



Event: Former Senator Warren Rudman

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Team Number: 2

Location: Former Senator Rudman's law firm, Washington, DC

Participants – non-Commission: Former Senator Rudman

Participants – Commission: Richard Ben-Veniste, Dan Marcus (came late), Kevin Scheid, Mike Hurley, Steve Dunne (came late), Gordon Lederman

#### BACKGROUND

Former Senator Rudman was Vice Chairman of the President's Foreign Intelligence Advisory Board (PFIAB) during the Clinton Administration. He was the only person appointed to be Vice Chairman who was from a different political party than the President's. He later served as Chairman of the PFIAB.

#### MANAGEMENT OF THE INTELLIGENCE COMMUNITY (IC)

The Department of Defense (DoD) attempts to control the IC; as Vice Chairman of the PFIAB, he thought that the IC worked better than it had previously. However, the right people are needed for the job. If people fail, the system will not work.

The original plan for the U.S. national security establishment after World War II was that the Director of Central Intelligence (DCI) would be the "tsar" of intelligence and would run the Central Intelligence Agency (CIA). However, as signals intelligence (SIGINT) and imagery intelligence (IMINT) were established and grew in prominence – and the budgets for these enterprises were located in DoD – DoD came to control increasing amounts of the IC.

Mr. Scheid noted that some of observers have argued that the Goldwater-Nichols Act increased the power of the Secretary of Defense (SecDef) while the IC has languished. Senator Rudman said that the PFIAB did an intensive analysis of intelligence support for U.S. and Coalition military operations and found that there had been some serious problems between the CIA and DoD, and so DoD decided to expand its effort to bring intelligence to the warfighter. General Schwarzkopf was upset with the CIA during Gulf War I and at one point threw the CIA out of his headquarters because he did not believe

that his commanders were receiving sufficient intelligence. Post-9/11 CIA support for military operations in Afghanistan was a great success story.

As to how to ascertain whether the DCI or the Secretary of Defense exert true authority over the IC, Senator Rudman said, "Follow the money and you will find the power." DoD is an "avaricious shark" and tries to grab everything it can. DCI Tenet is very frustrated by it but will not say so publicly. The "giant sucking sound" is the sound of DoD "slurping up IC functions." People in DoD lack historical knowledge about the IC. For example, DoD has seriously underfunded the National Reconnaissance Office (NRO). Mr. Scheid noted that there used to be a "fence" around the budget of the National Foreign Intelligence Program (NFIP) but that fence has been dismantled. Senator Rudman agreed and cited the example of the NRO Director, who is now dual-hatted as an official of the Dept. of the Air Force. DoD "has truly become the 800 lbs. gorilla." Joan Dempsey lacked sufficient respect in the IC to do her job as Deputy Director of Central Intelligence for Community Management. But the Dept. of Homeland Security will not become another 800 lbs. gorilla seeking attention from and control over the IC.

Senator Rudman noted that there is a lot of intelligence done in other places aside from the CIA and DoD. For example, the Department of Energy (DoE) has a significant intelligence operation, even though the PFIAB "debunked" DoE's handling of the Wen Ho Lee issue and showed that DoE intelligence is "dysfunctional."

Creation of the Terrorist Threat Integration Center (TTIC) is a great idea if you get the right people. However, a CIA or FBI employee who is bright and up-and-coming you will not want to go to TTIC, and if you are a senior manager you will not want to send your best-and-brightest to TTIC. Indeed, TTIC has had serious staffing problems. Mr. Scheid noted that the DCI's Counterterrorist Center (CTC) faced the same issues when it started. Senator Rudman suggested that TTIC's structure be codified in statute. He said that what the Commission says about TTIC could be the most significant recommendation that it makes.

Massive reorganization or creation of new organizations in the IC will create "Frankenstein." The DCI should be given "concurrent budget authority" over all the IC, including DoD and DoE entities. It is politically infeasible for the DCI to receive his own authority. Of course, shared authority is no guarantee that the DCI will have sufficient power. The Armed Services Committees will probably oppose any increase in the DCI's authority; he was amazed when he came to Congress to find that when Members are appointed to Committees, they then become advocates for the agencies they are overseeing.

The PFIAB should not do oversight of the IC. The PFIAB was created by President Eisenhower because he was suspicious of the IC. The PFIAB under President Eisenhower was more aggressive than it is today. President Carter did not even have a PFIAB. The PFIAB is squarely within the Executive Office of the President and

therefore should not be legislated by Congress, even if the point of that legislation is to make it more aggressive.

Senator Rudman thought that the CIA had given up too much and needs closer connections with SIGINT and IMINT.

### HOMELAND SECURITY

He opposed creation of the White House's Office of Homeland Security (OHS) and believes that the National Security Council (NSC) staff should have a portfolio for homeland security. Gen. Gordon, who handles homeland security issues at the NSC, lacks the clout of National Security Advisor Rice and has been marginalized. Yet once something is created in government, it is never eliminated. OHS should have been eliminated after the creation of the Dept. of Homeland Security.

The idea of a U.S. MI-5 "scares him very much." When CIA was created, the FBI and the American Civil Liberties Union were "soul brothers" to keep the CIA out of domestic intelligence. Yet it seems that DoD is now trying to do some domestic intelligence (e.g., via the Total Information Awareness project) that CIA is forbidden to do. Senator Rudman asked rhetorically why DoD was doing TIA and what a counterterrorism database has to do with support for military operations. Mr. Lederman suggested that DoD may see developing a counterterrorism as an integral part of force protection.

The Administration created a Dept. of Homeland Security that is too big. The Dept. of Homeland Security needs to build analytic skills, but analysts in the Department will mostly be analyzing products. There needs to be more central oversight of the Dept. of Homeland Security.

The FBI is very good at counterespionage and has had excellent collection. FBI has great collection with State and local police. Having an MI-5 as a separate civilian organization would lose the State and local collection links and capabilities that the FBI has taken three decades to build. Cops only like to talk to cops – they have a culture all their own. Cops will only be forthcoming with cops. Major espionage cases were broken by tips from State and local law enforcement.

The FBI is case-based, driven by FBI agents' desire for "stats." There is no reward for analysts in the FBI. The FBI needs to institutionalize the analysts' career path. Perhaps the FBI should create an agency within the FBI that is responsible for assignment, training, and recruiting of analysts and can elevate them to high-level positions. As to whether the Drug Enforcement Agency (DEA) is a model for a counterterrorism agency, Senator Rudman noted that DEA had a lot of growing pains and has done some reckless things.

The FBI has been getting better at sharing information, but it depends on having the right people. There is no substitute for having competent, dedicated people.

As for oversight, the Senate Select Committee on Intelligence (SSCI) and the House Permanent Select Committee on Intelligence (HPSCI) should conduct oversight of domestic intelligence. The Judiciary Committees lack staff and training to conduct such oversight but could develop it. Mr. Ben-Veniste suggested that oversight should be done by all three branches of government, that the FBI is trained in Constitutional protection but that the extent to which the Attorney General (AG) exercises oversight depends upon the AG's personality. We are a government of laws and individuals, Mr. Ben-Veniste said. Senator Rudman said that there needs to be a watchdog over FBI domestic intelligence because the Dept. of Justice's internal security office has become a cheerleader for the FBI. No one pays attention to the Dept. of Justice Inspector-General.

In sum, there should be a domestic intelligence agency within the FBI, with incentives for FBI agents to become analysts and robust oversight.

### CONGRESSIONAL OVERSIGHT

Senator Rudman thought that in general the oversight committees have done all right. Having frameworks for oversight is useful, but a lot depends on the personalities involved. Senator Shelby as chairman of the SSCI harassed DCI Tenet and micromanaged the IC. Senator DeConcini as chairman of the SSCI had a terrible relationship with DCI Woolsey. However, Senator Boren as chairman of the SSCI worked well with the IC, and Senators William Cohen and Bob Kerrey were positive influences.

He would not be surprised if there were no Congressional hearings on counterterrorism before 9/11. The oversight committees should always be focused on major policy issues.

SSCI/HPSCI term limits should be maintained. They do not interfere with institutional memory because Members are replaced on staggered terms. While it takes time for Members newly appointed to the Committees to educate themselves regarding the enormity of detailed information, if there were no term limits then ill-qualified Members would stay on for a long time. Senator Rudman thought that the majority of Members of Congress favored term limits except for the Members already on the Committees.

### 9/11

The attack on the *U.S.S. Cole* signified "a great big arrow pointed in our direction." No one in government was focused on counterterrorism before 9/11 (except for Senator Cohen, who wrote an op-ed on the subject) – but should they have been? There were signs of an impending attack, but he cautioned the Commission against imposing 20/20 hindsight in its inquiry.

Intelligence is at best a "dicey business." In baseball, if you bat .400 you are inducted into the Hall of Fame, while in intelligence if you bat .925 you are considered a failure. He noted that the FBI's bank robbery unit, established in 1925 or so, has not succeeded in preventing bank robberies. The IC will never be able to do 100% prevention – even

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Israel cannot do 100% prevention, and Israel is a small country with a excellent intelligence services. 9/11 was not an intelligence failure – there were three reports on aircraft as weapons amidst millions of reports on various subjects.

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