attempted millennium strike on the Los Angeles International airport in 1999 indicated that the global terrorist campaign had expanded to include the U.S. homeland. Though the plot was thwarted, the details of the plan revealed vulnerabilities in U.S. domestic capabilities to prevent terrorist attacks, motivating policymakers to position international terrorism and the likelihood of domestic attacks at the forefront of threat-based scenarios that required attention in the post-cold war era. The three commissions were thus established to find ways to improve the national security community's ability to detect, prevent, and punish terrorist activity occurring primarily on the homeland. To varying degrees, the three commissions slowly began to incorporate law enforcement, homeland agencies, like FEMA and the Coast Guard, and state and local officials into U.S. counterterrorism policy.

The 9/11 Commission was initiated in direct response to the September 2001 attacks on the Pentagon and World Trade Center's two towers. It was prompted by an inordinate amount of pressure by family members of the victims of the attacks and others who demanded answers about how the U.S. security apparatus could have failed its citizenry so completely despite a spike in terrorist threat reporting in the months preceding the 9/11 attacks. Critics pointed to such intelligence failures as the Phoenix memo, a letter sent by an FBI agent in Phoenix to FBI headquarters on July 10, 2001. The agent raised concerns about an increasing number of young Arab men attending U.S.

flight schools who had links to anti-American radical Islamic fundamentalist groups in the Middle East. FBI headquarters largely ignored the message.

A President's Daily Briefing memo on Aug 6, 2001, titled "Bin Laden Determined to Strike in U.S.," also warned of bin Laden's interest in "bring[ing] the fight to America." The memo stated further that "FBI information indicates patterns of suspicious activity in this country consistent with preparations for hijackings or other types of attacks, including recent surveillance of federal buildings in New York."⁶²⁰ National Security Advisor Condoleeza Rice would go on public record during the 9/11 Commission explaining that administration officials did not respond to the memo because they considered it a "historical document," more than an analytical piece of threat reporting requiring immediate attention.

The arrest of Islamic extremist Zacarias Moussaoui on August 16, 2001 added to the fragmented list of terrorist-linked activity leading up to the September 11 attacks. Moussaoui had aroused suspicion by his instructors in two different U.S. flight schools that there were violent intentions behind his flight training. FBI agents later found that Moussaoui had actively sought out the jihadist movement, attending terrorist training camps abroad, and accepting refuge and financing from al-Qaeda operatives. Though the evidence linking Moussaoui to the 9/11 hijackers remains suspect, critics nevertheless argued that the outright failure to connect the dots between actors, motives, and strategies demanded an independent investigation of events leading up to the attacks. The 9/11 Commission's mandate was thus to seek out answers about the past and provide policy

⁶²⁰ "Transcript: Bin Laden Determined to Strike in U.S.," CNN, April 10, 2004.

recommendations to guard against such failures in the future. Its assessment gave an overall failing grade to intelligence and law enforcement efforts to date and proposed a significant reorganization of the national security structure to better adapt to emerging threats.

While the 9/11 Commission continued its investigation, the Bush administration sought out a more hands-on approach to dealing with the threat posed by terrorism. The 2003 Iraq invasion was prompted by a series of intelligence reports that warned that Saddam Hussein might be developing weapons of mass destruction. Furthermore, there appeared to be mounting evidence that the regime had a relationship with al-Qaeda, and that it might conspire with bin Laden to launch attacks against the United States.

A year into the invasion, however, weapons inspectors had yet to find evidence that Hussein possessed WMD stockpiles. Nor did there appear to be a strong relationship between the Iraqi leader and bin Laden. Critics began to question the veracity of intelligence reporting and the motives behind the administration's decision to go to war. As a result, the president established the 2004 WMD Commission, but limited its scope to investigating whether the IC had sufficient authority, equipment, and training to accurately identify and warn against the transfer of WMD to rogue states or terrorist groups. Questions about potentially inappropriate motives behind the administration's decision for the invasion were avoided.

The six aforementioned independent advisory commissions set out to study a series of challenges that were set in motion during the early stages of the post-cold war era. Their findings reflect a moderate shift in thinking about the types of strategies,

tools, and policies that would be required to effectively protect American interests in the 21st century. Summarizing their recommendations, two major trends in thought appeared to evolve. The first was a redirection in the types of technological capabilities required to confront post-cold war threats. The second reflected a growing desire to reorganize the national security structure to improve information sharing among intelligence and law enforcement agencies. Both issues had important implications, influencing the outcomes for a variety of stakeholder groups under study in this project.

A Shift in Technological Capabilities

A wide range of private sector stakeholders benefited throughout from recommendations regarding technology and its role in national security policy. Initially, policymakers were slow to adapt their traditional cold war weapons to post-cold war challenges, which allowed traditional defense contractor giants, like Boeing and Lockheed Martin, that focus on complex space-based systems to maintain their dominance in providing the community with its range of capabilities. The case studies revealed a number of factors behind the resistance. First, the Aspin-Brown and Hart-Rudman commissions indicate that most policymakers and intelligence officials had underestimated and understudied terrorists' cultures, motives, strategies, and tactics, and thus failed to recognize that it would require much more on-the-ground operations and technologies to protect American interests. Consequently, they continued to rely on big-ticket space-based technologies and ballistic missile defense systems to defend against an enemy as yet clearly defined.

Second, as one Aspin-Brown commission insider pointed out, policymakers hoped to mitigate the cost of replacing older technological infrastructure by readjusting systems that were already in place. However, by seeking out an overall national security strategy that would ensure that existing capabilities remained relevant, they were essentially trying to force a square peg into a round hole. As the 9/11 attacks made clear, effective counterterrorism efforts would require a different set of technological capabilities.

Third, compared to other types of intelligence resources, like human intelligence, big-ticket technologies were heavily supported by a sophisticated network of defense contractors and the congressmen that serve them. Those closely involved in the intelligence policymaking process are not surprised. A former deputy DCI interviewed for this study supports the point:

There is not a great deal of domestic pork in personnel. The various technically based INTs [intelligence units], on the other hand, depend on legions of relatively well-paid contractors to build and operate their exotic toys. A check of the areas around Fort Meade and Bethesda, Maryland, and northern Virginia west of the Capital Beltway will bear this out. What do you think the realistic chances of reprogramming some of that tech money to case officers, language and cultural training, etc., are?⁶²¹

⁶²¹ Personal interview with former deputy Director of Central Intelligence, April 2001.

Scholars need go no further than an analysis of the Aspin-Brown and Hart-Rudman Commissions to recognize the former deputy DCI's predictions born out, as both commissions largely overlooked alternative intelligence resources and instead focused on recommendations that would make it possible for big ticket space-based weaponry to continue to dominate the U.S. weapons arsenal into the 21 st century.

In the Bremer Commission we note that at least some national security experts had recognized that the thawing of the cold war would mean an evolution in the types of defense technologies required for fighting the next battle, as other private sector technologies began to enter the discussion. In particular, the commission highlighted the need to incorporate the biological sciences into domestic counterterrorism efforts.

The turn of the century would continue the trend toward the inclusion of a wider range of private sectors into the national security arena, as a new wave of technologies topped the list of recommendations for protecting the homeland against future attack. For example, the results of the Gilmore Commission indicate that national security thinking was expanding: from outer space to cyber space-based technologies; from missile defense to bio defense; from protecting weapons stockpiles to protecting the stock market. Additionally, the 9/11 Commission report prominently featured data encryption, more sophisticated surveillance systems, and bio identity scanners. The insurance and airline industries were also recognized for their role in protecting the nation, though the commission clearly emphasized that the private sector should be held responsible for protecting their own critical infrastructures. Though the WMD Commission preferred to

keep their technology-based recommendations classified, it is likely that the types of recommended technological innovations continued to expand.

A Shift in the National Security Structure

There was also a dramatic shift in thinking about how to organize the national security structure to foster better information sharing and more efficient use of security resources. Three major changes in the organizational structure of the national security apparatus can be attributed to the commissions under study in this project: the Department of Homeland Security, the Office of the National Director of Intelligence, and the National Counterterrorism Center. The creation of these new organizations had a profound impact on several stakeholder groups under study.

The establishment of the Department of Homeland Security in 2002 was the single largest reorganization effort since the national security apparatus was established in 1947. Its creation effectively transferred close to 200,000 federal employees, combined millions of dollars in resources, and consolidated the institutional memory of over twenty domestic security agencies into a single cabinet agency charged with, among other things, coordinating domestic efforts to deter, prepare for, and prevent against terrorist attacks. The Department of Homeland Security was not established overnight. Many of the ideas for the new organization had their origins in the commissions studied in this project. In particular, the Hart-Rudman has been recognized as the commission

that provided the basic organizational foundation for the new department. Though the Gilmore Commission has also been given credit for some aspects of its design.⁶²²

The department has come up against numerous obstacles and criticisms from various stakeholder groups in its short lifespan: It confronted a reluctant labor force early on in its establishment, as stakeholders from the disparate domestic agencies resisted relinquishing turf and resources to a new consolidated department; labor unions resisted the Bush administration's demand that the president have discretionary power to hire, fire, and transfer employees in times of national emergency; civil liberties advocates questioned the constitutional legitimacy behind the department's sweeping powers to conduct domestic surveillance and other activities. The department's handling (or lack thereof) of the 2005 Katrina disaster fueled criticisms of the department's inability to adequately respond during domestic crises. In connection with the department's lack of response during the hurricane, the organization's leadership has been scrutinized for creating an alarming amount of bureaucratic waste and fraud. For example, a 2006 GAO audit revealed the misuse of department credit cards for the purchase of such items as a \$1000 beer brewing kit, a \$4,000 68-inch plasma TV, \$7,000 worth of iPods, and \$70,000 in plastic dog booties.⁶²³ To date, the fledgling department has struggled to live up to the ideal envisioned in the commissions that proposed its creation.

Though the Office of the National Intelligence Director was established under the Intelligence Reform and Terrorism Prevention Act of 2004, its origins can be found in the

⁶²² See "A bill to establish the Department of National Homeland Security and the National Office for Combating Terrorism," Senate Report 107-175 National Homeland Security and Combating Terrorism Act of 2002.

⁶²³ See "Homeland Security Department is Accused of Credit Card Misuse," *New York Times*, July 19, 2006.

9/11 Commission. The commission proposed a new director of National Intelligence (DNI) that would become the president's principle intelligence adviser, a responsibility traditionally held by the director of Central Intelligence. The DNI would also oversee and manage the entire national intelligence program, including agencies like the NSA and NRO, traditionally turf of the secretary of defense. Naturally, both CIA and DoD stakeholders resisted the proposed creation of the new spy agency, though to no avail.

The office is not without its own critics, most of whom find that it lacks the proper authority to carry out its job. Intelligence expert Greg Treverton from the RAND Corporation describes an office lacking both an adequate mandate and the "troops" to improve intelligence gathering and information sharing efforts.⁶²⁴ He points out that the DNI has no authority to direct and control any element of the IC except his own staff within the Office of the DNI. Neither does the DNI have the authority to hire or fire any IC personnel other than his own staff. Though it is too early to determine definitively, the office's inability thus far to effectively coordinate the personnel from the various intelligence agencies under its direction may ultimately serve as a strategic win for the DoD and CIA, as both seem to have successfully maintained control over jealously guarded turf. Furthermore, members of Congress contend that the office has been more concerned with building its own bureaucracy than improving the quality of intelligence, leading some members to call for a freeze on part of the agency's budget until such problems can be resolved.⁶²⁵

⁶²⁴ Presentation by Greg Treverton, Terrorism and Early Warning Conference, October 2006, RAND.

⁶²⁵ See "Critics: National Intelligence Office Not Doing Much," *USA Today*, April 12, 2006.

The National Counterterrorism Center, which was also established by the Intelligence Reform and Terrorism Prevention Act of 2004, had its origins in both the Gilmore and the 9/11 Commissions. The center, which is supposed to serve as a one-stop-shopping source for terrorism-related intelligence, has also been subjected to criticism for its inability to effectively share information between its employees, who come from different intelligence agencies and have varying levels of security. For example, intelligence expert Amy Zegart notes that employees currently must use six different computer systems to be able to access the thirty incompatible computer networks the center utilizes.⁶²⁶ In particular, state and local stakeholders, who hold the fewest number of security clearances, are still largely kept out of the counterterrorism loop.⁶²⁷

Some of these problems should be expected given the short period of time that has transpired since the U.S. security structure began its transformation. Yet some of the problems might have been avoided if the appropriate stakeholders had adequate access to the debate. For example, the structural design for the Department of Homeland Security largely came out of the Hart-Rudman Commission's recommendations, a commission which lacked input from the domestic agencies and advocate groups most affected by its proposals. This might in small part account for the initial growing pains the department has experienced with regards to employee rights and civil liberties protections, among

⁶²⁶ Presentation by Amy Zegart, Terrorism and Early Warning Conference, October 2006, RAND.

⁶²⁷ For a good discussion of how state and local officials fit in with respect to the war on terrorism, see Riley, Treverton, Wilson, and Davis, State and Local Intelligence, RAND Corporation, 2005.

other issues. The transition might have gone more smoothly if such stakeholders had had access to the initial design plans drawn up by the commission.

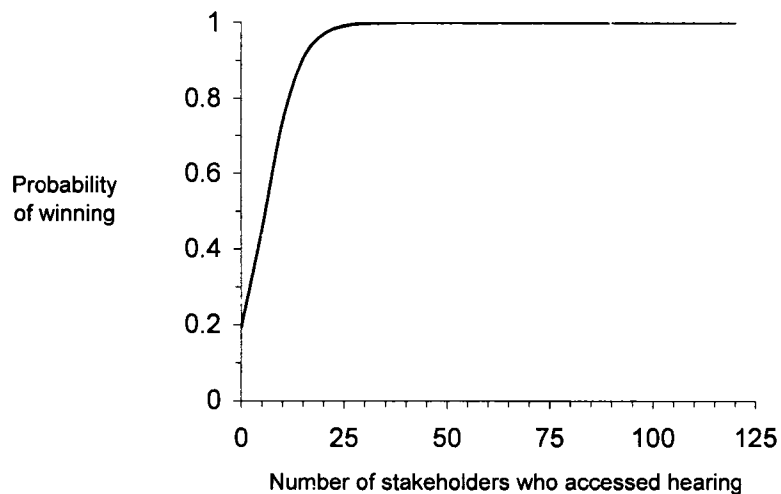
As the next section illustrates, outcomes for stakeholder groups across the board, were largely determined by the level of access stakeholder groups had during the commission process. The charts below provide a summary of the results.

Chart 14.1 Win/Lose/Access Totals

Stakeholders	Aspin	Hart	Bremer
	Outcome/Access	Outcome/Access	Outcome/Access
DOD	Win/High ✓	Win/High ✓	Win/High ✓
CIA	Mix/Medium ✓	Lose/Low ✓	Win/Low ✗
WHITE HOUSE	Win/High ✓	Lose/Low ✓	Win/Low ✗
STATE	N/A --	Lose/Low ✓	Win/High ✓
DOJ	Lose/Low ✓	Lose/Low ✓	Win/High ✓
CONGRESS	Win/High ✓	Mixed/Low ✗	Win/Low ✗
PRIVATE	Win/High ✓	Win/High ✓	Win/Low ✗
ADVOCATE	Lose/Low ✓	Lose/Low ✓	Mixed/Medium ✓
HOMELAND	N/A --	Lose/Low ✓	Lose/Low ✓
LOCAL	N/A --	Lose/Low ✓	Lose/Low ✓
Stakeholders	Gilmore	9 11	WMD
	Outcome/Access	Outcome/Access	Outcome/Access
DOD	Lose/High ✗	Mixed/High ✗	Lose/High ✗
CIA	Lose/Low ✓	Mixed/High ✗	Win/High ✓
WHITE HOUSE	Win/Medium ✗	Win/Low ✗	Win/Low ✗
STATE	N/A --	Win/Low ✗	Win/Low ✗
DOJ	Lose/High ✗	Win/High ✓	Lose/Low ✓
CONGRESS	Win/High ✓	Lose/High ✓	Win/Low ✗
PRIVATE	Win/High ✓	Mixed/Medium ✓	Unknown --
ADVOCATE	Win/Low ✗	Win/High ✓	Lose/Low ✓
HOMELAND	Win/Medium ✗	Win/High ✓	Lose/Low ✓
LOCAL	Win/High ✓	Mixed/High ✗	N/A --

A quick and dirty assessment of the access/outcome chart suggests that in a clear majority of the cases, there is a strong relationship between access and outcomes for stakeholder groups in the six commissions under study. To further measure the dynamic, a logit regression compares the relationship between access and outcomes.⁶²⁸ The results reveal some interesting trends.

Figure 14.1 Relationship Between Access and Winning (All Cases)



Note: Figure based on logistic regression; no fixed effect terms.

⁶²⁸ I thank UCLA professor, John Zaller, for his insightful suggestions regarding the logit regression. For further methodological detail, see appendix B.

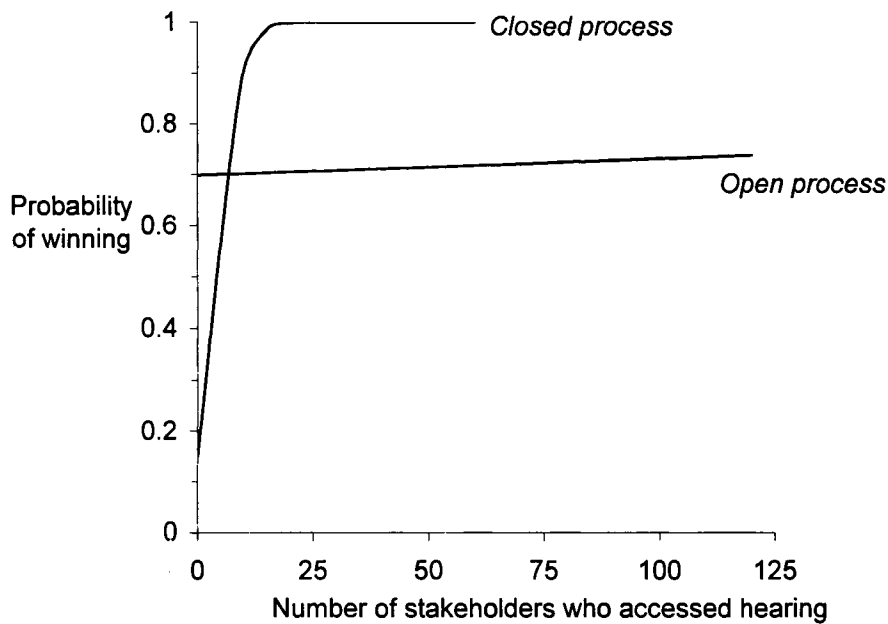
First, it appears that access matters. In a comparison across all six cases, there seems to be a strong relationship between the level of access afforded a stakeholder group, and the win/lose probabilities for each stakeholder group. The data suggests that if no stakeholders participate, the likelihood of winning is about 20 percent. The probability of winning increases sharply for every five stakeholders that participated from a stakeholder group. If a stakeholder group manages five participants, the probability of winning jumps to 45 percent. Ten participants increase the probability to almost 75 percent. Twenty-five or more participants increase the probability to over 99 percent. The data seems to support the original set of hypotheses proposed in chapter One:

Hypothesis #1: Stakeholder groups with significant access to the commission process will likely emerge as winners in the commission's final recommendations; and

Hypothesis #01: Stakeholder groups without significant access to the commission process will likely emerge as losers in the commission's final recommendations.

However, there seems to be a weaker relationship between access and outcomes when the commissions are open to public scrutiny.

Figure 14.2 Relationship Between Access and Winning, by Openness



Note: Figure based on logistic regression; no fixed effect terms.

When running separate regressions-- one for the closed commissions (Aspin-Brown, Hart-Rudman, Bremer, and WMD) and one for the open commissions (Gilmore and 9/11)-- there appears to be an even stronger correlation between access and outcomes for closed commissions, and a significantly weaker correlation in open commissions. In the closed commissions, 10 participants are enough to raise the probability of winning to over 90 percent. In the open commissions, the probability of winning is relatively constant (about 70 percent) whether or not a stakeholder group has access to the commission process. This supports **Hypothesis #2**: A transparent commission process will not produce a consistent relationship between access and outcomes. This suggests

that a higher level of public scrutiny evened the playing field by decreasing the significance of access with respect to outcomes in each commission.

What also becomes apparent is that open commissions include a wider range of stakeholder participation. The following pie charts compare the results.

Chart 14.2 Aspin-Brown Access Pie Chart (Closed Commission)

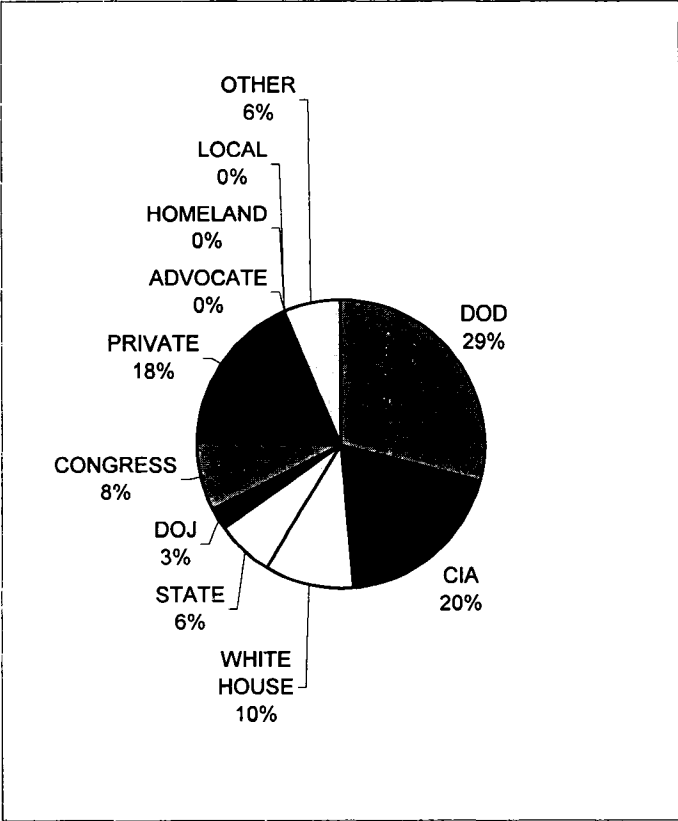


Chart 14.3 Hart-Rudman Access Pie Chart (Closed Commission)

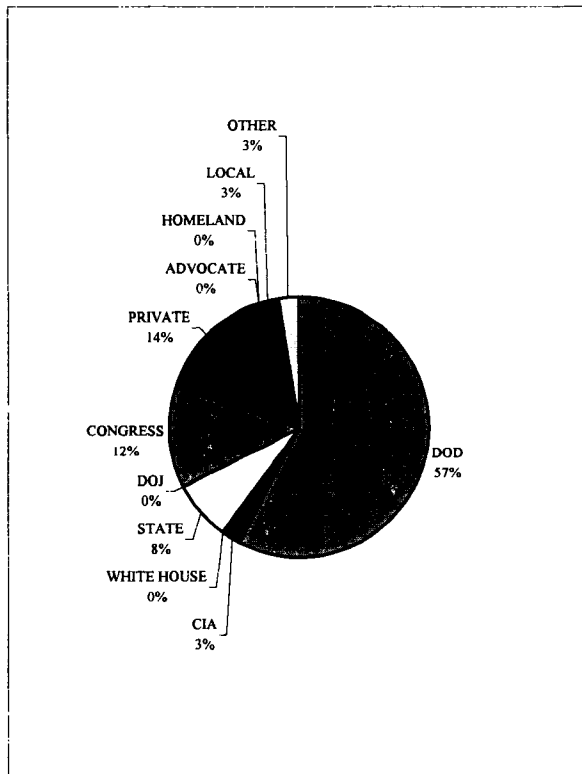


Chart 14.4 Bremer Access Pie Chart (Closed Commission)

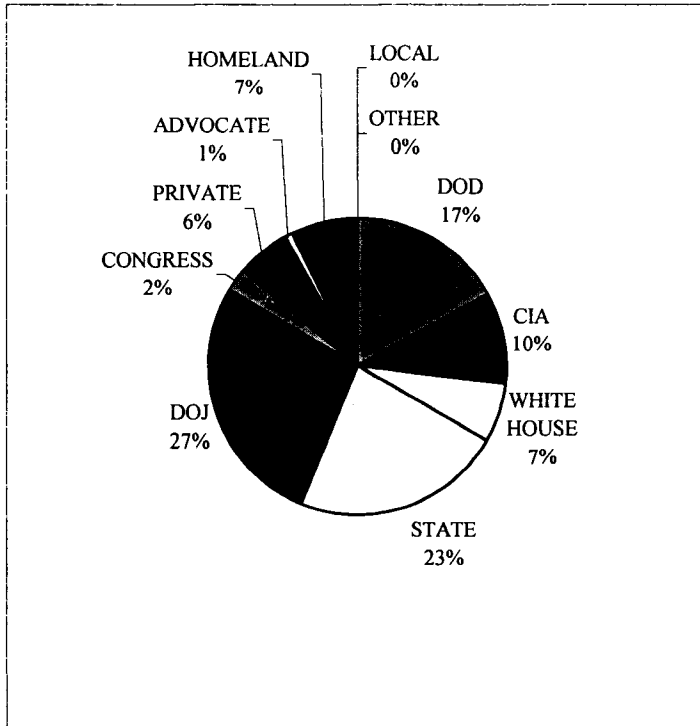
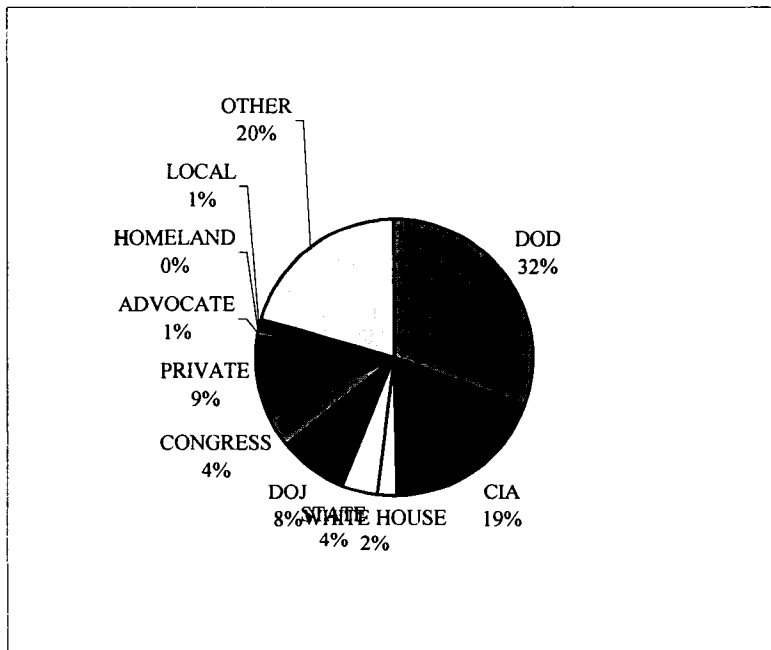


Chart 14.5 WMD Access Pie Chart (Closed Commission)



The pie charts illustrate that the DoD dominated the rosters in three out of the four closed commissions. In the Aspin-Brown Commission, the DoD, CIA, and private sector companies combined for almost 70% of the total participant roster. In the Hart-Rudman Commission the top two stakeholder groups were the DoD and private sector companies with a combined total of over 70%. In the WMD Commission, the DoD and stakeholders with unknown affiliations made up over half of the participant roster. The Bremer Commission was the only participant roster not dominated by the DoD. Instead, the State Department and Department of Justice combined for 50%, followed by the DoD with 17%.

A visual comparison of the results is telling for a couple of reasons. First, it clearly illustrates the preponderance of access by a limited number of stakeholder groups, in particular the DoD. Second, it shows that in closed commissions, advocates, homeland, and state and local officials are consistently at the bottom of the barrel in terms of access. This stands in contrast to the two open commissions-- Gilmore and 9/11 --both of which not only included advocates, homeland, and state and local officials, but also had by far the most evenly distributed participant access, as the following two pie charts indicate.

Chart 14.6 Gilmore Access Pie Chart (Open Commission)

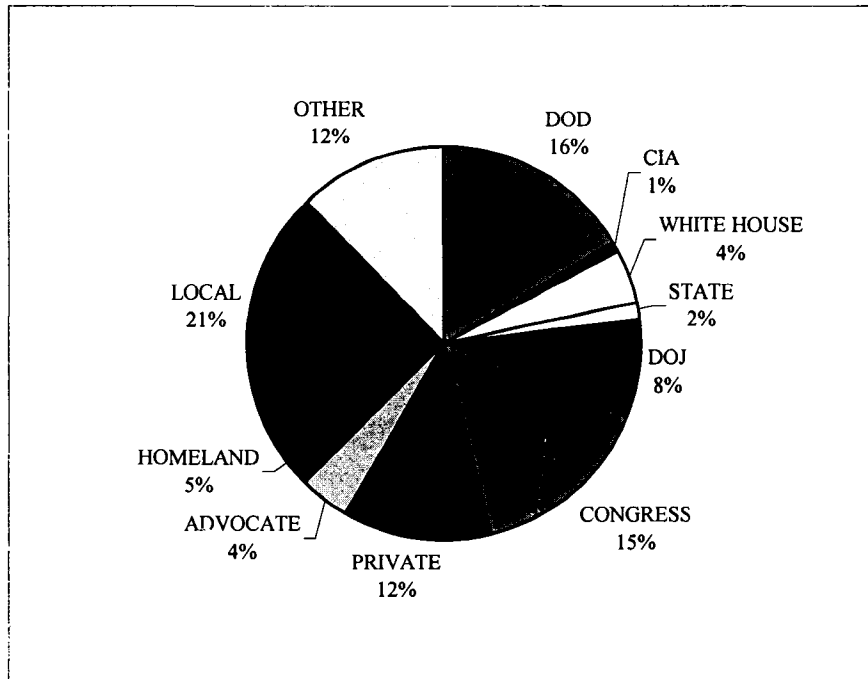
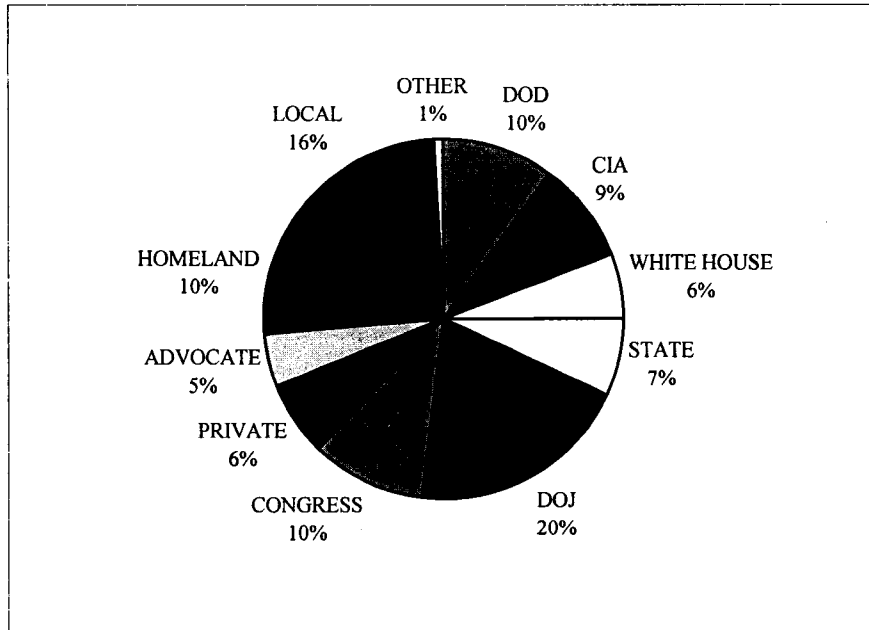


Chart 14.7 9/11 Access Pie Chart (Open Commission)



Lessons Learned/Implications

Why should we care about access to the independent advisory commission? Do these commissions even matter? The answer must be an emphatic yes. Despite arguments made by commission skeptics who question the utility of the independent advisory commission in the policy-making process, the findings indicate that the independent advisory commission has played a key role in reshaping the national security structure in the post-cold war landscape. Their influence in helping conceptualize the design of such national security organizations as the Department of Homeland Security, the Office of the National Intelligence Director, and the National Counterterrorism Center, serves as an important reminder of the role such advisory bodies play in shaping national security policy. If we accept that the independent advisory commission serves as an important reference point for policymakers and a valuable avenue of influence for

stakeholder groups to access the debate, it becomes evident that getting the independent advisory commission process right is crucial.

What might the “right” independent advisory commission look like? Do any of the six commissions examined offer the appropriate model to follow? These are difficult questions, and ones unfortunately not fully answered in this project. But a few things might be considered important. First, while the classified nature of national security issues makes full public disclosure impractical, to the extent possible, public scrutiny should be encouraged. A high level of public scrutiny fosters diversity in perspectives, encourages public education and support, curbs interest alliance behavior, and signals legitimacy. Second, it is important to expand the traditional definition of an interest group to include all actors that exhibit such behavior. Doing so allows scholars to capture a much larger and understudied dynamic that shapes national security policy.

Diverse Perspectives

A transparent commission process encourages access from a diverse range of perspectives. As the previous charts suggest, commissions lacking public scrutiny were the least diverse in stakeholder representation, and thus limited access to a wider body of expertise from which to consider the full spectrum of policy choices. The narrow field of expertise may have served as an impediment to the commissions’ ability to produce effective policy recommendations. The lack of homeland agency stakeholders in the Hart-Rudman Commission has already been mentioned as a weakness of the commission responsible for the design of the Department of Homeland Security. The DoD and tech-heavy witness roster of Aspin-Brown likely crowded out relevant perspectives from the

State Department and human intelligence officials—front-line sources that might have better focused the first post-cold war commission on the imminent threat posed by grassroots Islamic extremism.

The summary of access and outcomes shows that state and local officials had the lowest amount of representation and suffered the largest number of wholesale losses. This effectively limited the amount of information available to policymakers from state and local stakeholder groups, whose positions in local communities could have made them pivotal actors in U.S. counterterrorism efforts. For example, terrorism experts have recognized that the decentralized structure of a terrorist organization frequently requires individual terrorists or small terrorist cells to finance their own operations.⁶²⁹ They often do so through a range of petty local crimes like drug trafficking, credit card fraud, or identity theft. Ahmed Ressaam, the millennium bomber, funded his terrorist plot by stealing tourists' passports (obtaining proper identification is the lifeblood of terrorism as individuals usually must travel across borders to conduct their operations). Such criminal acts, conducted on a local level, might thus serve as indicators or predicates of a larger terrorist operation. Bringing state and local officials who are familiar with the crimes and activities within their own community could serve as vital sources of human intelligence gathering if not an ideal place to intervene. The Gilmore Commission, which invited more state and local officials than all other commissions combined, was the only commission to seriously recognize this potential.

Educational stimulus

⁶²⁹ See Riley, Treverton, Wilson, and Davis. State and Local Intelligence: in the War on Terrorism. RAND 2005.

International terrorism is a relatively new concept for most Americans. Access to the findings of independent advisory commissions can be important avenues for informing the public, providing a solid foundation upon which to build their own understanding of the real threat posed by terrorism. Publicly accessible findings might also provide the American public concrete steps to more effectively protect themselves in the case of an attack and encourage the public to be more vigilant in identifying possible terrorist leads in their own communities. For example, the easily readable 9/11 Commission Report served as a primer for millions of Americans about the who, what, when, how, and why behind the 9/11 attacks. Because the Commission recognized its expansive public outreach, it continued to educate even after its official mandate had ended through its online “9/11 Public Discourse Project,” a source of information and guidance for the general public.⁶³⁰

Some might hesitate to encourage such a public-centered approach to counterterrorism. The idea of citizens spying on their neighbors easily arouses images of vigilantism, and harkens back to domestic intelligence abuses of the 60’s and 70’s. However, one might argue the opposite -- that such behavior is *more* likely to occur if the public is not properly informed. The advisory commission, especially one that keeps both its process and findings as open as possible to the public, offers a perfect environment from which to educate the public.

⁶³⁰ See www.9-11pdp.org. The website ceased operations on December 31, 2005.

Public Wave of Support

An open commission process also enables commissions to ride on a popular wave of support from a public that feels that it has in some way contributed to the debate. One of the strongest illustrations of this was the attention drawn by advocate stakeholders, like 9/11 Widow Kristen Breitweiser, who carried around her dead husband's wedding ring finger during the 9/11 Commission's efforts to get administration officials to pay attention to their work. Such advocate stakeholders are key assets that can be used to galvanize public sympathy for the commission's goals.

Curbs Interest Alliance Behavior

A transparent commission also helps curb the influence of interest-based politics that might flourish through interest alliance connections. As we have seen, because the commission process is typically not highly visible to outsiders, it provides loads of opportunities for groups with political, professional, or financial interests at stake. An open commission process limits (though does not eliminate) this activity. For example, the 9/11 Commission's prolific environment highlighted efforts by DoD stakeholders Rumsfeld and Meyers to use back door channels to shape the decision-making process; public financial disclosures by commissioners limited the airline industry's ability to rely on traditional interest alliance relationships to influence the outcomes; potential conflicts of interest created by Henry Kissinger's involvement were another area that was curbed by public spotlight. An analysis of the Gilmore Commission also revealed at least one unsuccessful bid to influence outcomes, as public transcripts suggest that FBI director Robert Mueller tried to establish a personal relationship with former DoJ official,

Commissioner James Greenleaf, in order to protect FBI turf in the outcomes of the commission.

It is important to note that transparency does not completely eliminate interest alliance activity. The Gilmore Commission also revealed at least some successful interest alliance activity, as its chairman was able to include cybersecurity (one of his professional interests) in the commission's recommendations despite the fact that the commission's mandate excluded cyber terrorism. It might be argued that this occurred because, though the commission was open to the public, the public was not interested in fully scrutinizing its activities. As a result, stakeholders were provided a relatively safe environment to conduct such activity. However, some interest alliance activity was also successful during the highly publicized 9/11 Commission, as the commission backed down from criticizing the White House in exchange for political support for its findings. In this case, political protection for the presidency appeared to be an acceptable compromise to ensure a smooth ride for the implementation of its efforts.

Legitimacy

Maintaining a transparent commission process also serves to silence the critics who are already skeptical of the isolated nature of the decision-making process and the motivations behind a commission's recommendations. For example, the WMD Commission was admonished by critics who were wary of its findings because of what appeared to be political cover it provided the Bush administration for its part in the events leading up to the Iraq invasion. However, Patricia Wald, the liberal judge serving on the WMD Commission might have served as a strong counterbalance to president Bush's

ideological allies on the commission. In addition, though its tech-related recommendations remained classified, Senator McCain, an anti-pork barrellist and ardent supporter of campaign reform, was possibly a strong counterbalance to any potentially inappropriate kickbacks to the private sector that stood to gain from the classified tech-related recommendations.

The conduct of closed commissions may not be as nefarious as some conspiracy theorists might assert. But the lack of a consistent method to track the actors, their behavior, and outcomes, provides such “armchair alarmists”⁶³¹ ample space to assert the worst about the motivations behind U.S. national security policy-making. As the 9/11 co-chairs Lee Hamilton and Thomas Kean warn in their 2006 book, Without Precedent: the Inside Story of the 9/11 Commission, “Conspiracy theories are like mushrooms: they grow where there is no light.”⁶³² An open commission process engenders trust and signals legitimacy in their efforts to make sound judgments, built upon information from appropriate sources.

It is important to remember that, unlike the other commissions under study, the 9/11 Commission was afforded the unfortunate advantage of working in an environment that was indeed, without precedent; the opportunities laid before them, unlike any other commission in history. Because of the high level of public scrutiny and the importance placed on its efforts, the commission was granted unparalleled access to some of the most secure and sensitive documents in government; It managed to put a president’s national security advisor under oath for the first time in history; It interviewed two presidents and

⁶³¹ I borrow the term “armchair alarmists” from Brian Jenkins (2006).

⁶³² Kean and Hamilton (2006), 256.

vice presidents, gaining an unprecedented look at the national security decision-making process from the vantage point of the highest echelons of government. The commission effectively put the entire government on notice that no agency or individual was exempt from its broad reaching mandate. Co-chairs Hamilton and Kean's recollections of the event sum up the experience: "In few other countries in the history of the world could you find ten independent citizens sitting in the seat of power, asking the elected leader of the country questions about a national catastrophe."⁶³³ While the unique circumstances surrounding its efforts make it to replicate, the 9/11 Commission nevertheless might serve as a template for future commissions to follow.

The independent advisory commission is a place where ideas germinate, recommendations are shaped, and national security policy is often determined. Keeping these venues open to public scrutiny allows a diverse flow of information into the debate, stimulates public education, boosts the commission's own popularity and ability to garner support, diminishes the opportunities for interest alliance opportunities to flourish, and lends legitimacy to a commissions efforts. The benefits of a transparent process certainly outweigh the particularistic gains achieved in a commission that is isolated from public scrutiny.

Redefine/expand the definition of an interest group

The research also reveals that is useful to expand the definition of interest groups to include all stakeholder groups that exhibit interest-based behavior. Examining the participants in the independent advisory commission makes it possible to identify the

⁶³³ Ibid. 209.

emergence of a new set of forces on national security policy including smaller innovative information technology firms, the airline industry, a cyber-reliant business sector, and insurance companies.

Furthermore, the list of private sector companies considered to have a stake in homeland security seems to be ever expanding. The reports of wasteful spending during the Katrina disaster (e.g., the aforementioned dog booties, iPods, and beer brewing kit) highlights the increasing number of private sector companies that stand to benefit from homeland security funding opportunities. Although not present in the commissions under study in this project, Jenkins (2006) notes that all sorts of retailers are affected by homeland security policy, as policymakers consider tightening security on cargo ships carrying products from abroad to American retailers.⁶³⁴ Such stakeholder groups are sure to look for all possible avenues of influence over the counterterrorism policy debate. For this reason alone, studying independent advisory commissions offers a unique method of identifying and tracking the behavior of individuals who use interest alliance relationships to ensure access to and influence over the decision-making process.

What this study has shown is that controlling the independent advisory commission is one way to ensure that policy recommendations will be in a stakeholder group's favor. Lowi et. al (2006) emphasize the standard practice:

⁶³⁴ Jenkins (2006), p. 164.

Keep the group small, control rules and procedures and you can readily control the outcome. Even when actors are motivated by altruistic concerns, institutional rules and procedures can be used to obtain a preferred outcome.⁶³⁵

Nowhere is this more prevalent than in the methods used by stakeholders who were able to steer the agenda and results in the independent advisory commission process. The commissions that remained behind closed doors effectively controlled access to the debate and limited the range of perspectives available to decision-makers. This has important implications if we consider that the independent advisory commission has become an increasingly essential source of information in the uncharted waters of the post-9/11 security environment. While scholars have yet to fully recognize the commission as a key avenue of influence, the observation has not been lost on relevant stakeholder groups that have successfully navigated the process for political, professional, and financial rewards.

⁶³⁵ Lowi, Ginsberg, and Shepsle, American Government: Power and Purpose, 9th ed. W.W. Norton & Company, New York, (2006), p. 51.

Appendix A

This appendix includes a description of the format used for conducting personal interviews with participants from all six case studies. The personal interview format was identical for each case study.

Interview Format

I first compiled a list of all individuals who had served as a commissioner in one or more Commissions. I then attempted to locate and contact at random least 25% of the commissioners via email correspondence. I also identified and attempted to contact at least one senior-level commission staff member for each commission.

Response Rate

The response rate for each commission varied. In some instances I was unable to locate a former commissioner to request an interview. In other cases, former commissioners had passed away prior to this study. For example, Les Aspin died a couple of months into the Aspin Brown Commission. Ray Downey, an emergency responder involved in the Gilmore Commission, perished in the 9/11 attacks on the World Trade Center. Lloyd Cutler stepped down from the WMD Commission due to health concerns, and died shortly after. The response rate for each commission were as follows:

Aspin Brown Commission:

Attempted to contact- 5 commissioners/ 3 staff
Agreed to an interview- 1 commissioner/ 3 staff
Response rate percentage- 20%/ 100%

Bremer Commission:

Attempted to contact- 5 commissioners/ 1 staff
Agreed to an interview- 3 commissioners/ 0 staff
Response rate percentage- 60%/ 0%

Hart Rudman Commission:

Attempted to contact- 4 commissioners/ 3 study group members
Agreed to an interview- 3 commissioners/ 3 study group members
Response rate percentage- 75%/ 100%

Gilmore Commission:

Attempted to contact- 7 commissioners/ 1 staff
Agreed to an interview- 4 commissioners/ 1 staff
Response rate percentage- 57%/ 100%

9/11 Commission-

Attempted to contact- 3 commissioners/ 1 staff
Agreed to an interview- 3 commissioners/ 1 staff
Response rate percentage- 100%/ 100%

WMD Commission:

Attempted to contact- 2 commissioners/ 1 staff
Agreed to an interview- 1 commissioner/ 0 staff
Response rate percentage- 50%/ 0%

Research Information Sheet

The initial email solicitation read as follows:

“Avenues of Influence: a Study of National Security Advisory Commissions”

You are asked to participate in a research study conducted by Lisa Saum, PhD Candidate, from the Department of Political Science at the University of California, Los Angeles. You were selected as a possible participant because of your participation in one of the following commissions under study: The Aspin Brown Commission, The Hart Rudman Commission, The Bremer Commission, The Gilmore Commission, The 9/11 Commission, or the WMD Commission. Your participation in this research study is voluntary.

PURPOSE OF THE STUDY

The study is designed to assess the decision-making process involved in the independent advisory commission. It seeks to explain a commission's outcomes by examining the role played by various actors in the commission process.

PROCEDURES

If you volunteer to participate in this study, we would ask you to do the following:
Consent to a confidential interview. The interview will take approximately 20 minutes and questions will relate to your role in and participation on one or more of the preceding advisory commissions. Questions will include: 1) How were you selected to participate on the commission; 2) Were you satisfied with the list of participants invited to testify; 3) Are there any experts or others who you felt might have been included?

POTENTIAL BENEFITS TO SUBJECTS AND/OR TO SOCIETY

The results of the research may benefit US policy makers by offering an analysis of how independent advisory commissions function, and the basis upon which they ultimately produce their final recommendations.

CONFIDENTIALITY

No information you provide will be linked to you as a participant of this study. Any information that is obtained from you in connection with this study and that can be identified with you will remain confidential and will be disclosed only with your permission or as required by law. All participants will be identified by their role only as “an advisory commissioner, staff member, or person interviewed” in all research records and published material. As principal investigator, I alone will maintain a written account of the interview and will have sole access to the information, which will be stored in my home office.

PARTICIPATION AND WITHDRAWAL

You can choose whether to be in this study or not. If you volunteer to be in this study, you may withdraw at any time without consequences of any kind. You may also refuse to answer any questions you don’t want to answer and still remain in the study.

IDENTIFICATION OF INVESTIGATORS

If you have any questions or concerns about the research, please feel free to contact: Lisa Saum, 818-609-8072, Department of Political Science, 4289 Bunche Hall, UCLA, Los Angeles, CA 90095; Dr. Mark Sawyer, Department of Political Science, 3272 Bunche Hall, UCLA, Los Angeles, CA 90095.

RIGHTS OF RESEARCH SUBJECTS

You may withdraw your consent at any time and discontinue participation without penalty. You are not waiving any legal rights because of your participation in this research study. If you have questions regarding your rights as a research subject, contact the Office for Protection of Research Subjects, 2107 Ueberroth Building, UCLA, Box 951694, Los Angeles, CA 90095-1694, (310) 825-8714.

Interview Questions

Individuals who agreed to an interview were asked the following questions:

- 1) How were you selected to participate on the _____ Commission?
- 2) Do you feel the Commission’s membership roster was appropriate? In other words, were any experts missing from the Commission’s membership who might have enhanced the work process or end product?
- 3) How did the Commission decide on the individuals selected for interviews or to testify at hearings?
- 4) Did all the “right” people testify? Were there other individuals you would have liked to hear from who were omitted?

- 5) Did any Commission member or subset of members exert more influence over the commission's final outcomes than others? If so, under what circumstances?
- 6) Did Commission members with similar professional backgrounds tend to agree with each other's views more than with members from other professional backgrounds?
- 7) Did the Commission feel its findings would attract significant public scrutiny?
- 8) Do you feel the Commission accomplished what it set out to accomplish in its mandate?
- 9) What, if any shortcomings do you think might have affected the Commission's work?
- 10) Do you have any additional comments regarding the commission decision-making process that might be relevant to this project?

Appendix B

Full credit for the following results go to UCLA professor John Zaller, whose attention to statistical detail I am eternally grateful.

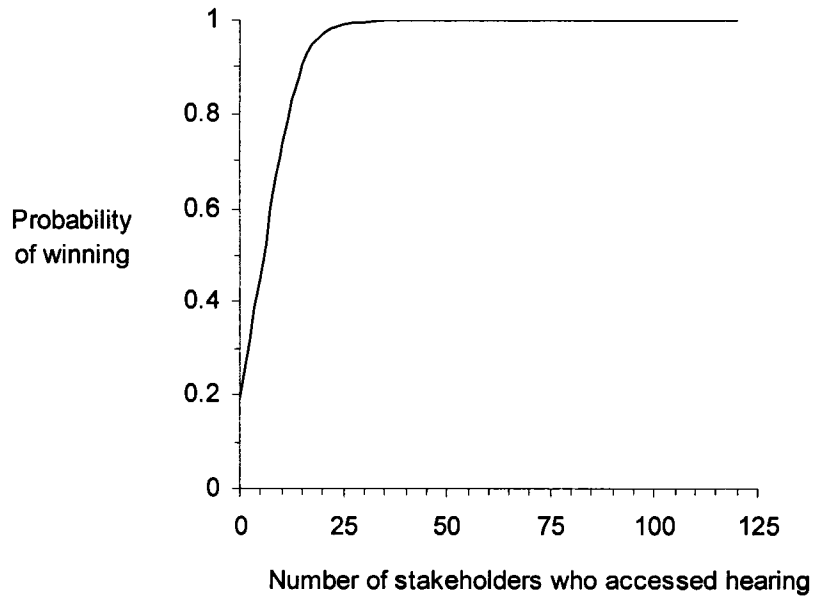
Coefficients (All results are unlogged)

Coefficients (All results are unlogged)								
nl two win if open==0								
Source	SS	df	MS	Number	of	obs	=	35
F(2,	33)	=	39.84				
Model	12.5521	2	6.27605	Prob	>	F	=	0
Residual	5.197901	33	0.157512	R-squared	=	0.7072		
Adj	R-squared	=	0.6894					
Total	17.75	35	0.507143	Root	MSE	=	0.396878	
Res. dev.	=	32.57743						
(two)								
win	Coef.	Std.	Err.	t	P>t	[95%	Conf.	Interval]
B0	-1.74035	0.808927	-2.15	0.039	-3.386129	-0.09458		
B1	0.400966	0.180444	2.22	0.033	0.0338494	0.768082		
(SEs, P values, CIs, and correlations are asymptotic approximations)								
nl two win if open>0								
(obs	=	19)						
Iteration	0:00	residual	SS	=	3.5			
Iteration	1:00	residual	SS	=	2.658749			
Iteration	2:00	residual	SS	=	2.656179			
Iteration	3:00	residual	SS	=	2.656179			

Iteration	4:00	residual	SS	=	2.656179			
Source	SS	df	MS	Number of	obs	=		19
F(2,	17)	=	30.7				
Model	9.593821		24.796911	Prob	>	F	=	0
Residual	2.656179		170.156246	R-squared	=	0.7832		
Adj	R-squared	=	0.7577					
Total	12.25		190.644737	Root	MSE	=	0.3952794	
Res. dev.	=		16.53621					
(two)								
win	Coef.	Std.	Err.	t	P>t	[95%	Conf.	Interval]
B0	0.839119	0.714275	1.17	0.256	-0.6678698	2.346109		
B1	0.001636	0.016006	0.1	0.92	-0.0321323	0.035405		
(SEs,	P	values,	CIs,	and	correlations	are	asymptotic	approximations)
	nl	two	win					
Source	SS	df	MS	Number of	obs	=		54
F(2,	52)	=	64.13				
Model	21.34579		2 10.6729	Prob	>	F	=	0
Residual	8.654205		520.166427	R-squared	=	0.7115		
Adj	R-squared	=	0.7004					
Total	30		540.555556	Root	MSE	=	0.4079547	
Res. dev.	=		54.37467					
(two)								
win	Coef.	Std.	Err.	t	P>t	[95%	Conf.	Interval]
B0	-1.43505	0.642281	-2.23	0.03	-2.723877	-0.14622		
B1	0.246386	0.106057	2.32	0.024	0.0335671	0.459204		
(SEs,	P	values,	CIs,	and	correlations	are	asymptotic	approximations)

Figure 1.

Figure 1. Relationship between access and winning (all cases)



Note: Figure based on logistic regression; no fixed effect terms.

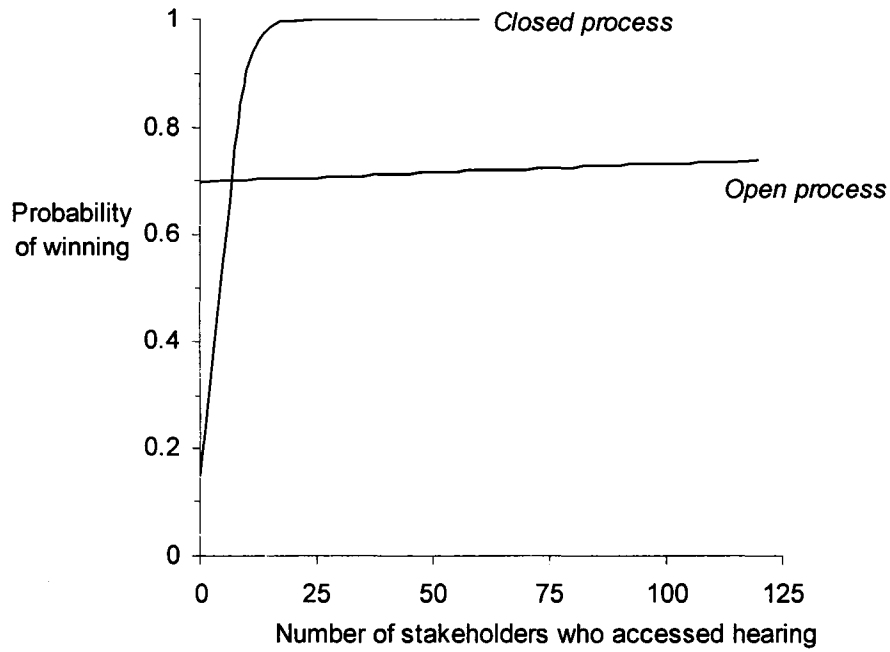
Results for Figure 1.

			0	0.192314
B0	-1.43505		5	0.449394
B1	0.246386		10	0.736685
			15	0.905573
			20	0.970478
			25	0.991204
			30	0.997418
			35	0.999245
			40	0.99978
			45	0.999936
			50	0.999981
			55	0.999995
			60	0.999998
			65	1
			70	1
			75	1
			80	1
			85	1
			90	1
			95	1
			100	1

			105	1
			110	1
			115	1
			120	1

Figure 2.

Figure 2. Relationship between access and winning, by openness



Note: Figure based on logistic regression; no fixed effect terms.

Results for Figure 2.

			0	0.149268	0.69828
B0	-1.74035	0.839119	5	0.565736	0.700001
B1	0.400966	0.001636	10	0.906302	0.701716
			15	0.986267	0.703426
B0			20	0.998128	0.70513
B1			25	0.999747	0.706828
			30	0.999966	0.708521
			35	0.999995	0.710208
			40	0.999999	0.711889
			45	1	0.713564
			50	1	0.715233
			55	1	0.716897
			60	1	0.718555
			65		0.720206
			70		0.721852
			75		0.723492
			80		0.725126
			85		0.726754
			90		0.728375

			95	0.729991
			100	0.731601
			105	0.733204
			110	0.734802
			115	0.736393
			120	0.737978

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