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Intelligence and Homeland Security After 9/11
Joan A. Dempsey

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Intelligence and Homeland Security After 9/11

Joan A. Dempsey

March 25, 2004

President George W. Bush appointed Joan A. Dempsey as the executive director of the President's Foreign Intelligence Advisory Board (PFIAB) in July 2003. The PFIAB, chaired by former National Security Advisor Lieutenant General Brent Scowcroft, USAF (Ret.), advises the president on foreign intelligence issues of White House interest. Ms. Dempsey was confirmed by the Senate in May 1998 as the first deputy director of central intelligence for community management, a position she held for more than five years. Previously, she served as chief of staff to Director of Central Intelligence (DCI) George Tenet. She also held a number of positions in four different Department of Defense intelligence organizations including, simultaneously, deputy assistant secretary of defense for intelligence and security and acting assistant secretary of defense for command, control, communications, and security. She entered career federal employment as a presidential management intern in 1983. A naval reserve officer, Ms. Dempsey served as a cryptologic technician in the Far East. She has a bachelor's degree in political science from Southern Arkansas University and a master's degree in public administration from the University of Arkansas. She has received several awards, including the Secretary of Defense Medal for Meritorious Civilian Service, the Director of Central Intelligence National Intelligence Medal of Achievement, the Intelligence Community Seal Medallion, the American University School of Public Affairs Roger W. Jones Award for Executive Leadership, and the Presidential Rank of Meritorious Executive. In 2003 she was granted an honorary doctorate from the Joint Military Intelligence College.

Oettinger: Our guest today can only be with us until 3:30, so we want to make the most of the time she can spend with us. I won't waste your time and hers with elaborate introductions. You've all seen her biography and know something about her long and varied career. The only thing I would add is that it's a pleasure to have her here, since I have essentially worked for her for several years. Joan, we're most delighted you could join us.

Dempsey: Thank you, Tony. I'm delighted to be here this afternoon, but to be perfectly honest I'd be delighted to be anywhere but Washington. Nonetheless, I am happy to spend some time with all of you. I'm going to talk for a few minutes about intelligence, broadly, and maybe try to be a little bit provocative. I want to spend most of our time today hearing from all of you: answering your questions and having a dialogue with you about intelligence.

Intelligence is on the front page all the time these days. Occasionally that's a good thing. Usually it's not a good thing, but it's something we've become used to. That is a very recent

phenomenon. Intelligence up until the end of the cold war was a private good. It was not in the public domain. All of that changed after the fall of the Berlin Wall. I have my own ideas about why it changed. You may have your ideas, and if you don't have your ideas, I'm going to try to stimulate you to have some ideas as we get into the discussion this afternoon.

Since this is a class that includes command and control in its title, I told Dr. Oettinger that I had to use wiring diagrams, because that is how we articulate command and control not only from a military but also from a broader national security perspective. This first chart—and there are only two, so I won't hurt you too badly—depicts what I think is the public impression of intelligence, command, and control, although the public probably wouldn't articulate it that way (**Figure 1**). This is the organization that is commonly, popularly, assumed to be the intelligence community. It has the director of central intelligence at the top. I apologize for all of the acronyms. If there are any that you don't know or that I don't cover, stop me and I'll explain. It's "chartology"—the viewgraphs just didn't have room for all the words.

Figure 1

The DCI has two deputies. The DDCI/I [deputy director of central intelligence for intelligence], who is the first among equals in terms of deputies, has a direct responsibility for the Central Intelligence Agency [CIA]. The DDCI/CM [deputy director of central intelligence for community management], which I was for five years, has responsibility for the rest of the intelligence community.

Under the DCI, then, you have the National Geospatial-Intelligence Agency [NGA] (they just changed their name; it used to be the National Imagery and Mapping Agency), the newest of the large intelligence organizations in the United States. It was established by John Deutch in 1996. The National Security Agency [NSA] until about 1990 was referred to facetiously as "No Such Agency," because it was arguably the most secret of all the U.S. intelligence organizations. The CIA, of course, needs no explanation. It actually needs a lot of explanation, but not in terms of acronyms. The National Reconnaissance Office [NRO] is the other most secret U.S. intelligence organization. It used to do what we referred to as "black" space programs, but there

are very few black space programs left in the United States, so it does intelligence satellite programs. Then there's the Defense Intelligence Agency [DIA]. The line of boxes on the bottom are those cabinet or cabinet-like offices that have intelligence staffs. Under "Et Cetera" the biggest et cetera is the Department of Defense.

That is, notionally, the idea of intelligence that most people have if they've bothered to think about the U.S. intelligence community. Do you agree, generally? How many of you have government or military experience? A lot of you! I just wanted to define the potential troublemakers.

This is the real U.S. intelligence community (**Figure 2**). The colors mean something. I'll come back to that in a moment. On the left you have the secretary of defense. Four of the "big five" agencies, where about 60 percent of all manpower in U.S. intelligence resides, are under the statutory direction, control, and authority of the secretary of defense. In addition, he has all tactical intelligence activities, which encompass almost the rest of U.S. intelligence manpower.

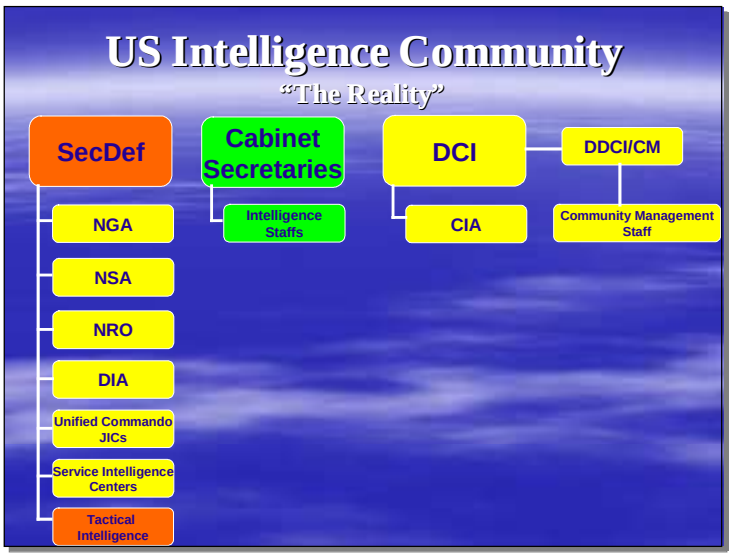

Figure 2

The cabinet secretaries are really independent. Their intelligence organizations report only to their particular cabinet secretary and to no one else.

The DCI has direct authority over only the CIA. We see that represented every day. If you watched the hearings yesterday, the little banner under George Tenet's name says "director of CIA." He is never, ever, identified in the press as the director of central intelligence; it is always as the director of CIA.

As I mentioned, he also has working for him the DDCI/CM, who has a community management staff that notionally has responsibility for whatever the DCI does relative to the rest of the intelligence community, none of which works for the DCI. So when the *Cole* or Khobar Towers is bombed, or the World Trade Center is attacked, and there are charges of "intelligence failure," why is it that it is the DCI who is hauled down in front of the Congress to explain what happened? Couldn't you argue that at least it ought to be the DCI and the secretary of defense,

and possibly even just the secretary of defense? This is the mythology versus the reality of U.S. intelligence. It is a myth that there is a director of central intelligence. It is not a reality.

Now, how did we get to where we are today? Throughout the cold war we were intent on building a U.S. intelligence capability that as its primary function would support force-on-force combat on the northern plains of Europe between the United States and the Soviet Union. Everything that exists today—all of our capabilities, the organizations, the structures, the lines of authority—was designed to allow the United States to fight and win that war. That is no longer a possibility in the way we think about national security, and yet we still have an intelligence structure that supports that notion of massive force-on-force warfare.

I would never argue that the problems we've seen with intelligence over the last decade result only from this structure, because I don't believe that to be the case. But I think it's very hard for U.S. intelligence to succeed against the sort of national security and domestic security challenges that we have in the world today with this kind of structure. While there have been repeated calls, over the last decade in particular, to look at reorganizing U.S. intelligence, no one has had the stomach for it: not the Congress, not successive Democratic and Republican administrations, and not the community itself. No secretary of defense has ever wanted to reorganize intelligence and move responsibility to the right on this chart. While hope springs eternal, I have come to believe that we will never seriously reform the organization of U.S. intelligence. I think we're stuck with it and we're going to have to find other ways to make it work.

I briefed Vice President Cheney with almost identical slides in February 2001, after the January inauguration. I walked him through all of this and used the same examples, because we had just gone through some pretty serious congressional hearings on problems in intelligence. We were sitting in the DCI's office when we did this briefing, and I said, "If you were the DCI, would you like this sort of construct?" He said, "No, I wouldn't, but if I were secretary of defense I would like it very much." As a former secretary of defense, Cheney chuckled when he said that. He's absolutely right, and it's the secretary of defense who has the bulk of the national security portfolio for the U.S. government. If the secretary of defense will not support the DCI's picking up more responsibility and authority for U.S. intelligence, it probably will not happen. Until now no secretary of defense has, even the ones I consider to be most reasonable about such issues—which would not include the current one, by the way.

That's the myth and the reality of U.S. intelligence. I think we're going to see problems with the way intelligence functions and is structured played out over and over again in the press, in the media, on Capitol Hill, and throughout the country, because we are inherently still a cold war organization. It's one of our biggest challenges.

It also makes us extremely inefficient. All of those organizations require huge numbers of resources, both dollars and manpower, to do their jobs effectively, and they all operate in their own stovepipes—in their own areas of expertise. They do not operate across the organizations very well; in fact, it takes enormous brute force to get them to operate together.

So this is the organization that exists. We have all kinds of work-arounds to try to make it function better. Sometimes they succeed and sometimes they don't. What I'd like to hear from you today is what you think about this, and questions you have about what you read in the papers and what you study in these classes. If you think there is a potential solution out there and that I've been in Washington too long I'd like to hear about it. I have to tell you: I am pretty negative

about whether or not we're going to be able truly to reform intelligence. I think it's a desperately needed effort for us to undertake in this country. So with those brief comments, I want to hear from you, and not just the potential troublemakers.

Student: From your comments about the secretary of defense and the need to have the secretary of defense get on board for a shift to occur on that chart, it would seem to me that a secretary of defense would have to support a campaign of some kind to change the media perception of responsibility. Perhaps the most wonderful thing about having all that power is that he doesn't get called up to take for responsibility for all that power. If that's the case, are there any protective measures the DCI can take? Is there any way in which a DCI can change behavior within the organizations that he or she does control, or controls with the DDCI/CM, to increase knowledge and protect him- or herself, considering that the situation is as it is?

Dempsey: Not really. The question is a good one. I have portrayed a fairly cut-and-dried reality. The real reality is not quite that cut and dried, because CIA is the largest of all the major intelligence organizations. Of course, since the other large ones are in Defense CIA is small in comparison to the combination of all the rest, but CIA is the preeminent intelligence organization in the United States, so the fact that the DCI has the equivalent of direction, control, and authority over the CIA really does make the DCI preeminent. Nonetheless, CIA can't carry out the intelligence mission without the other agencies and they do not work for the DCI, so there's not a whole lot the DCI can do to inoculate himself.

This is a hard concept for even the Congress to understand. When the DCI testifies, they ask him questions as though he were the DCI in reality, and they hold him accountable for things done under the direction, control, and authority of the secretary of defense. We constantly work with the Congress to try to make them understand this.

They created this organization. The National Security Act of 1947 established the position of director of central intelligence and gave him three primary responsibilities. The first was to was to be the senior intelligence advisor to the president, the second was to protect sources and methods, and the third was to run the CIA. Interestingly, I've been told (I never actually went back and counted) that the number of pages in the National Security Act that dealt with intelligence is close to 100. The number of pages that dealt with the organization and structure of the Department of Defense is about three. In this country we've always had a problem dealing with intelligence. We don't like it. We think it's necessary, but it's somewhat unclean. So we just put it over here under this DCI, but the stuff that really matters we put under the secretary of defense, because we like warfare. We are a war-loving society, and if something is related to the military, it's great. So we put all the organizations under the secretary of defense, but we gave the responsibility for that nasty business to the DCI.

Oettinger: I've always been puzzled by that, because you say the direction, control, and authority are statutory. I was under the impression that the secretary of defense was the executive agent for NSA and so forth. So that's wrong?

Dempsey: Statutory direction, control, and authority belong to the secretary of defense. That goes back to 1947, Title 10. Secretaries up until the current one have shared responsibility for these organizations with the DCI. This secretary of defense actually delegated direction, control, and authority to the new under secretary of defense for intelligence. That's the first time any secretary has delegated that responsibility. He's actually given to the under secretary the day-to-

day management responsibility, and he is exercising that day-to-day management, thereby once again removing the DCI from direct interaction.

Student: We heard throughout the course that different DCIs have different relationships with the community through the DDCI/CM, and I was wondering if there is a way they can become more involved. Should they be more involved? Are they involved enough, and if they did get more involved could that perhaps aid that shift to the right?

Dempsey: That is the $64,000 question. Throughout the decade of the 1990s there were three efforts to reform intelligence in law. The first one was in 1991. It involved very minor changes. In 1994/95, there were minor changes having to do with how we spend money. As you all probably know, how we spend money is probably the best reflection of our priorities. In 1994 or 1995, whenever that bill was passed, Congress gave the DCI the ability to transfer money from one program to another in an execution year, but only if he had agreement from the heads of the agencies affected. It was very hard to get someone to agree that the DCI was going to take their money away and move it to someone else, so it was really an empty effort at change.

In 1997, when my position—the DDCI/CM—was created, that was the furthest Congress was able to get. That was the result of the Aspin–Brown Commission, and an effort to look at reform of U.S. intelligence. Aspin–Brown was started when Senator John Warner became concerned in 1991/92 about the various calls for a peace dividend, which was a way on the Hill of going after national security money. Congress said, "There's no more cold war. The reason for the large national security, military, and intelligence structure has gone away, so let's take that money that we've spending on defense and intelligence and transfer it into domestic programs." Senator Warner saw this coming and became very alarmed, so he was the one who supported in legislation what become known as the Aspin–Brown Commission. It was his attempt to forestall major reductions in defense and intelligence. I don't know how successful he was. We did reduce our overall intelligence spending by about 25 percent to 30 percent through the decade of the 1990s and reduced about that much in terms of manpower. We might have lost more had there not been an Aspin–Brown.

One of the recommendations out of Aspin–Brown, however, was to give the DCI more authority over U.S. intelligence. In 1997 the Congress, having failed to implement real reform, established my position and that of my three assistant DCIs in law, but gave us no new responsibilities. They did not transfer any authority to the DCI or to the new positions. Again, this created an expectation that we were going to do more in the community, with the community, across the community, but gave us no authority to do more. That's a very long-winded answer to your question, which I don't remember.

Student: Is it a personal decision of the DCI to have more involvement? Should DCIs have more, do they have enough, and if they had more would that help the shift? Your position may not have the authority.

Dempsey: It is a very personalized business, and you'll hear around Washington that authority doesn't really matter. If the president likes the DCI and supports him that's all he needs. There's some truth to that, but he still can't direct the activities of the agencies other than CIA. So if the DOD needs the NSA to focus exclusively on the former Yugoslavia, because we have troops in the Balkans, and the DCI wants to go look for weapons of mass destruction [WMD] in Iraq, it's going to be the secretary of defense's requirement that gets satisfied, as opposed to looking at the

longer term problem. If we subsequently fight a war because we think there are weapons there and we find out there aren't, what is the origin of that problem? It begins to get very complicated.

Student: It seems as though trying to move the majority of resources under the authority of the DCI would be much harder than saying "The DOD is in charge of the intelligence at this point. Why doesn't the CIA just fall under the umbrella of the Department of Defense?"

Dempsey: That is certainly an alternative approach. There are a couple of non-obvious reasons, and then there is a more obvious reason. One of the reasons we have separation of powers in this country is because we are fearful of centralizing too much power in any one department of government. I would argue that at the basis of this inability to consolidate power under the DCI is that we fear intelligence. We fear a too-powerful DCI. Likewise, we fear a too-powerful secretary of defense. I would argue that we would have a hard time under our Constitution giving the secretary of defense a covert action capability.

Covert action, if you haven't studied it (I said I wanted to be provocative, so I will), is the means we use to break laws in other countries, not our own. We break other people's laws and carry out a number of foreign policy objectives through the use of covert activities. I think it would be very hard for us to do that under the Department of Defense, because I don't think the Constitution allows it.

There are other aspects of the more benign foreign intelligence collection and analysis that the CIA does that you could put under the DOD. Can somebody tell me why you wouldn't want to do that? What is the problem with not having an independent intelligence organization? Would you be concerned, possibly, that the intelligence could be manipulated to support what the secretary of defense wanted to do, as opposed to intelligence being developed independent of any particular cabinet secretary's chosen course of action? You know what that's called? Politicization. In previous years, the Congress had been very concerned about the potential for politicization of intelligence. Tony Lake did not become the DCI when he left the job of national security advisor even though he was nominated, because of concerns over politicization in a very partisan Congress, frankly. So the reason we have a CIA is to avoid the "central" intelligence function getting captured by a cabinet secretary who might have an agenda he wants to pursue.

Student: I sat in on a conference here at the law school that discussed the war on terror. The argument was made that the DOD doesn't have much of a role in that, and that there should be more of a role for assassination and that kind of thing, and more covert activity, which would mean more of a role for the CIA. Do you feel that is a concern: that more power might be moving toward CIA because of the war on terror?

Dempsey: No, but that's just my personal opinion. What the country needs to understand is that we have a tool in our national security arsenal that, when the president authorizes it, can carry out extra-judicial assassinations overseas, which we would not be able to do under our laws in this country. Various presidents have exercised it at various times in periods of extreme national security emergency. There have been reports in the paper that both President Clinton and President Bush had authorized the CIA to exercise that ability in the war on terror. Whether they have or not doesn't really matter; they could if they wanted to. So the debate is not whether you think that's good or bad; the debate is "Is that a reasonable thing for the country to do?" Where you sit will determine where you stand on that issue.

Student: Without impugning the motives of intelligence managers, because many of them are dedicated people, you did mention this is a political game. There are a lot of personalities to be dealt with. Earlier this week John Gannon was here, and he talked about the bloodbath of the intelligence community, and said, "If an agency has a piece of information, the impetus in this bloodbath game [as he described it] is to run to the president with the information themselves, or run to the Congress, as a means of not only getting more credit for themselves, but also saying, "Look what I can do. Increase my funding at the expense of someone else."[1] Can you describe the change of incentives that would be needed to increase synergy among the agencies? We're in that game-theoretic Prisoner's Dilemma, where don't share/don't share information is the equilibrium for both players, whereas share/share is a better strategy even though the payoffs are less.

Dempsey: That phenomenon does happen, although I think it happens less today than it used to, because 9/11 really did mobilize the intelligence community as well as the nation to cooperate better, at least in the counterterrorism area. The intelligence community as well as the DOD can come together in the face of a cataclysmic threat, as we saw on September 11.

However, having said all that, it does happen. It happens all the time. There are a number of ways to change it. You could give the DCI more authority and somebody could be fired when they pull those kinds of stunts, or you could have Congress say, "I don't want to hear it. I'm going to ask the DCI where I should put this marginal dollar, or whether I should support your program, and depending on what the DCI tells me and on my own analysis of his answer I'll make my decision."

What happens is that in Congress, on our oversight committees, the staffs are divided. You have an NGA person; you have an NSA person; you have a CIA person; you have an NRO person, so those agencies go to those staff members and they work to get funding and authority to do things. Congress is part of the problem in this regard.

Student: Could you just quickly describe the National Foreign Intelligence Program? I understand that the DCI is responsible for that, according to the 1947 National Security Act, but how much does he lose out to the DOD on that?

Dempsey: I'm glad you mentioned that. The colors on my second slide are meant to depict the program aggregation. What I mean by that is that the National Foreign Intelligence Program—the NFIP—includes all national intelligence capabilities. Those boxes that are colored yellow on that chart are part of the NFIP. The DCI is the program executive for the NFIP. What that means is that he takes the budgets that are developed annually by each of those yellow boxes and integrates those budgets (actually, that was my job as the DDCI/CM) and then presents an integrated NFIP first to OMB [Office of Management and Budget] and then to the Congress.

Separately, you have the secretary of defense who has responsibility for tactical intelligence and tactical organizations in the DOD. It's a much smaller budget, but he has direct responsibility for tactical intelligence and related activities, known as TIARA.

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[1]See John C. Gannon, "Intelligence and Homeland Security After 9/11," in *Seminar on Intelligence, Command, and Control, Guest Presentations, Spring 2004*, I-04-1 (Cambridge, Mass.: Harvard University Program on Information Resources Policy, June 2004), in press.

The ability to integrate forward, defend, and argue for money for these agencies is unquestionably the DCI's biggest leverage over all those organizations shown in yellow on the chart. The problem, however, is that the money is appropriated to the secretary of defense. It is in the defense budget. It's part of the defense top line and it's the secretary of defense who gets to distribute this money to these agencies. One of the things that we were extremely successful in doing over the last few years is getting additional money, defending first to OMB and then to the Congress the need for additional intelligence. Frankly, that was the biggest leverage I had over these agencies, because it was the promise of being able to get more money for them. So while the DCI has a lot of influence, ultimately the way they execute it is a decision made by the secretary of defense.

If we were going to have significant reform, one of the things that's part of the ongoing swirl in Washington right now is the idea of establishing a director of national intelligence. Just establishing that position doesn't do anything over and above what we have today in the form of the DCI. At a minimum, I believe you would have to give the director of national intelligence not only budget development authority, which the DCI has today, but also budget execution authority, so he would not only ask for the money, he would also get the money, and he would be the one who would appropriate or further spread the money to the agencies. Then he's really got them…by the wallet.

Oettinger: Would that affect the loyalty of people in particular agencies? I have a fixation on the importance of the military side of the Goldwater–Nichols Act, because all sorts of organizational priorities we took for granted before that, because the loyalties were all to individual services, had to make some shift toward integration after that. There's no comparable reward system in the intelligence community for behaving nationally, or across agencies. Is that, in your mind, a significant factor, or is it more just the golden rule: he who has the gold rules?

Dempsey: It's an issue of degrees of change or improvement. I honestly think, just on the basis of my experience with how much leverage we had in the budget development side, that if the money were appropriated to the DCI it would go a long way toward engendering loyalty to him. There are other ways to do it. I've testified on this innumerable times, and what I argue as the minimum required for truly effective change is, first, budget execution authority. That's absolutely essential. Second, if the intelligence community senior executive service—all of those intelligence civilians in the senior executive ranks—worked for the DCI and could not go into the senior executive ranks until the DCI approved it, that would be another enormous advantage he would have. Third, if they had to be designated ICOs—intelligence community officers—which requires certain tours outside their home agencies, as well as professional accreditation and professional education, before they could be considered for the senior executive service, that would be another step. If you're thinking about this in the Goldwater–Nichols context, you've now got joint duty assignments, can't get promoted to flag or general officer until you've had joint duty assignments, and you basically all work for the chairman of the Joint Chiefs of Staff as JSOs—joint specialty officers. So it really takes Goldwater–Nichols and applies it to the intelligence community.

You can leave the people in the Department of Defense. I don't have a problem with that. You can leave the budget in the Department of Defense as long as you appropriate it to the DCI. I think it would lead to profound change. It also keeps the secretary of defense involved. He hires, fires, and rewards the heads of those agencies. You don't have to move the agencies. Nonetheless,

for some reason they listen more to the secretary of defense than they do to me, so nobody has picked up on those ideas.

Student: As I try to think about a Goldwater–Nichols for intelligence, it seems that in the military you have a warfighting organization where intelligence is more of a function. No matter what organization you are, you have intelligence needs, and intelligence is nothing by itself. You have to have a customer, so you have all these different customers. Isn't there a difference when you're talking about consolidating something and yet, no matter which cabinet department you are, you have your own individual requirements that to some degree need dedicated analytical support?

Dempsey: Yes, and nothing I've said takes away from that dedicated support to a decision maker. Quite the contrary. I believe intelligence exists to help people make better decisions, and you want that intelligence to be available at every echelon of command—to use a defense term. However, we also have the equivalent of services in the intelligence business, and I think those services can provide intelligence in a much more efficient and effective way than they do now. The services are basically the national agencies. So I don't see anything inconsistent in giving a DCI more authority over parts of the intelligence community, and yet leaving the intelligence support at every echelon. That's inherent in the way we're structured and I wouldn't change it.

Student: Can you talk a bit about the appropriations process? One big problem is that with this organization the secretary of defense also has so much of the money. I think there have been discussions on whether the DCI should have control of maybe a reserve part of that budget, perhaps 10 percent, that he could move around, so that structurally the secretary of defense has control but at least the DCI has something. Without the budget, what does he have?

Dempsey: That was my point a moment ago. I don't think he should have 10 percent; I think he should have control of all of it. I think it should remain in the defense appropriations bill. I don't know how arcane we want to get today, but the DOD is funded in the 050 account, and intelligence is also funded in that account. There are aspects of intelligence that are not in the defense appropriations bill but are still in the 050 account—the national security account, in the congressional budgeting vernacular. What I would propose is to put all intelligence funding above the tactical level in a separate appropriation in the 050 account for which the DCI has authority. It would still be part of the defense subcommittees of the Appropriations committees. It would still be appropriated in the big national security aggregate, but it would make the DCI the comptroller for U.S. intelligence, and that's where I think we need to go: not 10 percent, but the whole enchilada above the tactical level.

Student: When you look at the different phases of budget approval and authorization and finally appropriation, what barriers would you now run into in Congress from your authorizers? You have your authorizers for DOD—the Armed Services committees—and authorizers for intelligence—the House and Senate select committees on intelligence. You're suggesting we maintain the appropriations in the same place, but the authorizations would have to change from one committee to another. I can only imagine that there would be a big fight on which chairman is going to keep those jewels.

Dempsey: Not as much as you might think. I'll go back and use John Warner as an example again. He's the chairman of the Senate Armed Services Committee [SASC], and has served on the

Senate Select Committee on Intelligence [SSCI] for many years. He would have been chairman had he not been offered Armed Services. He is a statesman in the truest sense of the word. I think John Warner would have no problem moving authorization for all of national intelligence under the SSCI, with sequential referral under the SASC. What that means is that the SASC would be able to comment on all of those intelligence programs and activities and would be able to hold hearings and all of that.

I don't think the authorizers are really the problem in that sense. It's the executive branch that is the problem.

Student: You may be answering the question I was getting ready to ask. When you're talking about this change in who controls the budget once it's been allocated, are you suggesting that it would be slightly easier to get that change through than to make some of the changes that would actually move the positions, and that it would be easier because that's something the Congress can do by itself without the secretary of defense's approval?

Dempsey: No, the secretary of defense would have to go along with it. The reason I think it could be made acceptable is that it would require a change in law. It would require, obviously, congressional approval or agreement, but pretty much anything we do is going to require that. It still keeps the secretary of defense deeply involved in the intelligence budget and in the execution of the funds. That's why I think it could be more acceptable than moving all those monies and people outside the DOD, which I see as completely unacceptable. This way the secretary of defense still has an important oversight role in the funding, but not the direct day-to-day management of how the money is executed.

There's been no reason for the secretary to support that sort of compromise position, because no one is threatening to do anything worse. So I don't see him offering it up in the name of good government, because he is giving up some authority over intelligence funding. But I do believe it could be made acceptable to him.

Oettinger: I hear you describing this as something of a secretary of defense/DCI/congressional game. Is DHS [Department of Homeland Security] not a factor? Is the White House not a factor?

Dempsey: DHS should be a factor. I would say on a not-for-attribution basis that we're ten years away from DHS's truly being a major factor. That is not a slight against the DHS; that is the reality of bureaucracies getting established and knowing what they're doing. I saw it with NGA. We stood up NGA in 1996, and it's really only been in the last year or so that it's started to come into its own. It's a much smaller problem; a much smaller organization. DHS is enormous. I think they've done a tremendous job in some areas. I think the Transportation Security Agency is phenomenal. They have really come into their own very quickly. But other parts of it, in terms of an integrated department, are going to take much longer.

The White House is curious. I can't put my finger on why it's so hard, and I will impugn numerous administrations. Ronald Reagan was the last president, I think, who got actively involved in the act of intelligence. They've all, to lesser or greater degrees, been customers of intelligence, but Reagan actually mixed it up. He helped us with the Brits when we were trying to establish overseas facilities. He actually got his hands dirty—although that's not a good analogy when you're talking about intelligence. He's the last one. You couldn't ask for a more engaged

student of intelligence than the current president, but he's not involved in the organization and the activities of how we operate. But yes, any of them could get involved.

All of you in this class have spent more time thinking about intelligence than any president would ever spend. It's an impossible job, and presidents are just not going to study how we operate. It's a very difficult business. I've been in it since 1974, and I'm learning new things every day. It's tough, and nobody wants to do something stupid, or something that causes more problems than it solves.

Student: I heard someone say today that in the 9/11 hearings there have been accusations about "Why didn't you assassinate Osama bin Laden before all this?" The suggestion this person made was that in fact the CIA is a bit gun shy. They'd been accused of assassinations that occurred long before September 11, during the Reagan administration or earlier, and all of a sudden they're unwilling to perform the task that they were in some ways created to perform. To what extent would you agree that administrations are more willing to accept the notion of assassination than the CIA is?

Dempsey: That's absolutely not true. There is a frightening number of people at CIA who would be willing to carry out assassinations.

I think it's really hard for any American president to come to grips with the idea of assassination. It just isn't part of the ideals that we stand for. However, presidents are pragmatists and they have some pretty amazing responsibilities. They can do it. What you have to look at is the conditions surrounding those types of authorities. Not to get into any covert action issues, but even in the use of military force against Bin Laden the requirement that was put on the intelligence community was that you have to have two independent sources of intelligence. You have to be able to put eyes on the target with two completely different sources. You will almost never be able to meet that standard with anyone you would want to go after, not just Osama Bin Laden. Did the Israelis need two independent sources to take out the religious leader of Hamas? I don't think so! If you put so many requirements and so many restrictions on intelligence, you will ensure that it cannot operate that way.

We are inoculated against intelligence going outside the bounds of what's authorized by the president. It's happened before, and we pay a heavy price for that both as a nation and as an intelligence community. So we try very hard not to get too far in front of any president. This is complicated stuff. It is not easy. You can have an administration say, "Oh, no, we told them they can go kill Osama Bin Laden." What they don't say is, "But we raised the bar that they had to cross so high that they couldn't possibly get over it."

Oettinger: Listening to what happened at the hearings and injecting a certain amount of fairness about this, the good news is that folks are obeying the law. I would go back for a moment to when you say some of these changes followed the peace dividend. It seems to me that a lot of the prohibitions followed the Church–Pike hearings and the Levi guidelines that put severe constraints on intelligence because of the revulsion against events in Chile, et cetera.[2]

Dempsey: It is good news that people are obeying the law. You're absolutely right. I spent a lot of time on this, because there are unintended consequences of every act, as well as intended

[2]Edward Levi, attorney general in the Ford administration, adopted the Attorney General's Guidelines for FBI Investigations in 1976 in response to the Church Committee's findings.

consequences, obviously. One of the things that came out of the Church–Pike Commission on excesses in the intelligence community was that we took the restrictions—some of them legal restrictions, some of them policy restrictions—and actually implemented them beyond what was required. For example, there's no law restricting the FBI from sharing information on grand jury indictments with the CIA, but they haven't done it ever since Church–Pike, because that was one of the problems. We had the FBI and the CIA collecting intelligence on U.S. citizens and sharing it (or not sharing it, as the case might be), and they got in a lot of trouble. There was never a law passed saying they couldn't do that, but the two agencies put up barriers so they could never get in trouble for doing it again. Well, guess what? The FBI had a lot of grand jury indictment information on several of the nineteen hijackers. CIA never saw it. After September 11, when CIA analysts saw that information and compared it with what they knew from foreign intelligence sources they could start to piece together the picture.

Now, whose fault is that, and is it a failure, or is it the natural inoculation that these agencies would go through to make sure they don't break U.S. law? It's really an interesting and complicated problem.

Student: The question of why we can't just share keeps coming up, and in this case we might have avoided 9/11. Or why can't we just reorganize the budget, because it makes sense? But the Congress's reaction must be: "The whole world doesn't revolve around the DCI and what he thinks needs to be done." What do you see as rational objections to that?

Dempsey: I'm sure the whole world does revolve around the DCI! If you take away the DCI problem they've got nothing to bitch about. It's a parlor game in Washington. It really is.

There are a couple of things I don't understand. This will give you hope: if someone as ignorant as I am could rise to this level of the U.S. government, then obviously anybody can do it. I don't understand why we're holding public hearings looking for someone to blame for 9/11 when we didn't do it for Oklahoma City. I understand that we're concerned that it was a foreign terrorist who attacked us on 9/11, but why are we holding hearings looking to blame someone? Why didn't we hold hearings looking to blame someone for Oklahoma City? Whom? The local police? I think that it's because if it's Americans killing Americans it's okay. If it's foreigners, that's a problem. I mean that only somewhat facetiously.

I don't understand why we believe that our civil liberties are protected better if we give the FBI the domestic intelligence capability as opposed to establishing an MI5-type (for lack of a better term) separate domestic intelligence capability. Does the FBI have a great track record of protecting civil liberties? I don't think so! These are pretty simple ideas, but we don't ever have those discussions. Instead, we talk about who failed, or who's going to be hauled up in front of the 9/11 Commission or the Congress to explain their failings, and we never get to a constructive dialogue.

Oettinger: If I may put in a plug for a later reading, this is one of the thrusts of Scott Snook's book.[3] I think that this hunt for scapegoats is what precipitates the desire to cover one's ass and go beyond legal limits: making sure that nothing you do could possibly get you hauled in front of a

[3]Scott A. Snook, *Friendly Fire: The Accidental Shootdown of U.S. Blackhawks Over Northern Iraq* (Princeton N.J.: Princeton University Press, 2000).

congressional investigation. If you are for keeping illegal actions in check that's not a bad thing, but if you want to be effective you may carry it too far.

Dempsey: I'll give you an example of that. Do you all understand the Constitutional concept of "U.S. person"? It's not just an American citizen; under our Constitution anyone who is on U.S. soil legally is deemed a U.S. person. U.S. persons are extended all the Constitutional rights that American citizens enjoy.

The NSA collects electronic intelligence all over the world. They have to put in place very elaborate procedures to make sure they're not collecting against U.S. citizens. You might imagine that in a globally connected environment it's really hard not to collect against U.S. citizens, because you can't identify them. In the summer of 2000 I testified in several closed sessions with the director of NSA, who got beaten up over and over again because of bad press—primarily in Europe but also in the United States—over a program called Echelon, which allegedly allowed NSA to collect against our allies in Europe. We went up a half dozen times that summer, and NSA got beaten up over the idea that they might inadvertently be collecting against not only U.S. persons but also Western Europeans who were our allies. After 9/11, NSA got beaten up for not collecting against U.S. persons who were involved in terrorist activities. I'm trying to make Dr. Oettinger's point that we do everything we can to stay within the law, to the point of going probably further than we should, but there's a reason for it, because we've been punished over and over for perceived or real problems.

Student: To support your point, I was reading the other day that before 9/11 the FISA [Foreign Intelligence Surveillance Act] Court, which handles these issues, had never refused a request from the NSA. But everyone said, "Oh, we don't want to go to the FISA Court," because there was a perception that they might refuse.

Dempsey: What the article probably did not say is that the FISA Court is where the FBI goes to get permission to wiretap either U.S. citizens or U.S. persons in the United States. It is a judicial exercise of power. The FBI has to show cause. They have to have pretty good evidence that the individual is doing something bad, but the evidence can be based on intelligence as opposed to legal evidence. It's true: the FISA Court has never turned down a request. Justice, which has to approve every request that goes to the FISA Court, has turned down thousands.

Oettinger: It's like a child being beaten and therefore being so shy that it won't crawl out of its hole.

Student: At the Kennedy School they talk about soft power and hard power. Obviously now we're exerting a lot of hard power in the world and it's ruffling a lot of feathers. Putting on the hat of your current job, what is your opinion, and what do you see the advisors to the president recommending to him to enhance our soft power again? How could we make people say, "The United States isn't this overall evil empire pushing globalization down our throats, causing problems in the Middle East, and inflaming our Muslim populations"? In your opinion, what can we do and what is being done?

Dempsey: I think we're pretty heavy handed. Now, heavy-handedness can work for you or against you. Let me go back to the Hamas example. After the sheikh was killed—in a very hard, heavy-handed way—you had the Hamas bureaucracy, as it were, saying "We're going to hold the United States responsible." You then had the newly elected (or however they decide) religious

leader immediately saying, "We're not going to target Americans." I think that in large part it was because he thought, "We don't know what that wacky guy in the White House might do next." There's a perception—whether it's Libya, or Syria, or Iran (maybe North Korea is the exception to my exceptions)—that "This guy could be coming after us next." I don't know if that is the perception the White House wants to encourage, but I think that's the effect it's having overseas. It's also having an effect, obviously, on our allies, who are not happy about it. Only time and history will tell whether it was effective in the long run or not. I think it is a calculated strategy on the part of this White House, but I don't have any first-hand knowledge of it. I'm just a student of what's going on, as you are. I know I didn't answer your question, but that's because I can't.

Oettinger: You could look at a parallel: the credibility of the nuclear threat from the United States was established at Hiroshima. It showed that in some circumstances we would be capable of dropping a nuclear bomb.

Dempsey: It was done to avoid killing thousands of people. There's a pretty common belief that had we not won World War II Roosevelt (had he lived) or Truman in his stead would have been tried for war crimes. The fire bombings in Japan had no basis in international law. Fortunately, I don't have to judge. My children and my grandchildren will judge whether this was a viable strategy and whether it was successful.

Student: You mentioned at the beginning that you might be willing to share your thoughts about the change in the perception of why intelligence is no longer a private good.

Dempsey: I've had a number of arguments with some of my colleagues on this. There was a lot of pressure on the intelligence community after the end of the cold war to acknowledge how much money is spent on intelligence, and most of that pressure was because people wanted to spend less. That's the negative aspect. The positive aspect is that security—classification security—costs a heck of a lot of money. It is very, very expensive to keep organizations in particular, but also activities and capabilities, classified: to keep them out of the public view.

We wanted to spend less money. The fastest way to spend less money is to acknowledge that activities, capabilities, and organizations exist. If you want to spend even less, you have to have a public debate to engender support for spending less. What we saw in 1992, 1993, and 1994, with NSA and NRO coming out of wraps, was much more discussion about CIA, what it does, and its capabilities. We even had, over my protests, the DCI declassify the top line of intelligence spending, but for one year only. All of that was designed to allow us to spend less. I believe it was short sighted and not a positive thing for the country, but that's what drove it.

Once that happened—once we came out from behind the green door, as the military said in Vietnam, and became part of the public debate—we also became part of the partisan debate. We had members of Congress publicly beating up on intelligence organizations for political gain, and I don't think we're ever going to walk back from that situation. I think it is truly inimical to the well-being of the country that we are in that position, but that's where we are.

Student: Rolling that thought into a previous topic you mentioned, something that people may need to think about as they decide whether or not to go into the intelligence business is that there is hardly ever an up side. From an operator's perspective, if a war plan goes as anticipated then it's an operational success. If it doesn't, operators (and commanders, who are usually former operators) blame intelligence officers. I think this is true all the way up to the national level. If

something works it's an operational success and intelligence just got lucky, or if it's a non-event it's not acknowledged. If it goes wrong it was bad intelligence: the operations plan was perfect, but we had bad intelligence to plan on. The lesson is that in this business you really have to have a thick skin, and you really have to be a selfless person: somebody who's willing to take the heat and never the glory. Intelligence officers are great Americans; none better. But it's something to keep in mind.

Dempsey: It is a fascinating business. There's no question about it. I have appreciated being part of it. There are heroic men and women performing the most mundane tasks you can imagine in the business, but it is not for the weak willed. We are under fire all the time, and we're going to be even more under fire in the future, because the nation has not come to grips with the new national security environment or the domestic security environment. We saw the Spanish elections turn on a terrorist attack, and that's got to scare everybody in power right now, because we've got an election coming up. Now, Americans, because we're contrarians and we're never afraid to go to war, are likely to have the exact opposite reaction of what's intended. Nonetheless, we know ourselves, and they don't know us very well. This business is not for the faint of heart: you're absolutely right.

Student: How responsive do you think the intelligence community should be to public opinion? It seems like "damned if you do; damned if you don't." If they had gone in and gotten Osama Bin Laden we'd say they're too aggressive; if they'd arrested illegal aliens in this country we'd say they were beating up on the poor.

Dempsey: That's an excellent point. The reason I regret that we're part of the public debate is not because I don't believe we should be responsible to the American people. I believe our responsibility to the American people is through our elected officials and that the debate and the discussion ought to be with members of Congress and with the administration, not in the press. That's obviously a fairly conservative view, but I still happen to believe it.

I go out all the time and talk to people who have nothing to do with Washington or national security or anything else. They never, ever, ask what's going on in the intelligence community. They always say, "Thank you for what you do." I don't think the American people would get wrapped up in it if they thought that the intelligence community was doing the job that the nation wanted and responding to our elected officials. This is really an inside-the-Beltway parlor game, as I said earlier.

Oettinger: It's not limited to the intelligence community. The Congress uses some of the administrative agencies or the intelligence community as their whipping boy by design. That's part of the political game, except that for a while the intelligence community was immune from it. Ever since Church–Pike it's become like any other branch or agency of the government.

Dempsey: Really since the end of the cold war.

Oettinger: Even more so since then.

Student: This goes back to the discussion about restraints in the law versus achieving important objectives. How do you think the Patriot Act has helped the intelligence agencies to work within the country, and do you think it's worth whatever encroachment it allows on personal liberties?

Dempsey: I think it has helped. I don't think the Patriot Act has necessarily gone as far as is being portrayed in the press. I used the example earlier of grand jury information being available to foreign intelligence agencies. It certainly allowed that. Again, it's not that it was illegal before, but the Patriot Act said it was okay for them to share so the agencies started sharing. This is really interesting, and it reinforces what Dr. Oettinger and I both have said. The Patriot Act was passed in October after 9/11. The implementing guidelines, which have to come out of the White House and the Justice Department, were not completed until nine months later. We did not enact the Patriot Act until those implementing guidelines were completed, so there was no sharing between the FBI and CIA in the intervening nine months. You can pass all the laws you want; if the executive branch doesn't implement them, they're not real.

My point is that even after 9/11, and even after the bill was passed, we did not do anything to share information until the White House and the attorney general said it was okay to share. So I think all of this has a profound effect on us. We still are going to be conservative in how we approach things, because in this country custom matters just as much as law. So I am less worried about the Patriot Act going too far and more concerned that it doesn't go far enough, because it's how we implement it that really matters. If we're overly conservative in the implementation, or if we become conservative because of challenges over the years, then whatever it was intended to do will never go that far.

Student: We're talking right now about failure to communicate between our intelligence agencies. What about communication between our intelligence agencies and intelligence agencies abroad? Can we trust them, and should we?

Dempsey: Whether we should or not doesn't really matter, because we are extremely dependent on many intelligence services around the world and they are extremely dependent on us in different ways. The whole counterterrorism initiative has been fought largely through third-party liaison services—other countries' intelligence services. There have been direct actions by the United States, but it is much easier to work with a cooperative service than to work unilaterally in a country. It is easier and safer: that is, it enables the activities in every respect.

Also, they will do things for us that we can't do for ourselves, frankly. There are no judicial guidelines for Jordanian prisons. It's a nasty fact of life, but there it is.

Can we trust them? Absolutely. We have intelligence services that will do our bidding before they do their own government's bidding.

Student: I want to go back to what you said about intelligence going from a private to a public good. You said that you disagreed with the release of aggregate budget numbers. Would it really give anything away to say we spent $30 billion on our intelligence community?

Dempsey: It does if you do it over time. It gives a lot away. The main reason I did not support giving up the numbers is that we made a cottage industry about following Soviet spending and we were able to tell an awful lot about their strategic and tactical capabilities on the basis of where they spent their money. I don't want any foreign service to be able to do that on U.S. capabilities.

Student: In the mid-1990s the NRO had a huge budget mismanagement issue. Do you think that contributed to the Congress's action?

Dempsey: Congress has never supported making the top line public. They have not wanted to do it. It's been small groups of fairly liberal organizations, such as the Federation of American Scientists and that crowd, that sued every year for the number. I just don't see how it helps the public debate to have the number.

Student: What I was driving at was whether secrecy could be used to cover poor management techniques, like at the NRO with their budget?

Dempsey: If we want to cover poor management techniques we can do it whether there's secrecy or not. As for the NRO problem, Congress was completely witting as to what was going on with the NRO budget. We kept having satellite system after satellite system canceled, but the money wasn't taken away, so the NRO kept reprogramming it year after year. Because we were pushing out satellite systems they knew they were going to have to spend it eventually. Congress knew what was going on. It wasn't until it became notorious in the press that Congress "viewed with alarm" that funding.

Student: Enron had to give quarterly financial reports.

Dempsey: I don't think I appreciate the association!

Student: I wasn't saying you were like Enron. I was saying that the reporting didn't guarantee honesty.

Dempsey: Yes. In fact, Enron had the overseers in their pocket. PriceWaterhouse is still paying for it and will for many years.

Student: As far as using foreign intelligence agencies is concerned, do you ever use them to bypass our laws, for instance against collecting against U.S. citizens?

Dempsey: We don't break U.S. laws.

Student: But you allow others to do so?

Dempsey: There was a very public situation, I think around 1992, when a U.S. citizen was being tortured by Guatemalans and people who were not government employees but were in the employ of intelligence agencies were aware of it. That caused huge problems. So yes, there are times it happens, but we work very hard to make clear that we won't participate, won't allow it, and won't condone it. The system is not perfect.

Student: There's definitely a better solution than the one we currently have if we want to have a more efficient intelligence community for the money, but you said at the beginning that you're now somewhat jaded and pessimistic that it will happen. What kind of shock would be necessary to create that? Would it take another 9/11 event?

Dempsey: I don't know. I think it's possible that we can get to my more modest vision, where you have a director of national intelligence who has more budget authority and that sort of thing. I don't believe there's any chance of a true restructuring of U.S. intelligence. I just don't see that happening.

We've now had 9/11. We've got the WMD mess in Iraq. Clearly intelligence is not operating optimally for the challenges we're dealing with today. I would never stand up here and

tell you it was. It's not. We've got some serious problems. So I think we may see some real, if modest, change. I just don't think we're ever going to see a really big change.

Interestingly, my current boss, Brent Scowcroft, headed a review of U.S. intelligence shortly after this administration came in, in response to a presidential directive. I headed an internal panel at the same time. My internal panel ceased to work. We had our last meeting on the Friday before September 11. It was made up of the deputies of all the intelligence organizations. They were the people who had to get their organizations to respond to the attacks, so we disbanded. It was probably our best chance at significant and sweeping reform and it was done from the standpoint of "We're not being critical of intelligence. Intelligence really works amazingly well a lot of the time, but it is not organized to work optimally in the national security environment we're in." That effort has gone nowhere. Even though we've had some serious additional challenges I just don't think it's going to gain resonance, and I can't explain why. We're incredibly inefficient. We cost so much more than we should, but we don't seem to be able to change.

Student: Do you think that's because of the nature of the entrenched Washington bureaucracy? Is it just too hard to dig out of the hole?

Dempsey: Where I was going with my answer about the internal panel was that we tend to be much more conservative inside the intelligence community about organizational change, because we're the ones who live through it and, quite frankly, it's not fun. Yet the internal panel was to the point of saying "Okay, we've got to make dramatic changes. Let's propose consolidating all of our technical collectors. Let's put all of our analytic capability in one organization," because we were starving to death. We were out of money. We had gone through ten years of reductions. We were to the point where we were not recapitalizing anything. We had not hired new people into the intelligence business in almost a decade. We were dying on the vine. So that had generated a desire for consolidation and fairly sweeping change.

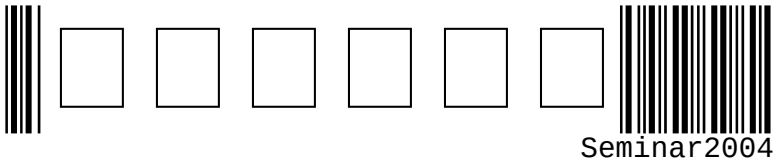
What happened is that when this administration came in (actually it began with Newt Gingrich in 1999) we started getting additional money for the first time in a decade. Once we got a little bit of money we eased off the "Let's do a dramatic reorganization," because we were no longer starving. Then, when we started getting a lot of money, any internal impetus to change went away.

Oettinger: Joan, I hate to cut off this conversation, but you have a plane to catch. Let me give you a small token of our great appreciation.

Dempsey: Thank you so much! Those were great questions. I really appreciate it.

Acronyms

A&P	analysis and production
ADCI	assistant director of central intelligence
ARC	Analytic Resources Catalogue
CIA	Central Intelligence Agency
DCI	director of central intelligence
DDCI	deputy director of central intelligence
DDI	deputy director for intelligence (CIA)
DDO	deputy director for operations (CIA)
DHS	U.S. Department of Homeland Security
DI	Directorate of Intelligence (CIA)
DIA	Defense Intelligence Agency
DLI	Defense Language Institute
DO	Directorate of Operations (CIA)
FBI	Federal Bureau of Investigation
HUMINT	human intelligence
IMINT	imagery intelligence
INR	Bureau of Intelligence and Research (State Department)
INT	intelligence discipline
NGA	National Geospatial-Intelligence Agency
NIC	National Intelligence Council
NRO	National Reconnaissance Office
NSA	National Security Agency
NSC	National Security Council
NYPD	New York Police Department
P&E	processing and evaluation
SIGINT	signals intelligence
SIS	Senior Intelligence Service
TTIC	Terrorist Threat Integration Center
WMD	weapons of mass destruction



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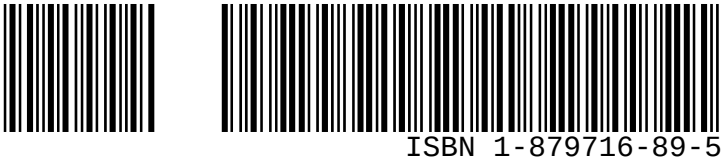

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