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Participants – non-Commission: Britt Snider

Participants – Commission: Kevin Scheid, Lloyd Salvetti, Col. Lorry Fenner, Ms. Chris Healey, Gordon Lederman

(U) BACKGROUND.

(U) Mr. Snider served on the Church Committee as a staff attorney from 1975-6. Subsequently, he served in the Office of the Undersecretary of Defense for Policy from 1976-86, working mainly but not exclusively on counterintelligence issues. In 1986, he joined the staff of the Senate Select Committee on Intelligence (SSCI) as Minority Counsel, working specifically for Senator William Cohen. In 1988, he became the General Counsel. In 1995, he left the SSCI to become the Staff Director of the Aspin/Brown Commission. From 1995-6, he taught at Cambridge University in the U.K. In 1996, he became the Special Assistant to the Director of Central Intelligence (DCI). From the summer of 1998 until January 2001, he served as the CIA's Inspector-General (IG). He subsequently retired, although he has had occasional short contracts with CIA.

(U) THE CIA'S INSPECTOR-GENERAL.

(U) The idea for a statutory IG for the CIA originated in the SSCI. The key issues was whether the CIA IG would be governed by the IG Act of 1978 – pursuant to which (1) the CIA IG would be overseen by the Senate Governmental Affairs Committee rather than the SSCI, and (2) the DCI would be able to order the IG to stop an investigation provided that the DCI reported such action to Congress. The Chairman of the Senate Governmental Affairs Committee, Senator John Glenn, was also a member of the SSCI, and Senator Glenn agreed that the CIA IG should be overseen by the intelligence oversight committees. Hence the CIA IG was born and was not covered by the IG Act of 1978.

(U) The DCI never told Mr. Snider to stop an IG investigation, although the DCI did convey that he did not like certain IG activities. Practically, of course, the IG wants to "work things out" with the DCI.

(S) Mr. Snider discussed the Jeremiah report on the failure of the Intelligence Community (IC) to predict the Indian nuclear test. That report was done in a mere three weeks and relied only upon the IC's self-assessment of its failures. The report was an attempt by the DCI and IC to get the episode behind them as quickly as possible. And the intelligence oversight committees were too ready to accept the Jeremiah report. As a result, the "whole episode was lost to the ages" in terms of being instructive as to the IC's fundamental flaws. More generally, the CIA's tendency is to try to get past instances of failure as quickly as possible, and CIA avoids conducting retrospectives because they detract from CIA implementing its operations.

9/11 Classified Information

the fact that the IC failed to predict the tests was astounding to Mr. Snider and evidence that something was "fundamentally wrong" with the IC's collection and analysis. Mr. Snider told the DCI that he wanted to do an IG report on the episode; the DCI was not pleased but never said that an IG investigation should not take place. Later in the interview, Mr. Snider indicated that he was very disappointed by the quality of the IG's investigation of the Indian nuclear test.

(S) There is no IG for the entire IC – the CIA IG only covers the CIA, not the IC's other agencies. Thus, for the review of the Indian testing episode to cover the entire IC, Mr. Snider would have needed to convince the IGs of the other agencies (e.g., the National Security Agency [NSA]) to conduct an investigation of that episode vis-à-vis their own agencies. Mr. Snider criticized coordination among IGs as inadequate because IGs will resist conducting investigations that they for whatever reason do not want to do – particularly the Department of Defense (DoD) IG. Yet "intelligence failures" always involve more than one agency. The President's Foreign Intelligence Advisory Board (PFIAB) and the oversight committees therefore need to conduct IC-wide investigations, but they lack the staff.

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(S) The CIA IG's jurisdiction includes the Office of the DCI. However, it is unclear whether the jurisdiction includes the Deputy DCI for Community Management (DDCI/CM). "This is an interesting question," he said. The DDCI/CM is technically outside of the IG's jurisdiction, but the IG did several inquiries of the DDCI/CM's office. These IG investigations were usually done at the request of DDCI/CM Joan Dempsey, although Ms. Dempsey did not always like what the IG concluded. The IG was critical of her office. More generally, the IG "just muddles along" regarding its jurisdiction of

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DDCI/CM and other such offices – the IG's jurisdiction was driven in part by whether anyone objected to what the IG was doing.

(S) Technically, the IG has no jurisdiction over the Terrorist Threat Integration Center, which reports to the DCI but is outside of the CIA. Regarding the Federal Bureau of Investigation (FBI), the CIA IG would not examine the FBI even though part of the FBI is in the National Foreign Intelligence Program (NFIP) except to the extent of looking at FBI participation in the CTC. There were times in which the CIA IG and the FBI-equivalent conducted parallel investigations in their respective agencies.

(U) COUNTERTERRORISM.

(S) Counterterrorism was relatively well-funded in the CIA – indeed, there was a lot of resentment in CIA against CIA's counterterrorism capabilities because of counterterrorism's funding-level vis-à-vis other missions in CIA. Counterterrorism was CIA's top priority probably by the mid-1990s.

(S) There was an investigation of the Counterterrorist Center (CTC) in 1999 or 2000 that was conducted [redacted] Mr. Snider was surprised by how positive the report was, as he had heard "snippets" that there were problems – [redacted]

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(S) CTC's reporting chain was convoluted and "diffused." The DCI would weigh-in outside of the reporting chain regarding matters in which he was interested, such as asking for briefings. He probably did so regarding counterterrorism. To the extent that the DCI asked for briefings from the director of CTC, other senior officials would likely be present. The DCI could bring matters "to a head" regarding CTC.

(S) DoD utilizes elaborate decision-making processes and is "very orderly." In contrast, CIA's decision-making style more generally is much looser. CIA is much more "flexible" but sometimes everyone who should be consulted about a particular decision has not actually been consulted. CIA's style reflects CIA "special mission" of being able to respond to crises quickly and to conduct operations expeditiously. DoD can never respond as quickly or effectively on short-notice.

(S) In the case of a loose, flexible decision-making style like CIA's, accountability must be ascertained on a case-by-case basis. Each CIA directorate has some regulations regarding decision-making. However, there are cases in which the IG felt that certain individuals should have been consulted. And CIA's response to crises sometimes raises questions about fiscal responsibility.

(S) It is much harder for CIA to do long-term planning than other agencies. CIA is very action/present-oriented. CIA is the only agency he knows of with no long-term planning office, which he thinks is a great mistake. Apparently there used to be such as office

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under Gary Foster. And CIA needs to have that office, rather than each directorate. The failure to have long-term planning will have an impact on the substantive work.

(S) Regarding the DCI's 1998 "declaration of war," the 1998 East African bombing had a "traumatic" effect on DCI Tenet. 9/11 Classified Information However, Mr. Snider said that he does not recall the issuance of the 1998 "declaration of war" memorandum.

(U) Mr. Lederman asked what five steps a DCI would follow to implement a memorandum such as the "declaration of war." Mr. Snider suggested that the DCI would follow up with the Directorate of Operations (DO) and the Directorate of Intelligence (DI) to find out what they were doing. Also, the DO and the DI would use the memorandum as the basis for budgetary requests. Finally, the DO and DI would become more aggressive in their activity related to the subject of the memorandum.

(U) THE PURPOSE OF CONGRESSIONAL OVERSIGHT.

(U) The original motivation for establishment of the intelligence oversight committees was that Congress needed to be aware of what the Executive Branch was doing on intelligence. There were concerns about intelligence collection domestically, although the Executive Branch was pursuing this issue. There were also concerns about the conduct of special activities. Prior to the establishment of the oversight committees, Congress did not investigate the IC's conduct aside from merely knowing in general how money was being spent. Before the committees' formation, Congress's role was essentially to dispense money to the IC.

(U) The committees' original focus was on investigating improprieties. When it became clear that the Executive Branch had this well in-hand, the committees' focus changed to overseeing the budget. DCI Casey emphasized special activities and tried to make CIA a "player" around the world. The committees' focus changed accordingly, and they began to focus more on special activities. Mr. Snider said that, in general, Congress's greatest contribution has been in special activities, where Congress is in reality the only check on Executive Branch activity in that arena.

(U) Comparing the Legislative and Executive Branches, Mr. Snider noted that the Executive Branch is very focused on implementing the President's foreign policy objectives, while Congress questions the merits of the President's policy. The committees saved the U.S. a lot of "grief" in the 1980s, he said, although the committees of course can concoct bad ideas themselves.

(S) Mr. Salvetti noted that the portion of the IC's budget devoted to special activities is very small but that it tends to receive a disproportionate share of Congressional attention. Mr. Snider responded that the engorged bureaucracy surrounding this part of the budget is "bureaucracy gone wild." He also said that the "Questions For the Record" (QFR) system is out of control, with Congress sending far too many questions to the IC.

(S) Mr. Scheid asked why there was no hearing by the oversight committees concerning counterterrorism aside from budgetary hearings. Mr. Snider responded that oversight changed in the 1990s such that it stopped being "routine oversight." The committees became more political, and oversight became "a game of 'gotcha.'" The House Permanent Select Committee on Intelligence (HPSCI) fared better than the SSCI – the SSCI became very partisan. The staff of the committees had been very stable and professional, but the deterioration of the oversight process caused many of the professional staff to leave.

(U) The atmosphere of the SSCI reflects the Chairman and Vice Chairman of the committee. Senators are so busy that they generally do not devote much time to intelligence unless they are leading the committee. In contrast, the HPSCI members are more involved in the affairs of the committee.

(U) He opposes the formation of a joint Senate/House oversight committee, as the SSCI and HPSCI are needed to 'check' each other.

(U) The IC does not know how to react to partisanship among the committees. The IC is afraid that information it shares with the committees will be used for partisan reasons, and thus the IC shrinks back from dealing with Congress.

(U) The oversight committees should abolish term-limits on members because the limits interfere with the committees maintaining experienced membership. The partisan staffs should be maintained because they parallel the rest of Congress. However, the staffs should not have partisan outlooks.

(U) CONGRESSIONAL OVERSIGHT AND RISK AVERSION.

(U) Congressional oversight has some impact on making CIA employees risk averse. However, the effect varies by individuals, and Congressional oversight impacts on very few people in the CIA. Most CIA employees, he said, feel confident that they can explain their actions if they need to do so.

(U) CIA officials were disciplined for not being forthcoming with Congress, for example regarding Guatemala. Of course, when some CIA employees see that discipline, they become worried for their careers and are concerned that Congress will try to second-guess them. However, such concerns should be ameliorated by top-down leadership in the IC. If employees feel that they will be supported by the DCI, they will be less inclined toward risk-aversion.

(U) DOMESTIC INTELLIGENCE COLLECTION.

(S) No one has tackled the question of how NSA approaches the foreign/domestic divide. NSA's role needs to be evaluated objectively. He said that General Hayden stated to the Joint Inquiry, "Tell me where to draw the line" on NSA's domestic involvement. NSA could do more domestically but is "scared to death" of doing so.

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When Mr. Snider was on the SSCI staff, he assessed rescinding the statutory prohibition on the CIA conducting "internal security," but he refrained from recommending it because he was afraid of what that change would "be unleashing." More generally, he said that agencies should not be considered as either "foreign" or "domestic" but rather as both. Also, the IC does not want to conduct the assessment of its role domestically – the assessment needs to be done by someone outside of the Commission. And Congressional oversight will be an inadequate check on the IC's role domestically. Rather, laws are needed to regulate the IC's conduct domestically.

(U) THE IMPACT OF THE COLD WAR.

(S) At the end of the Cold War, there was discussion in Congress that the IC would be much less important generally and that the oversight committees were no longer needed. However, the oversight committees were committed to maintaining an intelligence capability. Congress cut the IC's budgets and personnel, but most cuts came from the appropriators, and the authorizers had to "go along with it."

(S) In 1994, the SSCI's chairmanship changed from Senator Boren to Senator DeConcini. The Democratic Caucus wanted to cut intelligence severely, particularly after the Ames episode. However, Senator DeConcini and Senator Byrd, then-chairman of the Senate Appropriations Committee, decided to "hold the line" at the previous year's IC budget level. Yet DCI Woolsey wanted a budget increase, leading to sharp conflict between him and Senator DeConcini.

(S) He does not recall discussions regarding the future of the IC in the post-Cold War world, nor does he recall a hearing concerning post-Cold War strategy for the IC. Senator Boren did recognize that the IC needed to be maintained and that intelligence capabilities cannot be turned-off and then turned-on quickly. The oversight committees implicitly recognized the need to maintain the IC. But "it was cutting time" due to the end of the Cold War, and Senator Moynihan had introduced a bill to abolish the CIA. The Armed Services and Appropriations Committees would have cut intelligence far more drastically if the oversight committees had not objected.

(S) The 1991 legislation (unclear date) reauthorizing the IC was a deliberate effort by Congress to declare that the IC is still important in the post-Cold War world. The Bush Administration originally indicated it did not favor reauthorization, but Robert Gates, then at the National Security Council staff, later told Mr. Snider that the White House had decided that it wanted the reauthorization.

(U) THE ASPIN/BROWN COMMISSION, AND THE MANAGEMENT OF THE INTELLIGENCE COMMUNITY.

(S) The Vice Chairman of the SSCI, Senator Warner, asked the White House to conduct a review of the IC. When the White House refused, Senator Warner inserted a provision into the intelligence authorization bill creating the Aspin/Brown Commission.

(S) The Commission did not recommend that the DCI receive any additional authorities. The Commission was fairly conservative and was led by two former Secretaries of Defense. The Commission's biggest concern vis-à-vis giving the DCI more authorities was the effect on support for military operations (SMO). Mr. Snider said that he rejects that concern but that it is hard to prove that strengthening the DCI would not impact SMO. A related concern of decoupling the IC and DoD is what would happen to NSA if DoD pulled its personnel out of NSA. He said that the Commission was not concerned about the implication for civil liberties of strengthening the DCI. The Commission's compromise position regarding the DCI was to strengthen the DCI's "community" role.

(U) Mr. Snider offered that Congress has gone as far as it can in strengthening the DCI without infuriating the Secretary of Defense. Also, he said that it is difficult to ascertain whether if the DCI only had X authorities, he would have been able to achieve Y outcome. On the other hand, he noted that "most things work better if you have a leader." Mr. Snider said that DCI's lack of control over the NFIP detracts from the IC's performance, including on counterterrorism.

(S) The DCI does not currently control the money and people of the IC. Mr. Scheid referenced section 104(d) of the National Security Act of 1947 as amended, which states that the DCI can move money within the NFIP provided (1) the money does not belong to the FBI, and (2) the Secretary of Defense approves the transfer if it relates to DoD. Mr. Scheid said that section 104(d) has only been used three times and that the bureaucracy impairs the DCI's exploitation of section 104(d) – or, alternatively, reflects the DCI's reluctance to use it – by creating a burdensome process for obtaining the requisite clearances for moving funds. In addition, Mr. Scheid said that the White House supported a version of section 104(d) that would have allowed the DCI to move any funds within the NFIP without hindrance, but Congress added the limiting provisions regarding the FBI and DoD. Mr. Snider said that the negotiations regarding the details of section 104(d) were between the Armed Services Committees and the White House, and the Armed Services Committees made clear that they would not tolerate a situation in which the Secretary of Defense was not consulted regarding movement of funds within the NFIP.

(U) Mr. Snider said that the desire to strengthen the DCI's authorities will only lead to a "dead end." He said that, when he began his tenure as Staff Director of the Joint Inquiry, he met with the staff directors of the Senate and House Armed Services Committees who both told him that they would oppose any recommendation that strengthened the DCI's ability to move funds within the NFIP.

(U) The creation of the DDCI/CM has improved the IC's management but only in a limited respect. IC management will never work as well as it could.

(S) Mr. Salvetti suggested that the CIA return to having 9/11 Classified Information. Mr. Snider responded that CIA can never replicate 9/11 Classified Information.

(S) As IG, he never investigated the IC's management, aside from investigations of the DDCI/CM's office.

(U) Mr. Snider supports having intelligence authorization and appropriations bills that are separate from the DoD bills. To do so would require declassifying the top-line of the IC budget, which he supports doing. He said that two or three years ago the DCI stated public support for an intelligence authorization/appropriations process separate from DoD.

(U) Mr. Snider also supports having the NFIP appropriated to the DCI, which would increase the DCI's symbolic authority. The DCI would then be able to allocate the funds. Mr. Snider was not clear as to the effect of appropriating the NFIP to the DCI on the Secretary of Defense's current block on the DCI moving funds within the NFIP. He predicted that the Armed Services Committees would oppose this proposal but that the Appropriations Committee would be neutral given that their structure of subcommittees would not need to change.

(U) MANAGEMENT OF THE CENTRAL INTELLIGENCE AGENCY.

(S) Regarding management of the CIA specifically, he said that overall management of the CIA during his tenure as IG was poor. Management was left to the CIA's directorates, and the quality of management was "hit or miss." At the time, CIA lacked management tools. He does not know how well CIA has been managed since he left the CIA, although he is aware that financial-officer positions have been created and CIA-wide criteria for budgets have been developed in the past two years.

(U) WARNING.

(S) He cannot recall whether the IG examined warning. Various structures have been utilized to accomplish warning, but they invariably become personality-dependent. Warning of threats should be a major objective of the IC.

(U) THE CONCEPT OF AN INTELLIGENCE FAILURE.

(U) He defined an "intelligence failure" to be when the IC is supposed to do something and did not do it. However, in the case of 9/11, he could not tell what the IC should have done that would have prevented the attacks. Mr. Lederman suggested that the criterion for an intelligence failure should not be whether the attacks would have been prevented but rather whether the IC performed well in what missions it was supposed to accomplish. Mr. Snider said that he was very surprised that the U.S. government was unable to detect the nineteen hijackers once they were living inside the U.S. for so long.

(U) THE 911 COMMISSION.

(U) Mr. Snider suggested that we focus on such questions as how information flows within the government. He noted that "intelligence" is only a part of the overall

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information that the government needs regarding terrorism. He said that the government needs someone to look at all information, intelligence and otherwise, regarding terrorism and that he had assumed that the Department of Homeland Security would do so.

(S) He also said that collection against terrorism is different than collection against states because the IC needs to follow the activities, movements, and associations of individuals. He said that the IC has done so vis-à-vis counternarcotics but that the IC normally does not function this way.

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