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THESIS

CONGRESS AND NATIONAL SECURITY: INTEREST, INFLUENCE AND SPEED

by

Matthew S. Van Hook

March 2010

Thesis Advisor:	Jeffrey Knopf
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CONGRESS AND NATIONAL SECURITY: INTEREST, INFLUENCE AND SPEED

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Submitted in partial fulfillment of the
requirements for the degree of

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LIST OF ACRONYMS AND ABBREVIATIONS

CIA   CENTRAL INTELLIGENCE AGENCY

CJCS   CHAIRMAN OF THE JOINT CHIEFS OF STAFF

DCI   DIRECTOR OF CENTRAL INTELLIGENCE

DHS   DEPARTMENT OF HOMELAND SECURITY

DNI   DIRECTOR OF NATIONAL INTELLIGENCE

HASC   HOUSE ARMED SERVICES COMMITTEE

HPSCI   HOUSE PERMANENT SELECT COMMITTEE ON INTELLIGENCE

IRTPA   INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT

JCS   JOINT CHIEFS OF STAFF

NSC   NATIONAL SECURITY COUNCIL

OSD   OFFICE OF THE SECRETARY OF DEFENSE

SASC   SENATE ARMED SERVICES COMMITTEE

SSCI   SENATE SELECT COMMITTEE ON INTELLIGENCE

USAID   UNITED STATES AGENCY FOR INTERNATIONAL DEVELOPMENT

USIA   UNITED STATES INFORMATION AGENCY

WMD   WEAPONS OF MASS DESTRUCTION

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I.   INTRODUCTION

A.   PRIMARY PURPOSE

The influence of the U.S. Congress on national security policy stokes heated debate. Questions regarding Congress's influence range from the original intent for the legislative role in foreign affairs to who has the upper hand in what some see as an eternal power struggle between the branches of government. This thesis explores one specific area of congressional influence: its speed of action. Specifically, what factors affect Congress's speed of action and in what manner? Additionally, what does Congress's speed of action tell us about its influence and interest in national security policy?

B.   IMPORTANCE

Demands for reform in the executive agencies responsible for preserving national security are at the forefront of conversation in both academic and policymaking circles. The difficult reconstruction of Iraq highlighted serious shortcomings in the interagency process. During a National Defense University panel in 2004, Michèle Flournoy, now the Under Secretary of Defense for Policy, outlined a concept of an interagency Goldwater-Nichols reform for the executive agencies connected to national security.[1] This terminology is telling considering Goldwater-Nichols was quite literally an act of Congress. Internally driven bureaucratic agency reform tends to bring about only modest change, and it does not amount to the type of sweeping change being advocated. Change of this magnitude inevitably involves the U.S. Congress.

Providing executive branch policy makers with a better understanding of Congress's influence and interest in national security matters will greatly increase their ability to become more effective as the operational guarantor of national security. On the other hand, if Congress remains a mysterious box in which no predictions about its

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[1] Michèle A. Flournoy, "Transforming the National Security Bureaucracy" (panel presentation, National Defense University, Washington, D.C., November 17, 2004), http://www.ndu.edu/inss/symposia/joint2004/flournoypaper.htm.

interest or involvement in national security can be made, there is a distinct danger that policy makers will simply give up the struggle for desperately needed lasting reform in its security agencies.

This thesis demonstrates that although Congress often shows great inertia or acts only slowly on security matters, it is also capable of greatly increasing its velocity. The legislative branch maintains the closest connection with the public and is best suited to judge the intensity of national will and act upon it pragmatically. Congress maintains the task of keeping the national will in the forefront while simultaneously balancing security imperatives. This study provides not only a better understanding of Congress's role in national security but insight for executive policy makers on the benefits of collaboration over conflict with our nation's legislative branch.

C. PROBLEMS AND HYPOTHESES

The primary research question for this thesis is, "What factors affect Congress's speed of action on national security issues and in what manner?" Addressing this question simultaneously provides insight into broad classical questions such as, "What level of interest does Congress hold in defining national security policy?" "What power does Congress have in determining national security policy?" and "What methods does Congress use to exert influence over national security policy?" Misunderstandings of Congress's role in national security have led to problems of varying significance from minor policy disputes to national scale crises.

Scholars and politicians have long argued over the role of the United States Congress in national security policy. The Constitutional magnitude of this subject provides continual energy to the debate. The traditional focus has been determining the amount of influence that Congress has in relation to the President, usually measured in legislative or administrative action. This thesis focuses instead on Congress's speed of action on national security matters, which in turn demonstrates its influence and interest. The traditional "power struggle" model between the legislative and executive is fundamentally flawed when applied to national security. The branches do not fight to

secure as much power as they can, but rather, they seek to secure the appropriate balance of power that gives the highest prospect of achieving their own agendas.

Congress's speed of action is the key to explaining its influence, interest and overall role in U.S. national security policy. My hypothesis asserts that a combination of factors drive Congress to change its speed, exert a desired level of influence over national security policy and demonstrate interest to the President. Congress's influence in terms of speed of action cannot be reduced to a simple universal equation such as, "Congress demonstrates weakness when it acts slowly and strength when it acts quickly" or vice versa. Instead, Congress's speed of action must be viewed in light of the context of the national security issue at hand. For example, if a President is pushing hard for a particular security policy and Congress intentionally reduces its speed of action to constrain him, this would demonstrate Congress's own agenda of interest and influence. A counter example would be Congress acting quickly on a known national security policy, bypassing normal gridlock to demonstrate its influence. Both fast and slow speed of action may demonstrate Congress's influence. Therefore, context is critical to understanding Congress's ability to control its speed thereby demonstrating influence and interest.

This thesis demonstrates *how* Congress uses this variable speed by examining two cases of significant congressional involvement in the national security policy process. It will demonstrate *why* Congress uses this variable speed by determining the impact of five variables including constituent impact, interest groups, committees, party leadership and presidential leadership. These variables are also examined in light of the domestic and international environment. A perceived state of crisis will clearly have a considerable impact on all of these variables. James Lindsay argues "How aggressively Congress exercises its foreign policy powers turns on the critical question of whether the country sees itself as threatened or secure."[2] Although "crisis level" could be considered as a sixth variable, a better perspective would be to view it as an overarching environment

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[2] James M. Lindsay, "From Deference to Activism and Back Again: Congress and the Politics of American Foreign Policy," in *The Domestic Sources of American Foreign Policy: Insights and Evidence*, ed. Eugene R. Wittkopf and James M. McCormick (Lanham: Rowman & Littlefield Publishers, Inc., 2004), 184.

that may affect these variables. For example, a crisis may spark latent leadership in a president or party, or may motivate constituents to place additional pressure on their representatives and, therefore, indirectly affect the speed of action. Likewise, a perceived diminishing crisis level may have the opposite effect.

D.   METHODS AND SOURCES

In order to sufficiently establish the background for the study, the next chapter presents a literature review of the general theories of Congress's role in the national security policy arena. The literature review also validates the usefulness of the five selected variables: constituent impact, interest groups, committees and sub-committees, party leadership and presidential leadership. After laying this foundation, the following chapters will examine two significant case studies, including a historical frame of reference for each, in order to demonstrate how the five variables affected Congress's speed. Specifically, this paper analyzes the 2004 intelligence reform and the 1986 Goldwater-Nichols defense reform. The historical frame of reference for each case will include the primary motivating factors building up to each of these events.

These case studies were selected for several reasons. First, these cases have endured a significant amount of scrutiny and are likely to be accepted as cases of actual congressional action. Second, the wide body of information available for these cases will support a deeper look at the effects on each of the aforementioned variables on Congress's speed of action. Third, they both represent distinctive increases in congressional speed with slightly different outcomes and relatively different speeds of action. Congress implemented the 2004 Intelligence Reform three years after 2001's organizational failures to detect the 9/11 plot, and Goldwater-Nichols took just under five years to complete after departing members of the Joint Chiefs of Staff first called for reform. Fourth, these cases represent different political environments, with the 2004 intelligence reform also reflecting a nationally perceived security crisis environment. Finally, these case studies contain a common aspect in that both represent congressional influence over a specific area of national security policy: security agency organization.

Difficulty in measurement will undoubtedly be an area of concern; therefore, this thesis refrains from attempting to weigh minor differences in the influence levels of the variables. Instead, each factor is evaluated for a general positive, neutral or negative trend, which contributed to a shift in speed of action. Measuring the overall speed of action creates an additional challenge. Specific triggers or starting points for each reform have been selected in as objective manner as possible. These triggers represent a best choice out of several possible start markers, rather than an only choice. Consequently, this may open an opportunity for future debate on this study's conclusions. More importantly, the selected case studies capably illustrate general trends, even if skepticism arises over measurement assumptions in the variables.

E.   THESIS OVERVIEW

The chosen method of organization was selected in order to move from the general to the specific and back again. Chapter II establishes the historical and theoretical context of the larger debate on the overall influence and interest of the U.S. Congress on national security matters. Chapter III analyzes the impact of constituent impact, interest groups, committees, party leadership and presidential leadership on Congress's post 9/11 reform of the intelligence community. Chapter IV examines these variables impact on the Goldwater-Nichols defense reform of the 1980s. Chapter V compares the findings of the two cases, considers how this method of analysis could be applied to other sectors of the national security arena, and provides a brief recommendation for executive policy makers to increase their opportunities for success in national security goals by educated collaboration with the legislative branch.

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II.   LITERATURE REVIEW

Examining the role of the Congress is imperative for understanding U.S. security policy. A review of relevant literature indicates that any viable study of the foreign and security powers of Congress must be viewed in light of the executive branch. For the purpose of this thesis, national security policy includes the full spectrum of foreign and defense policy in both peacetime and war. Whether an ongoing Constitutional struggle for security policy power between the legislative and executive is real or perceived, it is clear that the Constitution intends a role for both branches. Three main groups emerge to explain these roles; they categorize Congress's influence on national security as weak, strong, or flexible. These categories often carry a prescriptive conclusion explaining how strong the influence of Congress *should* be as well. A major gap in these studies, however, is how Congress's speed of action reflects its influence and interest.

Before exploring the conventional wisdom regarding Congress's influence, the root of the literature gap must be considered. This thesis argues that the Congress's speed of action is an important factor in explaining congressional influence. Past studies have tended to overlook this factor however. Instead, prior research generally considers only the specific actions of Congress, often using actual legislation as the primary measurement of influence. James Lindsay acknowledges three main types of legislation: substantive, procedural, and constraining. However, he views these as part of five broader categories of influential action, which hold that legislators act as diplomats, consultants, lawmakers, negotiators, and framers of opinion.[3] The majority of literature can be generally adapted to fit into these categories of influence.

This thesis differs from past studies in that it examines speed of action as the primary dependent variable. The independent variables selected for this study, however, reflect traditional consensus on four factors: constituent impact, interest groups, committees and sub-committees, and party leadership. Authors who emphasize the

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[3] James M. Lindsay, "Congress and Diplomacy," in *Congress Resurgent: Foreign and Defense Policy on Capitol Hill*, ed. Randall B. Ripley and James M. Lindsay (Ann Arbor: University of Michigan Press, 1993), 261–281.

strength of these influences typically view Congress as influential and fall under the "strong Congress" group. Authors in the "weak Congress" category concede the legitimacy of these variables but argue that these variables lack much impact. A third "flexible Congress" group argues that these independent variables are quite inconstant and congressional influence reflects this fact.

According to Eileen Burgin, "Despite differences among the individual members and the pressures affecting them, almost all sense the influence of constituency when making decisions."[4] Burgin's essay validates constituent influence specifically in relation to national security. Although some topics, such as base relocation or major arms purchases, draw more constituent attention than general foreign policy, there is agreement that overall constituent influence is an important independent variable.[5] Interest groups affect Congress much like constituencies. They are less active on national security issues than domestic issues but still a key factor.[6] Committees and party leadership are also woven throughout the literature as independent variables. The "strong Congress" advocates see these as increasingly expansive factors.[7] In the post-Cold War period, "Congress, and particularly the foreign policy committees, are in an advantageous position to play a major role in shaping foreign policy in the decade ahead."[8]

A fifth independent variable is presidential leadership, which has an inverse relationship with congressional influence, unlike the previous four. Nearly all sources agree that strong presidential leadership in security policy has a weakening effect on

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[4] Eileen Burgin, "The Influence of Constituents: Congressional Decision Making on Issues of Foreign and Defense Policy." in *Congress Resurgent*, 67.

[5] Barry M. Blechman, *The Politics of National Security: Congress and U.S. Defense Policy* (New York: Oxford University Press, 1990); Robert A. Dahl, *Congress and Foreign Policy* (New York: Harcourt, Brace and Company, 1950).

[6] John T. Tierney, "Interest Group Involvement in Congressional Foreign and Defense Policy," in *Congress Resurgent.*

[7] Richard E. Cohen and Ralph D. Nurnberger. "Congressional Leadership: Seeking a New Role," *In The Growing Power of Congress*, ed. David M. Abshire and Ralph D. Nurnberger (Beverly Hills: SAGE Publications, Inc., 1981); James M. McCormick, "Decision Making in the Foreign Affairs and Foreign Relations Committees," in *Congress Resurgent;* Christopher J. Deering, "Decision Making in the Armed Services Committees," in *Congress Resurgent;* White, "Decision Making in the Appropriations Subcommittees," in *Congress Resurgent*; Barbara Sinclair, "Congressional Party Leaders in the Foreign and Defense Policy Arena," in *Congress Resurgent.*

[8] McCormick, "Decision Making," 150.

Congress's influence. Likewise, the literature always views Congress's power over national security policy in relation to the president. This variable draws the greatest amount of attention throughout the literature. Although there is general consensus on these five variables, the literature is deeply divided over their impact, and can be broken into three main groups that view Congress's influence on security policy as flexible, strong, or weak.

One body of literature contends Congress's influence is quite flexible. There is agreement among nearly all scholars that the U.S. Constitution intends foreign and defense policy influence for both branches. Contextual arguments, such as given by John Yoo, infer that understanding the exact intent of Constitutional terms, such as "declare war" and "Commander in Chief," is crucial. Yoo's argument supports the "flexible approach" as meeting the Framers' intent.[9] Others who support this model focus on an executive tradition of strength in foreign and defense policy, often revolving around decisiveness. They refuse to accept that simply because the executive has obvious influence, Congress has no influence. Instead they argue that this balance of power is generally neutral with small shifts back and forth.[10]

The "flexible Congress" view receives the least attention in the literature. More widespread is the belief that Congress is significantly weak or strong relative to the executive. These groups share two subcategories: a descriptive view of actual strength and a normative view on whether Congress *should* be weaker or stronger. For the purposes of this review, only conclusions on actual strength are discussed. Admittedly, authors' normative biases for a desired state of Congress may affect their conclusions on the actual state of influence.

A second group contends that Congress has strong or notably strengthening influence over national security policy. The primary basis for the strong Congress

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[9] John C. Yoo, "War and the Constitutional Text," *The University of Chicago Law Review* 69, no. 4 (2002).

[10] "Congressional Control of Presidential War-Making under the War Powers Act: The Status of a Legislative Veto after Chadha*," University of Pennsylvania Law Review* 132, no. 5 (1984): 1217–1241; Robert David Johnson, "Congress and the Cold War," *Journal of Cold War Studies* 3, no. 2 (2001): 76–100; Blechman, "Politics of National Security"; James A. Robinson, *Congress and Foreign Policy-Making* (Homewood: The Dorsey Press, Inc., 1962).

argument is its ability to place significant checks on an executive branch in spite of a consistent increase of public support for strong presidents. The essays found in volumes like *Congress Resurgent* and *The Growing Power of Congress* represent this viewpoint.[11] David Abshire provides the paradigm for the strong Congress group stating, "Although, at times, the president appears to play a striking international role, by and large the Congress increasingly has come to constrain, limit, and often to dominate foreign affairs totally . . ."[12] Note that congressional strength for Abshire involves shackling executive strength. This theme is common amongst the strong Congress theorists. There is less focus on the level of initiative in Congress, which remains widely debated.[13]

Even those in the strong Congress group, such as Eileen Burgin, find puzzling exceptions to a supposedly influential Congress. Burgin analyzes the complete lack of response from Congress to the invasion of Panama but determines it an anomaly, followed by a stronger reaction during the first Gulf War.[14] The majority of the literature after the War Powers Resolution of 1973 places this resolution as a central reference point. The strong Congress group views it as a shining example of resurgent influence in security policy. However, the general lack of compliance and enforcement by all three branches of government is heralded by the weak Congress group as evidence for their perspective, a point even some strong Congress proponents like Enid Sterling-Conner acknowledge.[15]

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[11] Ripley and Lindsay, *Congress Resurgent*; Abshire and Nurnberger, *Growing Power of Congress*.

[12] David M. Abshire, "Foreign Policy Makers: President vs. Congress." in *Growing Power of Congress*, 26.

[13] Thomas E. Cronin, "A Resurgent Congress and the Imperial Presidency," *Political Science Quarterly 95*, no. 2 (1980): 209–237; Lance T. LeLoup, "The Fiscal Straitjacket: Budgetary Constraints on Congressional Foreign and Defense Policy-Making," in *Congress Resurgent*; Lindsay and Ripley, "How Congress Influences," in *Congress Resurgent*; Joshua Muravchik, "The Senate and National Security: A New Mood," in *Growing Power of Congress*; Sharyn O'Halloran, "Congress and Foreign Trade Policy," in *Congress Resurgent*; Ripley and Lindsay, "Foreign and Defense Policy in Congress: An Overview and Preview," in *Congress Resurgent*; Paul N. Stockton, "Congress and Defense Policy-Making for the Post-Cold War Era," in *Congress Resurgent*.

[14] Eileen Burgin, "Congress, the War Powers Resolution, & the Invasion of Panama," *Polity* 25, no. 2 (1992): 217–242.

[15] Sterling-Conner, Enid. "The War Powers Resolution: Does It Make a Difference," in *Growing Power of Congress*.

The final group revolves around those who believe congressional influence in national security policy has been traditionally weak and shows no signs of changing. Politicians themselves often find themselves in this group. Some, like Senator Byrd (D-WV), decry the continual oppression of Congress in this area.[16] Others, like Gerald Ford who argues as a prior legislator and chief executive, find that the limitations of Congress will always prevent it from achieving primacy in security policy.[17] Although Congress's weakness is usually associated with a general lack of influence in policy and war-making debates, Amy Zegart points out that Congress has proved equally apathetic towards security structure and basic institutions such as the National Security Council (NSC), Joint Chiefs of Staff (JCS), and Central Intelligence Agency (CIA).[18] The War Powers Resolution is a focal point for most of the literature because it demonstrates that even when Congress attempts to shift foreign and defense influence away from the President it is largely ignored.[19] Not surprisingly, even post-9/11 writers come to the same conclusions asserting a continued trend of Congress handing over larger amounts of security policy influence to the President.[20]

Expectedly, the literature generally follows historical events centered around specific pieces of security or foreign policy legislation. Prior to the War Powers Act the weak Congress literature was more abundant, and similarly afterwards, the strong Congress literature dominated for a while. More recently in the wake of the Iraq war a resurgence of weak Congress theories abound. However, even during times of dominant literature supporting one side, the dissenting view is always present, and this era is no

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[16] Byrd, Robert C. "Preserving Constitutional War Powers," *Mediterranean Quarterly* 14, no. 3 (2003): 1–5.

[17] Gerald R. Ford, "The War Powers Resolution: Striking a Balance between the Executive and Legislative Branches," in *Growing Power of Congress*.

[18] Amy B. Zegart, *Flawed by Design: The Evolution of the CIA, JCS, and NSC* (Stanford: Stanford University Press, 1999).

[19] John Hart Ely, "Suppose Congress Wanted a War Powers Act That Worked," *Columbia Law Review* 88, no. 7 (1988): 1379-1431; Barbara Hinckley, *Less Than Meets the Eye: Foreign Policy Making and the Myth of the Assertive Congress*, (Chicago: The University of Chicago Press, 1994); William C. Olson, "The U.S. Congress: An Independent Force in World Politics?," *International Affairs* 67, no. 3 (1991): 547–563.

[20] Louis Fisher, "Deciding on War against Iraq," *Perspectives on Political Science* 32, no. 3 (2003): 135-140; Karl K. Schonberg, "Global Security and Legal Restraint: Reconsidering War Powers after September 11," *Political Science Quarterly* 119, no. 1 (2004): 115–142.

exception. Recently in *Foreign Affairs,* Norman Ornstein and Thomas Mann discussed what happens "When Congress Checks Out," which was later followed up by William Howell and Jon Pevehouse's response determining how "Congress Checks In."[21] Both articles look for evidence of congressional influence (or lack thereof) over Iraq and domestic security policy, but they fail to recognize the importance of speed of action as a measurement of influence. Although this literature review focused on the last half century, the trend of this metronomic form of debate, as previously discussed, goes back to the Founders.

In closing, although there is enormous value in the studies of all three groups, they are missing a fundamental aspect of congressional influence in security policy, speed of action. Paul Stockton briefly touches on this idea in his conclusion asserting, "The president usually is thought to be in a better position than Congress to formulate policy initiatives. However, when dramatic change occurs in the circumstances underpinning U.S. policy, as in the collapse of the Cold War, Congress has organizational advantages in offering a quick response."[22] A deeper look into two examples of a "quick response" from Congress's speed of action will open a more informed debate on Congress's influence on the nation's security.

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[21] Norman J. Ornstein and Thomas E. Mann, "When Congress Checks Out," *Foreign Affairs* 85, no. 6 (2006): 67-82; William G. Howell and Jon C. Pevehouse, "When Congress Stops Wars: Partisan Politics and Presidential Power." *Foreign Affairs* 86, no. 5 (2007): 95–107.

[22] Stockton, "Congress and Defense Policy Making," 257.

III. THE 2004 INTELLIGENCE REFORM

A. INTRODUCTION

In 2004, Congress passed the Intelligence Reform and Terrorism Prevention Act (IRTPA). Largely hailed as the most significant reform of the intelligence community since the National Security Act of 1947, which created the CIA, this legislation serves as an excellent case study for the broader question of Congress's influence and interest in national security policy.[23] This case contains two important features relevant to the study of the Congress's speed of action. First, the 2004 reform took place in the midst of a perceived security crisis in the wake of the 9/11 attacks. Crisis environments tend to attenuate the factors that normally determine congressional speed, and also provide a clearer opportunity for Congress to express its influence and interest through its speed due to increased public awareness.

Second, neither major fiscal concerns nor immediate threat of war primarily drove the debate. Instead, organizational problems became the diagnosis for the perceived major failure of the intelligence community. Additionally, unlike force authorization bills, which are much more susceptible to time constraints requiring rapid action to be of any consequence, intelligence reform did not have the same clear cut time prescription. Overall the 2004 intelligence reform effectively serves as an example of congressional influence over a national security crisis issue apart from the more traditional areas such as authorization of military intervention.

The first section of this chapter focuses on the historical background of congressional involvement in the intelligence community and establishes past precedent for congressional influence and interest in this particular aspect of national security. This analysis frames the debate in terms of how to view Congress's speed of action on the 2004 intelligence reform. If, as some would say, the 2004 reform represents a fifty year struggle to implement desired changes into the intelligence community, then Congress

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[23] Jennifer E. Sims and Burton Gerber, "Introduction to Transforming U.S. Intelligence," in *Transforming U.S. Intelligence*, ed. Jennifer E. Sims and Burton Gerber (Washington, D.C.: Georgetown University Press, 2005), ix.

acted extremely slowly. However, as this chapter will demonstrate, if instead this legislation represents specific reforms implemented as a response to the 9/11 attacks and subsequent 9/11 Commission findings, then they acted quite fast, and even more so if the Iraq weapons of mass destruction (WMD) intelligence failures primarily triggered this action. Specifically, only a little more than three years elapsed between the primary triggering event and the successful passage of reform legislation.

The second section analyzes how constituent concern, interest groups, committees, party leadership and presidential leadership affected congressional speed. This chapter proposes that, in a distinct post-9/11 crisis environment, the combined influence of these five variables enabled Congress to demonstrate its interest and influence over the intelligence aspect of national security through a "fast" speed of action in enacting the 2004 intelligence reform.

The modern system of intelligence is barely over sixty years old. After initial non-involvement, Congress has made steady changes over the last three decades with speedy course corrections when reacting to intelligence crises. Intelligence reforms including the 2004 IRTPA show that, as it has done with other instruments of national power, Congress has increasingly found new ways to assert itself in the security arena. As Mark Lowenthal argues, "Congress has become a consistent player in shaping intelligence policy. This seems novel in the case of intelligence only because it is relatively recent."[24]

B.   INTELLIGENCE REFORM: HISTORICAL BACKGROUND

On December 17, 2004, President George W. Bush signed into law the Intelligence Reform and Terrorism Protection Act of 2004, which has been widely recognized as the largest reform of American intelligence since the National Security Act of 1947. Senator Susan Collins (R-ME) first introduced the bill less than three months earlier on September 23, 2004, which in addition to certain anti-terrorism measures, contained major changes in the organization of the intelligence community. Particularly important changes included the establishment of a Director of National Intelligence

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[24] Mark M. Lowenthal, *Intelligence: From Secrets to Policy*, 4th ed. (Washington, D.C.: CQ Press, 2009), 227.

(DNI) with unprecedented authority as the official head of the sixteen individual organizations that comprise the intelligence community. The Act also established authority for a National Intelligence Center and a Joint Intelligence Community Council, and increased emphasis on education and information sharing.[25] This section will review the historical relationship between Congress and intelligence prior to the 2004 reform and demonstrate past precedent for congressional speed of action on intelligence matters.

As acknowledged from the beginning of this thesis, Congress is a complex body and this thesis does not suggest that it always moves as one uniform actor. In fact, the complexity and difficulty of 535 politicians coordinating the political will of the nation is what makes Congress fascinating. Congress has played different roles and accomplished a variety of functions throughout the history of U.S. intelligence. The "actions" explored here may be the work of the entire Congress passing legislation, committees conducting hearings or even the work of individual members of Congress. All of these are important to understanding the historical context of the relationship between Congress and intelligence, both in the underlying development of intelligence reform concepts and in the crisis events that led to action.

As an initial frame of reference, consider the following statement from Senator Pat Roberts (R-KS), then Chairman of the Senate Select Committee on Intelligence (SSCI), given during reform hearings in 2004:

> In the wake of this committee's report on prewar intelligence and the upcoming release of the 9/11 Commission's report, intelligence reform should be, and once again is, center stage.
>
> I say "once again" because we have been down this road a number of times. Congress has, on a number of occasions, either of its own volition or in response to a specific event, attempted to reform the intelligence community. We have created new positions. We have made existing positions subject to Senate confirmation. We have reallocated resources. We have attempted to terminate and, at times, we have terminated programs and directed specific actions be taken.

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[25] THOMAS (The Library of Congress), "S.2845," http://thomas.loc.gov/cgi-bin/bdquery/z?d108:SN02845.

We have not, however, undertaken a major reexamination of the intelligence community's mission and structure. That effort starts today.[26]

Roberts's perspective recognizes that intelligence reform efforts have often resulted from crisis events or "triggers" that reoriented Congress's attention on the intelligence aspect of national security. Congress's various reactions to the crises, when viewed chronologically, may put forth the appearance of a long term struggle to implement a highly desirable and sweeping version of intelligence reform. However, a closer look reveals a more situational-based approach of precise reform intended to remedy specific failures of the past.

1.   Perceptions of Intelligence and Oversight Failures Prior to 1974

Intelligence and covert operations in one form or another trace back to the nation's founding. Yet, unlike other early Constitutional dilemmas involving foreign policy and war-making powers of Congress and the President, intelligence initially served an executive security purpose that the President could levy without significant obstruction from Congress. Stephen Knott's history of covert intelligence operations since the time of the Founders supports the notion that for nearly 200 years, due to their secret nature, Congress willingly deferred to the executive without viewing this as a constraint on their foreign policy powers.[27] Gregory Treverton cites the Continental Congress's appropriate dismissal of Thomas Paine for revealing secrets in 1775 followed by a "century and a half" in which "the congressional role lapsed."[28] This relatively

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[26] Senate Select Committee on Intelligence, *Intelligence Community Reform: Hearing Before the Select Committee on Intelligence*, 108th Cong., 2d sess., 2006, 1.

[27] Stephen F. Knott, *Secret and Sanctioned: Covert Operations and the American Presidency* (New York: Oxford University Press, 1996), 1–10.

[28] Gregory F. Treverton, "Intelligence: Welcome to the American Government," in *Intelligence and National Security: The Secret World of Spies*, ed. Loch K. Johnson and James J. Wirtz (New York: Oxford University Press, 2008), 347.

straightforward relationship continued until 1947 when the memory of Pearl Harbor became a catalyst for new intelligence demands.[29]

Pearl Harbor stands as the first perceived major intelligence failure in the nation. Although arguably other surprise attacks on the continent had taken place, a lack of intelligence had not received the brunt of responsibility. The creation of the Central Intelligence Agency and design of the future intelligence community in the National Security Act of 1947 represent the first time the national leadership including Congress placed intelligence as a primary national security asset. As such, it required more specific funding, organization, and management than it had received when it was treated primarily as a wartime function.

Following the National Security Act of 1947, congressional involvement in the intelligence arena can be categorized broadly as either oversight reform or organizational reform. For the purpose of this case study, "oversight" refers to active monitoring of intelligence related activities, especially covert collection and operations, and ensuring compliance with the rule of law. This category includes Congress gaining insight into intelligence activities and findings through methods such as congressional hearings, commissions, and reports and briefings provided by the intelligence community. I also include in this category the oversight structure of Congress, including the organization of the Senate and House intelligence committees. Arguably the function of ensuring organizational effectiveness and structural integrity within the intelligence community is also a form of oversight; however, in order to better categorize congressional action, I

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[29] Frank J. Smist, Jr., *Congress Oversees the United States Intelligence Community*, 4th ed. (Knoxville, The University of Tennessee Press, 1994), 1-2.; Phyllis Provost McNeil, "Evolution of the U.S. Intelligence Community—An Historical Overview," in *Intelligence and National Security: The Secret World of Spies*, ed. Loch K. Johnson and James J. Wirtz (New York: Oxford University Press, 2008), 5-9; David M. Barrett, *The CIA and Congress: The Untold Story from Truman to Kennedy* (Lawrence: University Press of Kansas, 2005), 9-24. Loch K. Johnson, "Congressional Supervision," in *Intelligence and National Security: The Secret World of Spies*, ed. Loch K. Johnson and James J. Wirtz (New York: Oxford University Press, 2008), 392; William E. Odom, *Fixing Intelligence: For a More Secure America*, 2nd ed. (New Haven: Yale University Press, 2004), xv.

have placed this in the separate category of "organizational effectiveness."[30] Although Congress at times placed greater emphasis on one category over another, they are not mutually exclusive.

During the period immediately following the National Security Act of 1947, Congress had limited involvement in either category. However, the newly organized community was not completely independent of Congress. The CIA as a "central" source of intelligence began to serve as the scapegoat for intelligence failure, especially on the strategic level. Administrations beginning with Eisenhower began to demand unprecedented levels of predictive intelligence especially with regards to Soviet intentions and capabilities. Accurate tracking of bomber and missile "gaps" became a primary tasking of the CIA with ample room for congressional criticism.[31] The CIA's failure to predict the 1957 Sputnik launch caused even greater reflection. As the small satellite sailed across the sky evoking American fears, "Some on Capitol Hill wondered yet again how well the CIA had been doing its job of forecasting significant events."[32] In spite of some concerns Congress did not make any serious attempts at organizational reform, allowing for a type of trial period of the new national security structure overall.

Oversight reform efforts were also limited in scope. Loch Johnson refers to the period between the National Security Act and the 1975 Church Committee as the "era of trust."[33] The 1947 act extended a great amount of trust to the President and had not included widespread congressional oversight of the CIA. He notes that although there were a few minor attempts during this period to formalize intelligence oversight, Congress generally did not consider it a priority.[34]

The most significant of these efforts came from a freshman senator, Mike Mansfield (D-MT), who during the 1950s drafted early attempts to create a joint

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[30] Some authors use the term "oversight" to include all congressional functions, not merely the context that are presented in this thesis.

[31] Barrett, *CIA and Congress*, 236–250.

[32] Ibid., 262.

[33] Loch K. Johnson, "Legislative Reform of Intelligence Policy," *Polity* 17, no. 3 (1985): 550–551.

[34] Ibid.

committee on intelligence. Although his ideas garnered considerable support, they failed to gain traction, partly due to opposition by senior legislators, like Armed Services Committee Chairman Richard Russell (D-GA), and partly as a result of the distraction of Senator Joseph McCarthy's (R-WI) grandstanding.[35] Although his 1956 resolution did not pass, "The debate did, however, result in the creation of formal CIA subcommittees in both Armed Services committees."[36] Mansfield's campaign stands as an anomaly in this era, and although it indicates that oversight reform was not completely beyond the imagination of Congress, it does not demonstrate the beginning of a widespread congressional bid for intelligence oversight powers. As Stephen Knott points out, Senator Mansfield "recognized the importance of intelligence matters in formulating American foreign policy and wanted a piece of the action."[37]

One alternative hypothesis for the lack of major oversight reform prior to 1974 suggests that a relatively informed Congress did not consider reform to be necessary because it was already effectively monitoring intelligence in ways unseen by the public eye. David Barrett proposes that the exact amount of oversight achieved during this period is difficult to determine due to the adamant emphasis on secrecy of congressional hearings. Documentation that might validate a more active oversight effort from Congress has likely been destroyed or lost.[38] Barrett acknowledges that "Legislative oversight of the CIA was not comprehensive," but he also notes that "Congressional oversight was not simply passive or static across the CIA's first fifteen years."[39] Knott's research leads him to a similar conclusion regarding the 1947-1974 period:

> Thus the popular view that Congress was kept in the dark by the agency and was unaware of its actions simply does not hold up under inspection… the system of checks and balances was not disregarded, but rather an accommodation was reached between Congress and the executive that allowed for the dissemination of information from the CIA to senior

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[35] Barrett, *CIA and Congress*, 171–196, 223–233.

[36] Treverton, "Intelligence: Welcome to the American Government," 348.

[37] Knott, *Secret and Sanctioned*, 16–163.

[38] Barrett, *CIA and Congress*, 3–5.

[39] Ibid., 458–459.

members. The level of congressional oversight of Cold War-era clandestine operations far exceeded the level of any earlier period in the nation's history.[40]

Knott claims that consistent bipartisan support for executive Cold War foreign policy during these years has been mistakenly classified as congressional apathy towards oversight.[41]

Barrett and Knott argue against the more widespread belief that Congress, during the era of trust, unwittingly produced an uncontrolled expansion of the CIA's covert intelligence gathering and operations. In contrast, Frank Smist argues for this hypothesis, stating, "the failure of Congress to do no more than advocacy oversight led the CIA and the other intelligence agencies to engage in activities that would be both carefully and publically examined in the years ahead by congressional committees with a very different oversight mindset."[42] However, this hypothesis may be a case of correlation lacking evidence of causality. After all, in the first 130 years of executive intelligence functions these types of activities were not widely pursued, in spite of near complete autonomy from Congress. Whether lack of oversight in the 1950s and 1960s caused a reckless CIA to carryout ridiculous assassination plots and spy on Americans remains to be seen. We can, however, acknowledge the limited level of *overt and public* oversight during these early years. Snider maintains a harsher criticism, "it was not until the mid-1970s that Congress decided that it had better get serious about intelligence oversight."[43]

The baseline for general intelligence reform begins in 1947, yet even this expansion of intelligence does not indicate that Congress initially perceived the need to elevate intelligence to an "executive versus legislative" foreign policy question of Constitutional authority or a function worth micromanaging with painstaking oversight.[44]

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[40] Knott, *Secret and Sanctioned*, 163.

[41] Ibid., 163.

[42] Smist, *Congress Oversees*, 9.

[43] Britt L. Snider, "Congressional Oversight," in *Transforming U.S. Intelligence*, ed. Jennifer E. Sims and Burton Gerber (Washington, D.C.: Georgetown University Press, 2005), 239.

[44] Smist, *Congress Oversees*, 4–9.

In fact, the next major perceived failure, which came in the mid-seventies, had much less to do with a Constitutional foreign policy battle than with a traditional legislative check on executive inroads on civil liberties.

2. Congress's New Look at Intelligence: 1974–2001

In 1974, accusations of CIA spying on Americans pushed Congress to pursue a new level of intelligence oversight. This trigger event does not demonstrate slow action by Congress over almost thirty years, but instead a quick response in a period of already great distrust of the executive branch in the aftermath of Vietnam and Watergate. Congress had the year before passed the War Powers Resolution, and the mentality that led to this challenge to executive prerogative still pervaded the halls of Congress.[45] Skeptics may suggest that Congress's newfound interest in oversight simply demonstrated a previous lack of influence. This assumption, however, overlooks the possibility that Congress, prior to the mid-seventies, did not see meticulous and public intelligence oversight as a requirement to achieve national security policy goals. Instead, Congress may have actually seen the protection of the intelligence community's autonomy as their more pressing duty.[46]

The Church Committee in the Senate and to a lesser degree the Pike Committee in the House served as the changing point into a new era of greater skepticism, greater interest, and greater oversight.[47] During what Loch Johnson refers to as the "era of uneasy partnership" Congress produced the 1974 Hughes-Ryan Act and the Intelligence Oversight Act of 1980, which included notably higher levels of reporting requirements from the CIA.[48] Congress focused its oversight efforts on covert action that would

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[45] Johnson, "Legislative Reform," 552; Johnson, "Congressional Supervision," 397–401.

[46] Johnson, "Legislative Reform," 558.

[47] NcNeil, "Evolution," 14–16; Loch K. Johnson, "A Conversation with Former DCI William E. Colby: Spymaster During the Year of the Intelligence Wars," *Intelligence and National Security* 22, no. 2 (2007): 250–257, 267; Johnson, "Legislative Reform," 552-556; Loch K. Johnson, *A Season of Inquiry: The Senate Intelligence Investigation* (Lexington: The University Press of Kentucky, 1985), 5–11.

[48] Johnson, "Legislative Reform," 553; See also Loch K. Johnson, "Controlling the Quiet Option," *Foreign Policy* 39 (1980): 143–153.

continue to dominate the debate through the Iran-Contra scandal.[49] Loch Johnson concludes, "the intelligence investigation of 1975 succeeded. Though flawed, the inquiry satisfied the primary standard by which a legislature must be judged in a democracy: it enhanced freedom and well being of the citizens."[50] The failure often attributed Congress in its oversight role is that it did not create enough specific legislation to constrain the intelligence community, yet this type of legislation is not the only tool at Congress's disposal.

An alternative explanation for the oversight reform during this era comes from the school of new institutionalism that questions the conventional wisdom that Congress must constantly legislate to demonstrate interest and influence. James Lindsay summarizes this theory of procedural influence stating, "In short, delegation is not necessarily abdication because members of Congress may have used procedural innovations to structure the decision making process in the executive branch in ways that make it likely that their preferred policies are chosen."[51] Lindsay uses the case study of intelligence oversight through covert reporting requirements as outlined by the aforementioned Hughes-Ryan Amendment of 1974 and the Intelligence Oversight Act of 1980.[52] By enacting oversight procedures in the past, Congress solidified permanent interest in the intelligence aspect of national security and showed significant progress toward "its avowed goals of preventing rogue operations and making the intelligence community more attentive to the views of Congress."[53] Congressional dominance theory echoes these same themes, arguing that control mechanisms can be built into legislation by Congress to act as permanent oversight aids.[54]

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[49] Loch K. Johnson, "Covert Action and Accountability: Decision-Making for America's Secret Foreign Policy," *International Studies Quarterly* 33, no. 1 (1989): 91–92, 97–107.

[50] Johnson, *Season of Inquiry*, 2.

[51] James M. Lindsay, "Congress, Foreign Policy, New Institutionalism," *International Studies Quarterly* 38, no. 2 (1994): 299.

[52] Lindsay, "Congress, Foreign Policy, New Institutionalism," 294.

[53] Ibid., 295.

[54] Amy B. Zegart, *Spying Blind: The CIA, the FBI, and the Origins of 9/11* (Princeton: Princeton University Press, 2007), 48–49.

Lindsay cites the Iran-Contra scandal as another interesting oversight dilemma. Although the committees' inability to uncover the affair demonstrated a major failure on the one hand,[55] the executive branch's resort to nontraditional means of executing the covert operation reveals a larger success of the oversight structure on the other hand. "If the intelligence committees had been ineffectual in their oversight efforts, [Director of Central Intelligence (DCI)] Casey would not have felt compelled to bypass normal CIA channels."[56] Robert Gates, in his 1987 defense of the CIA, made a similar claim stating, "Another safeguard of objectivity where covert action is involved is the recognition inside the CIA that intelligence work in these areas is bound to be scrutinized for signs of bias with special care by readers in the executive branch and especially in Congress."[57]

More scholars have begun to question the idea that Congress failed to win the information battle with the executive branch after the reforms of the 1970s. Gregory Treverton recently went so far as to suggest that "Congress now receives virtually the same intelligence *analysis* as the executive."[58] In fact, Robert Gates as the Deputy DCI made this same claim ten years earlier demonstrating the significant procedural oversight embedded in Congress's intelligence committees.[59] According to Gates, the effective status of congressional oversight heading into the 1990s was that

> the CIA is in no position to withhold much information from Congress and is extremely sensitive to congressional demands; the Congress has enormous influence and information yet remains suspicious and mistrustful. Such a central legislative role with respect to an intelligence service is unique in American history and in the world.[60]

The exact accuracy of this statement is much less important than the fact that the Deputy DCI perceived Congress's oversight as real and extensive. Following the oversight

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[55] For analysis of Iran-Contra intelligence oversight issues for Congress, see also Allen E. Goodman, "Reforming U.S. Intelligence," *Foreign Policy* 67 (1980): 131–135.

[56] James M. Lindsay, *Congress and the Politics of U.S. Foreign Policy* (Baltimore: The Johns Hopkins University Press, 1994), 64.

[57] Robert M. Gates, "The CIA and American Foreign Policy," *Foreign Affairs* 66, no. 2 (1987): 223.

[58] Treverton, "Intelligence: Welcome to the American Government," 347.

[59] Gates, "CIA and American Foreign Policy," 224.

[60] Ibid., 225.

concerns and actions of the seventies and eighties, Congress began to shift its emphasis towards organizational reform in the nineties.

In 1992, the House and Senate began working on intelligence reorganization in the wake of Desert Storm and the end of the Cold War, with a primary goal of improving quality of intelligence through reorganization of the intelligence community. This included the first real congressional proposal to create a Director of National Intelligence (DNI) autonomous from the CIA for more than traditional oversight reasons. Earlier legislation had been attempted in 1978 that would have created a "Director of National Intelligence" as an overseer still leading the CIA (in a more detached role), rather than a taskmaster to improve interagency cooperation and enhance effectiveness.[61] Ernest May analyzed the bill and considered the DNI element of reform to actually be a restoration of sorts to the power intended for the DCI in 1947, whereas other elements, such as creating a National Intelligence Council, were forward looking changes. The dynamic change in the international environment following the demise of the Soviet Union and eastern bloc triggered renewed congressional interest in organizational intelligence reform.[62]

May's influential article also made clear that in preparing for these new challenges, "Congressionally mandated organizational changes could make this [executive driven improvements] harder not easier. The intelligence oversight committees can give most help by prodding the executive to prepare for the future instead of just conserving what was built up from the past."[63] Although the 1992 legislation calling for massive reform was not enacted, Frank Smist credits Senate Select Intelligence Committee Chairman, David Boren (D-OK), with using the annual authorization bills to effectively implement the ideas that arose from the Church and Iran-Contra committees.[64] The proposed 1992 intelligence reform accurately marks the first attempt for this level of organizational reform. Zegart explains the reform attempts in the 1992 and 1996 as indicative of the intelligence committees recognizing the need for

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[61] McNeil, "Evolution," 15.

[62] Ernest R. May, "Intelligence: Backing into the Future," *Foreign Affairs* 71, no. 3 (1992): 63–72.

[63] Ibid., 72.

[64] Smist, *Congress Oversees*, 284–7.

intelligence restructuring, but being frustrated by the executive, especially defense advocates both in the Pentagon and the armed services committees.[65] These attempts indicate noteworthy, though not overwhelming evidence that Congress began to assign a higher priority to intelligence reorganization during the 1990s.

The 9/11 terrorist attacks at the beginning of the century created a crisis environment in which Congress moved faster and harder than on all of its previous reform efforts, culminating in the 2004 Intelligence Reform and Terrorism Prevention Act. Just one year after the attacks, Congress prepared and conducted an extensive joint inquiry, but refrained from implementing any simplistic reactionary legislation. Instead, Congress's fast speed on intelligence reform was marked by having placed a sweeping investigation into motion, the 9/11 Commission, and then responding firmly and quickly to the Commission's findings. Although the 2004 reform included some aspects of oversight, the failure that drove the legislation stemmed from perceptions of organizational ineffectiveness. This reform had much more in common with the initial 1947 legislation than with oversight reforms of the seventies and eighties. Mark Lowenthal asserts that "the essence of congressional oversight is the ability to gain access to information usually held by the executive, which is relevant to the functioning of the government."[66] However, when discussing the executive view of oversight he summarizes an organizational effectiveness strand of oversight stating, "The core oversight issue is whether the intelligence community is properly carrying out its functions, that is, whether the community is asking the right questions, responding to policy makers' needs, being rigorous in its analysis, and having on the other hand the right operational capabilities (collection and covert action)."[67] This effectiveness issue is what dominated the 2004 intelligence reform, much more so than the simple war over information. Whereas the Church Committee arose from concern over what the CIA *was* doing, the post-9/11 emphasis was on what the intelligence community *was not* doing, or at least not doing effectively.

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[65] Zegart, *Spying Blind*, 178–181.

[66] Lowenthal, *Intelligence*, 205.

[67] Ibid., 199.

One of the primary ideas associated with long term intelligence reform is leadership and authority in the intelligence community. Lowenthal points out that the "designation DCI predates the creation of the CIA," demonstrating the necessity of intelligence coordination.[68] The 2004 implementation of a DNI was not an original concept, but neither should it be seen as the climax of a nearly sixty year battle. At most, it was a steady twenty-five year shaping of the position. A more accurate description requires understanding that as technology and the sheer size of the government expanded the intelligence community in many directions, the ability of the DCI to manage the CIA and coordinate intelligence became harder and harder, requiring "freeing the DNI from running any agency and thus allowing the DNI to concentrate on the larger role."[69] Lowenthal admits that the subsequent question is whether or not the DNI can fulfill this role without "the strong institutional base that the CIA afforded the DCI."[70] What is important is that in 1947 the intelligence community was arguably small enough to be simultaneously managed by the CIA director, and therefore this issue does not necessarily date back to the creation of the DCI, but more logically to a point where the size and scope of the intelligence community exceeded DCI coordination capability. The crisis environment that sparked the 2004 legislation demonstrated to Congress a proven failure of the intelligence leadership system and the bill, therefore, incorporated organizational reform including a more powerful, though arguably still limited DNI.

Information sharing within the community of intelligence agencies became another key aspect of the 2004 organizational reform and stands apart as having the least in common with previous reform efforts. Congress traditionally identified the "sharing" problem as the CIA not providing sufficient information to the intelligence oversight committees.[71] Indeed, Congress had its own information sharing problems as revealed in 1984 when the House Permanent Select Committee on Intelligence (HPSCI) was aware of U.S. plans to mine harbors in Nicaragua, but the Senate was left completely in the

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[68] Lowenthal, *Intelligence*, 300.

[69] Ibid.

[70] Ibid., 301.

[71] Johnson, "Legislative Reform," 563.

dark.[72] Yet, these greatly differ from the types of sharing failures addressed in 2004. Poor interagency sharing may have been a long time quandary for critics of the intelligence community, but Congress did not necessarily identify this as a problem. If anything, a congressional skepticism of information sharing, especially between the FBI and CIA, should come as no great surprise since the previous oversight focus of the 1970s concentrated on eliminating the CIA's expansion of activities into the domestic realm.

The Congressional Research Service in their 2004 summary of intelligence reform proposals concluded that the history of the intelligence community reform has been a relatively steady process and, "The general trend has been towards more thorough oversight both by the executive branch and by congressional committees."[73] Congressional speed of action on intelligence is best broken down in three parts. In long term reform, the Congress showed steady progress in maintaining oversight of the intelligence community from the seventies until 2004.   In terms of organizational effectiveness, the Congress began considering reform in 1992 but did not deem it necessary until the 9/11 crisis, at which point it implemented two major changes: establishing the DNI and the Information Sharing Environment (ISE)/Information Sharing Council (ISC). Additionally, the 2004 Intelligence Reform Act placed a myriad of reporting constraints on the executive branch codifying continued oversight.[74] Critics will, of course, point to the limited enforcement that Congress has demanded, but as the House's Intelligence Subcommittee on Oversight stated in its 2006 review, "The ultimate success or failure of the Intelligence Reform Act is yet to be determined."[75]

C.   CONGRESSIONAL SPEED OF ACTION ON INTELLIGENCE REFORM

Examining the historical relationship between Congress and intelligence reform demonstrates the increasing interest that Congress has placed on this aspect of national

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[72] Lindsay, *Congress and the Politics of U.S. Foreign Policy*, 67.

[73] Richard A. Best Jr., *Proposals for Intelligence Reorganization, 1949-2004*, CRS Report RL32500 (updated September 24, 2004), 40.

[74] *Intelligence Reform and Terrorism Prevention Act of 2004*, Public Law 108-458, 108th Cong. 2d sess. (December 17, 2004); see also www.ise.gov.

[75] House Permanent Select Committee on Intelligence, Subcommittee on Oversight. *Initial Assessment on Implementation*, 109th Cong., 2d sess., July 27, 2006, 35.

security. Intelligence, no longer the sole interest of the executive, has assumed a more public and prominent role as a vital instrument of national security. This is why Treverton considers the modern intelligence community to have "joined the American government," meaning that it is no longer as distinctive from other policy arenas as it once was.[76] As we look at what has influenced Congress's speed of action on the intelligence issues represented by the 2004 reform, the five conventional variables of constituent concern, interest groups, committees/subcommittees, party leadership and presidential leadership prove useful. In order to understand their impact on the 2004 intelligence reform, these should be applied both to the supposed long term reform efforts as well as the crisis reform efforts. Ultimately, these five variables indicate to the Congress what rate of speed will effectively demonstrate interest and influence in the intelligence aspect of national security. In this particular case, the combined effect of these variables, especially constituent concern and interest groups, led to a fast rate of congressional speed of action.

1. Constituent Concern

First, constituent concern after 9/11 encouraged increased speed of action by Congress on intelligence issues. Past theories of the effect of constituents on long-term national security efforts proposed that legislators are generally uninterested in pursuing that which cannot be rewarded at the polls. Few Congress members have vested political interests in intelligence reform on a daily basis. Public perceptions of intelligence failure, however, can create a new situation that encourages Congress to speed up its actions. In the 1970s, less than a month after Seymour Hersh published his articles exposing domestic intelligence actions in the *New York Times*, the Senate established the Church Committee.[77] A decade later, the Iran-Contra scandal achieved a similar level of public notoriety that also led to rapid reaction by Congress. The terrifying attacks on 9/11 solidified public concern about intelligence and thereby constituent relevance at the highest level yet. However, Congress, like the public, was not necessarily quick to judge

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[76] Treverton, "Intelligence: Welcome to the American Government," 347–363.

[77] Johnson, *Season of Inquiry*, 9–26.

the intelligence community. Immediate congressional action at the time involved supporting counterterrorism operations first and dealing with the intelligence failure only after a thorough examination of the causes.

The crisis environment provided an especially clear forum for linking Congress with constituent interests. Unlike the oversight reform efforts of the seventies, the crisis was not caused by the executive, but was provoked by outside sources. Two separate trigger events helped create the crisis environment. The 9/11 attacks and the subsequent findings of the 9/11 Commission receive the bulk of attention as the primary trigger for intelligence reform, but another major intelligence failure played an arguably larger role. Mark Lowenthal concluded that, "the issue that provided the ultimate impetus for the intelligence legislation of 2004 was not the investigations into the September 11 attacks but the issue of Iraq weapons of mass destruction (WMD)."[78] The combination of these two failures, which became apparent in 2004, put constituent pressure on Congress to "fix" the problems in a new way. Effective reorganization by the executive seemed unlikely and, much like Goldwater-Nichols, Congress members could effectively gain poll rewards by showing support for reorganization.

Polling data in the months leading up to the 2004 reform contains some interesting figures. According to an April 2004 Gallup poll, taken after Condoleezza Rice and George Tenet testified to the 9/11 Commission, 63 percent of Americans believed either "major reforms" or a "complete overhaul" of the "agencies responsible for stopping terrorism, such as the CIA and FBI," was necessary.[79] In July of 2004, following the release of the 9/11 Commission's report, Gallup asked Americans whether the 9/11 recommendations "require urgent action and Congress and the president should enact them immediately" or if "they are important, but Congress and the president should take the time they feel they need to adequately review and enact them." Over 63 percent chose the latter response. One might take this as a sign that Americans did not consider the matter urgent, but consider this response in context of the following question taken in

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[78] Lowenthal, *Intelligence*, 298.

[79] Jeffrey M. Jones, "Most Americans Say Major Changes Needed in Government Terrorism Agencies," *Gallup*, April 22, 2004, www.gallup.com.

the same poll: when asked if people approved or disapproved of the 9/11 Commission's report, over 50 percent answered that they "haven't heard enough to say."[80] Americans inferred that while they were not yet familiar with the details of the report, they placed responsibility for implementation of proper reform on the shoulders of Congress and the President, creating an opportunity for Congress to take the lead on an issue of increasing importance to the public.

As more Americans became familiar with the report, it became an item for campaign consideration. In fact, in the weeks before the election, Gallup asked, "Suppose the Democrats win control of both houses of Congress in this year's elections and try to do each of the following after they take control in January. Please say whether you would approve or disapprove of that action?" Nearly 62 percent of those polled approved the action to "implement all of the anti-terror recommendations made by the 9/11 commission" indicating that security reform had taken center stage in the 2004 election.[81] Intelligence reform continued to hold public interest in the year to follow.

In a 2005 *Foreign Affairs* article, the Public Agenda research organization released the findings of their first iteration of the Confidence in U.S. Foreign Policy Index (CFPI). The polling took place a little more than six months after the IRTPA was signed into law, and revealed public appreciation for the importance of intelligence as well as interest in reform efforts. The author, Daniel Yankelovich, concluded, "Some 65 percent of Americans polled believe that reforming the intelligence services is the best way to strengthen U.S. security significantly. Yet, in their eyes the matter seems to lack urgency, because they believe that the government has already begun to take remedial action."[82] In fact, by the time this survey was released, the WMD Commission's findings had been released as well. These essentially validated the decision to pass the IRTPA as a first step and recommended strong implementation and oversight of the reform. Public

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[80] Gallup Organization, "Post-Democratic Convention Poll: Questions qn 27 and qn 29," *Gallup Brain*, July 30–31, 2004, http://institution.gallup.com.

[81] Gallup Organization, "October Wave 2 Questionnaire: Question qn28j_FormB_A," *Gallup Brain*, October 20–22, 2006, http://institution.gallup.com.

[82] Daniel Yankelovich, "What Americans Really Think about U.S. Foreign Policy," *Foreign Affairs* 84, no. 5 (2005): 13.

opinion data, in sum, indicates that a combination of factors, including the 9/11 Commission's findings, linked intelligence community failure to the crisis environment. Subsequently, intelligence reform began to resonate with constituents, which created a clear opening for Congress to lead in the reform effort with the added reward of a demonstration of national security influence in an election year.[83] Constituent concerns strongly motivated Congress to increase speed on such reforms. Beyond the wide constituent base, interest groups also had impact on Congress's speed.

2. Interest Groups

Secondly, interest groups affected congressional speed on intelligence reform, both in long term and crisis motivated reform. Interest groups of two varieties represent the long-term influence on Congress in intelligence matters. The first groups are those generally organized against the expansion of intelligence functions or budgets and otherwise wary of executive secrecy, such as civil liberties groups. The other, more traditional lobbies represent "firms that derive large amounts of their income from the work they do for the intelligence community."[84] Natural constraints have limited the effectiveness of these more traditional lobbies. "Few interest groups exist in this policy domain, and those that do (the Boeing Corporation, for instance, which manufactures surveillance satellites), are rarely able to discuss whatever grievances they may have in public, given the classified nature of their work."[85]

Although long-term interest groups are less prevalent in intelligence issues, they still have significant impact. Consider John Tierney's theory that states, "organized interests are more likely to be able to affect outcomes on issues that are shielded from public or media scrutiny and do not conflict with legislators' deeply felt convictions, lines

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[83] An additional explanation for increased public interest in intelligence matters was proposed in an opinion piece by Larry Seaquist, a "former US Navy warship captain and Pentagon strategist" and currently a politician in Washington state's House of Representatives. He proposes that, in the information age, ordinary U.S. citizens are becoming primary consumers of intelligence which subsequently increases interest in the intelligence community and reform. See Larry Seaquist, "Intelligence for Grownups," *The Christian Science Monitor*, December 6, 2004.

[84] Lowenthal, *Intelligence*, 226.

[85] Johnson, "Congressional Supervision," 392.

of party cleavage, or particularistic constituency needs."[86] The intelligence committees certainly fall solidly under this umbrella; however this effectiveness should be balanced against Tierney's caveat that interest groups have greater likelihood of helping resist policy changes than implementing them.[87] This, in part, accounts for the unsatisfied cries of scholarly advocates who lament what they see as slow movement to implement the "obvious" reforms needed. Long-term interest groups most likely have a balanced effect on speed. Those seeking to increase profits by building the next level of spy technology may push for more immediate action, while those who promote agency interests are extremely likely to attempt to stall congressional reform action that may reduce the budget or personnel they represent.

One other organization with significant long-term intelligence interest deserves some attention: the Department of Defense. The next chapter will explore in greater depth the manner in which the Defense Department acts as an interest group on its own behalf, but its influence on the 2004 intelligence reform should not be overlooked either. As a large stakeholder in the intelligence budget process, the Defense Department held a vested interest in ensuring that reform would not diminish its authority and funding. Amy Zegart argues that the Department had been crucial in the defeat of intelligence reform attempts in 1992 and 1996 and attempted to block the 2004 legislation as well.[88] While many of the agencies within the intelligence community exhibited reluctance to avoid change, the Defense Department's enormous size and resources presented a much larger obstacle. The extent to which the Department desired to completely halt the post-9/11 intelligence reform movement remains unclear. Regardless of its intent, while the Department did secure significant compromises over budget and personnel issues, it could not prevent the intelligence overhaul process altogether. The Department of Defense efforts were ultimately overshadowed by pro-reform, crisis-driven interest groups.

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[86] John T. Tierney, "Interest Group Involvement in Congressional Foreign and Defense Policy," in *Congress Resurgent: Foreign and Defense Policy on Capitol Hill*, ed. Randall B. Ripley and James M. Lindsay (Ann Arbor: University of Michigan Press, 1993), 98.

[87] Tierney, "Interest Group Involvement," 99.

[88] Zegart, *Spying Blind*, 179–182.

Crisis-driven interest groups, on the other hand, have a greater hand in speeding up congressional action. The anti-intelligence interest groups are more effective at bringing about quicker action as they tend to represent greater constituent interest in protecting civil liberties as was the case in 1975. Although Jewish and Christian interest groups had a positive influence on the speed of post 9/11 reforms, the most significant interest group impact on the 2004 reform stemmed from average Americans most closely connected with the crisis.[89] Lowenthal notes, "In the aftermath of 9/11, a faction of families who lost relatives in that attack became a powerful lobby in favor of the legislation creating a DNI, an issue in which their inputs were understandably more emotional than analytical."[90]

M. Kent Bolton's work on IRTPA considers the impact of the "the families" interest group concluding, "The victims' families became a source of U.S. national security policy change, particularly influential in creating the Intelligence Reform and Terrorism Prevention Act."[91] Bolton describes the path of their influence as beginning with the 9/11 Commission's own admission that the family members were "instrumental" in its creation. The families' influence gained momentum when they formed the Family Steering Committee. The steering committee closely monitored the 9/11 Commission's work and their influence peaked in the election year of 2004 with their support for the Commission's hearings, findings and recommendations, many of which were realized in the IRTPA.[92] Ultimately, Bolton characterizes the victims' families as a special interest group that represented a "critical societal input that hastened the Intelligence Reform and Terrorism Prevention Act."[93] Amy Zegart's claim that "These were the first intelligence reform interest groups in U.S. history" is debatable, but truly "they were powerful forces

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[89] M. Kent Bolton, *U.S. National Security and Foreign Policymaking After 9/11: Present at the Re-creation* (Lanham, MD: Rowman & Littlefield Publishers, Inc., 2008), 240.

[90] Lowenthal, *Intelligence*, 226.

[91] Bolton, *U.S. National Security,* 241.

[92] Ibid.*,* 239–259.

[93] Ibid.*,* 258.

for change."[94] In a way, Zegart herself represented these interest groups by strongly advocating reform especially with regards to a new independent DNI before the Senate during the 2004 reform hearings.[95]

3.   Committees

The third variable, the impact of committees on intelligence, has changed substantially over the years, leading to the ability to pursue reform faster. Conventional wisdom holds that the most influential legislators will be reluctant to pursue intelligence committee posts because, due to the committee's secrecy requirements, they will find difficulty getting credit for their work.[96] Before the creation of the intelligence committees, the more prominent armed services and appropriations committees were able to balance unrewarding tasks of intelligence oversight with the more public and prestigious functions of their committees. This also forced the executive branch to deal with strong congressional leaders. Former DCI, Richard Helms (1966-73), in a 2003 interview with Loch Johnson, noted that the committee leadership prior to the scandals of the seventies were effective in their oversight due to their powerful positions, and denies the proposition that Congress was simply "co-opted" in those days.[97]

The current committees have come a long way in making the intelligence committee seats a desirable and respected position to hold. Lindsay notes "In 1983, nearly thirty members applied for three Democratic openings on the House Intelligence Committee. In 1987, sixty representatives signed up for four openings on the House Intelligence Committee."[98] As these positions become more respected not merely inside the beltway, but by the public at large, the committees will continue to gain influence over intelligence policy, and the small size of each committee makes this fact even more poignant.

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[94] Zegart, *Spying Blind*, 179.

[95] Senate Select Committee on Intelligence, *Reform of the United States Intelligence Community: Hearing Before the Select Committee on Intelligence,* 108th Cong., 2d sess., 2004, 6–9.

[96] Johnson, "Legislative Reform," 551.

[97] Loch K. Johnson, "Spymaster Richard Helms: An Interview with the Former U.S. Director of Central Intelligence," *Intelligence and National Security* 18, no. 3 (2003): 28–31.

[98] Lindsay, *Congress and Politics of U.S. Foreign Policy*, 67.

One year after the 9/11 attacks the House and Senate Intelligence Committees held a joint inquiry over the course of September and October of 2002. The purpose, as stated by the SSCI Chairman, Sen. Robert "Bob" Graham (D-FL), was to "inform the American people of our findings and to continue exploring what reforms will be necessary to reduce the chances of another terrorist attack on our homeland."[99] He went on to outline three key areas of the inquiry. The first two involved the terrorist threat itself and the specific intelligence questions of the 9/11 attacks. The third area more generally encompassed how the inquiry could lead to recommendations for structural changes in the Intelligence Community.[100] The 2002 hearings were quickly followed by legislative action to establish the 9/11 Commission on November 27, 2002. The SSCI and HPSCI then allowed the Commission to complete its task before resuming debate. In anticipation of the release of the Commission's report findings, the SSCI held a one day hearing in July 2004, followed by two more days of hearings in August after the report was published on July 22, 2004.[101] The short and supportive 2004 Senate hearings framed the debate for a quick and decisive victory on the floor with legislation passing in mere weeks by an overwhelming margin of 96-2.[102] In this case the committees enhanced the speed of congressional reform to demonstrate interest and influence to the executive. In the future, however, the committees may wield their influence to slow down desired presidential action if necessary for the same reasons.

4.   Party Leadership

Fourth, party leadership influenced speed to a degree, but was noticeably lacking the same level of influence as constituents and committees. Party leadership mainly influences intelligence speed in that it chooses the appointees to the committees.

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[99] Senate Select Committee on Intelligence and House Permanent Select Committee on Intelligence, *Joint Inquiry into Intelligence Community Activities Before and After the Terrorist Attacks of September 11, 2001,* 107th Cong., 2d sess., 2002, 2.

[100] Ibid., 3.

[101] Senate Select Committee on Intelligence, *Intelligence Community Reform: Hearing Before the Select Committee on Intelligence,* 108th Cong., 2d sess., 2004; Senate Select Committee on Intelligence, *Reform of the United States Intelligence Community: Hearing Before the Select Committee on Intelligence,* 108th Cong., 2d sess., 2004; http://www.9-11commission.gov/.

[102] THOMAS (The Library of Congress), "S.2845."

Lowenthal states, "The Party leadership in both Houses wants to be sure that members are selected who will not only take their oversight role seriously and will be careful not to disclose classified information but who reflect that Congress is a serious steward when it handles intelligence."[103] The generally bipartisan natures of the committees also prevent party leadership from being able to assert too much pressure to conform to standards without risking the appearance of risking security for party goals.

It is not suggested that the parties have not had significant divisions over intelligence matters. Britt Snider notes the "debilitating" effect of increasing partisanship within the committees during the nineties.[104] Lowenthal, however, argues that a highly partisan House and a bipartisan Senate may actually have an overall positive effect on intelligence.[105] Proposed solutions for the 2004 reform included organizational remedies for the committees such as combining them into a single joint committee, an idea that had been pressed upon Congress since the Tower Commission[106], but ultimately, "As has been the case in the past, congressional organization was not legislated and was left to the respective chambers."[107] Aside from the creation of the intelligence committees in the seventies, Congress has been skeptical about new types of internal solutions to oversight problems. In the case of 2004, the margin of bipartisan support for the reform seem to indicate that although party leaders, conscious of constituent and interest group factors, promoted the reform their leadership had less effect on the fast speed of action. More importantly, the party leadership on both sides of the aisle refrained from slowing the reform momentum.

5. Presidential Leadership

Finally, the influence presidential leadership has on Congress's speed in intelligence reform demonstrates that, unlike other subcategories of national security, presidential leadership is unpredictable and therefore hard to quantify. Congress's efforts

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[103] Lowenthal, *Intelligence*, 220.

[104] Snider, "Congressional Oversight," 242–246.

[105] Lowenthal, *Intelligence*, 222.

[106] McNeil, "Evolution," 17.

[107] Lowenthal, *Intelligence*, 218.

to increase oversight generally draw criticism as they are seen as limiting executive power and fall under the more traditional conflict over Constitutional national security powers. Organizational reform efforts, however, draw more diverse reactions.

As previously discussed, reform efforts in the nineties were outwardly hampered by the executive. Some argue that the 2004 legislation was watered down excessively due to executive bureaucratic loyalties.[108] However, even what Helen Fessenden referred to as "tepid" support from President Bush ultimately had a positive effect on ensuring the Intelligence Reform and Terrorism Prevention Act was passed less than a year from the release of the 9/11 Commission's report. [109] The relationship between Congress and President Bush on intelligence reform remains difficult to classify. In William Odom's 2004 preface to his book on intelligence reform, which revitalized a study from the 1990s in the post 9/11 environment, he claimed that President Bush remained "adamantly opposed to intelligence reform." Odom further compared this to Bush's initial opposition to the development of the Department of Homeland Security (DHS), which he later chose to "champion." Odom concluded that "The president seems unlikely, however, to grab the banner of intelligence reform and make it his own unless Congress convinces him— as it did in homeland security—that it will seize the initiative if he does not."[110] As it turns out, the events of 2004 validated Odom's hypothesis and as Congress began to gain momentum in the fall and winter, the President began publicly supporting reform.[111] One final note must be made regarding the President's influence on Congress's speed of action, which involves the difference between statements (remarks) made at a bill's signing and "signing statements." The Bush administration habitually issued signing statements on controversial bills that could be interpreted as infringing upon executive

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[108] David S. Cloud, "Bush Presses for Intelligence Bill," *The Wall Street Journal*, December 3, 2003.

[109] Helen Fessenden, "The Limits of Intelligence Reform," *Foreign Affairs* 84, no. 6 (2005): 109.

[110] Odom, *Fixing Intelligence*, x.

[111] Spencer Ackerman, "Small Change," *The New Republic*, December 13, 2004, 12–13; Cloud, "Bush Presses for Intelligence Bill;" Peter Grier and Faye Bowers, "What Spy Reform Means; The Biggest Overhaul of U.S. Intelligence Since World War II Formally Centralizes Authority," *The Christian Science Monitor*, December 8, 2004; Walter Pincus, "Intelligence Bill Clears Congress; Bush Expected to Approve Post-9/11 Reforms Next Week," *The Washington Post*, December 9, 2004.

authority to clarify how the law would be executed and the IRTPA was no exception. The statement contained the trademark language of the administration:

> The executive branch shall construe the Act, including amendments made by the Act, in a manner consistent with the constitutional authority of the President to conduct the Nation's foreign relations, as Commander in Chief of the Armed Forces, and to supervise the unitary executive branch, which encompass the authority to conduct intelligence operations.[112]

The actual remarks made by the President at the time of the signing, however, were positive and supportive, indicating that the reform "continues the essential reorganization of our Government."[113] A valid critique holds that the President may have been willing to publicly support reform only because he intended to interpret it in a manner that would retain strong executive authority over the reorganized intelligence community. However, this would not explain President Bush's early resistance to reform, not does it negate the overall positive effect of the President's acquiescence to Congress's speed of action on this issue. Congress effectively demonstrated their influence and interest in national security matters to a strong executive who in the end signed the reform into law just three months after it was first introduced.

These five variables represent the influences bearing on Congress's decisions to move quickly or slowly. In intelligence reform, the direct relationship between perceived failures and reaction by Congress suggests that these variables have short-term effects with long-term impact. Unfortunately, they have also inadvertently contributed to a mistaken perception that the 2004 reform was the capstone of a thirty year battle of Congress to impose its influence on the intelligence community. In reality, these five variables moved Congress to implement several separate specific changes in policy over the course of many years, including the massive overhaul of 2004.

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[112] George W. Bush, "Statement on Signing the Intelligence Reform and Terrorism Protection Act of 2004," *The American Presidency Project at UC Santa Barbara*, December 17, 2004, http://www.presidency.ucsb.edu/ws/index.php?pid=63745.

[113] George W. Bush, "Remarks on Signing the Intelligence Reform and Terrorism Prevention Act of 2004," *Weekly Compilation of Presidential Documents*, December 20, 2004, 2985.

D.   POSSIBLE CRITIQUES

Skeptics who might claim that Congress did not move quickly on intelligence reform, and consequently had little influence or interest over this matter of national security, should consider an important distinction: the failure to implement specific intelligence reforms that *external* proponents may demand does not simply equate to failure to exercise their Constitutional powers to influence issues of national security. Such critics seem to suggest that a third form of special interest group, consisting of "expert" opinions from academia or think tanks, should be the sole factor by which to judge Congress's speed of action. Consider, for example, Helen Fessenden's statement:

> But even broad support in the Senate, overwhelming public opinion, and a best-selling report were not enough to move congress nearly as far as overhaul proponents had hoped. The story thus serves as a textbook case of how the opaque ways of Washington's bureaucratic warfare undermine sound policy.[114]

She further asserts that "compromise" occurred that may not lead to the "long-term transformation" proposed by external reform advocates.[115] In essence, Fessenden infers that Congress has some duty to implement the full recommendations of outside "experts" in rapid time in order to prove that they have the ability to influence national security. This is a common but questionable assumption, which considers that just because external security recommendations are provided to Congress, that they are the correct and prudent action for the U.S. government. Often, long-term efforts of intelligence reform proponents in the executive branch, think tanks, and academia become inaccurately tied to Congress's reform efforts.

As another example, consider Amy Zegart's statement on committee reform action, which was considered in 2004, but not implemented, "It was no secret that this fragmented oversight system desperately needed fixing. Restructuring the Congress was recommended in seven of the twelve intelligence and terrorism studies between 1991 and 2001. Yet Congress never acted."[116] This sounds very compelling until you consider the

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[114] Fessenden, "Limits of Intelligence Reform," 120.

[115] Ibid.

[116] Zegart, *Spying Blind*, 154.

alternate inference that nearly half of the studies did *not* recommend restructuring. A "glass half empty" way of looking at it may consider that what these studies actually demonstrated to Congress was that the effectiveness of this type of reform was highly debatable so that they therefore chose to maintain the status quo.

Another possible critique might consider all of these variables as secondary to the factor of a hotly contested election year closely connected to the dual crises of the 9/11 attacks and the war in Iraq. With national security emerging as the dominant campaign issue, both the Republican and Democratic parties, vying for victory in Congress, could have used the 9/11 Commission to speed up the process of intelligence reform simply for positive results at the ballot box. Although the election environment undoubtedly influenced the five variables it was not the primary driver of reform. Notably, Congress's landslide final approval of the conference version of IRTPA and the President's signature did not take place until after the election.[117] When presented with a safe post-election opportunity to discard intelligence reform, Congress instead followed through establishing clear interest and influence in the national security policy arena.

A final critique that merits acknowledgement involves the manner in which this thesis characterizes speed of action. Namely, this chapter identified the speed of action as fast by identifying the central starting point for intelligence reform as the 9/11 attacks that signified public failure of the intelligence community and the finish line as the passing of the IRTPA just over three years later. Although the release of the 9/11 Commission report had tremendous influence on Congress's final action, it does not best represent Congress's initial major interest into the intelligence community's organization. Rather, Congress established the 9/11 Commission as a way to learn more about what went wrong prior to 9/11 and give itself an informed basis on which to design reforms. Alternatively, those critical of this approach may consider the more appropriate starting point to be the original National Security Act and therefore Congress's speed should be labeled "extremely slow." The problem with this type of approach is that it would place a burden on Congress to continually "reform" any agency or organization from its creation

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[117] THOMAS (The Library of Congress), "S.2845."

onward. The sheer impracticality of Congress being able to handle such a task suggests that a more prudent reference point for organizational reform derives from either a clear violation of a congressional mandate, or a massive, clear, and public failure of that organization. As this chapter has shown, when measuring congressional speed from these types of reference points, Congress has acted swiftly on the intelligence aspect of national security.

E.   CONCLUSIONS

This chapter has shown two aspects of Congress's interest and influence on national security by examining the sub-topic of its speed of action on intelligence reform. First, the historical analysis demonstrated that Congress has taken a serious and steady approach to intelligence reform. Rather than assume the old adage that "if reacting is good, then overreacting is even better," Congress has chosen to limit its speed on intelligence reform to solid and calculated crisis management. This calculated approach has drawn scathing criticism from reform proponents.[118] Though civilian advocates presented strong arguments for reform, unlike Congress, they won't be held responsible if their recommendations lead to massive failure. As stated earlier, even though outside "experts" demanded reform for many years, Congress's speed of action should not be judged solely by the rate at which it appeases critics' concerns. In other words, sometimes the skeptical claim that, "Congress can't act" more accurately means "Congress won't act" in a manner that suits the particular faction bringing complaint. Critics should consider the possibility that Congress has judged not only the failures, but the successes of the intelligence community, and, therefore, hesitated to quickly dismiss the organizational structure that led to these successes. Congress has recognized the complex nature of intelligence reform and has chosen to implement reform on a case by case basis with the 2004 IRTPA standing out as the most significant of these cases.

Second, the five variables of constituent concern, interest groups, committees and subcommittees, party leadership and presidential leadership resulted in a fast speed of action from Congress in enacting the largest reform of the intelligence community's

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[118] Zegart, *Spying Blind*, 171–177.

history. This reform occurred just over three years after the crisis of 9/11 and a mere four and a half months after the intelligence shortcomings were outlined in the 9/11 Commission's report. Shaped by the national security crisis environment, constituent concern and the 9/11 interest groups stand out as the most important variables in this case.

In sum, Congress has clearly demonstrated increasing public interest in matters of intelligence, especially over the last thirty years. It has done so by quickly responding to perceived intelligence failures as demonstrated in the IRTPA case. Congress has increasingly leveraged its oversight on the intelligence community, meaning this influence will continue. Perhaps most astounding, Congress's involvement in intelligence has brought the most secret portion of the federal bureaucracy into the public eye, an unparalleled feat and example of the uniqueness of the American Republic.

IV.   THE 1986 GOLDWATER-NICHOLS DEFENSE REFORM

A.   INTRODUCTION

Congress generally holds a much more public political relationship with the defense aspect of national security than the intelligence aspect. Congress's past interest and influence over defense matters, however, were traditionally tied either to overarching war making powers or economic and budgetary concerns. The National Security Act of 1947 marked Congress's new interest in structural influence over the nation's defense bureaucracy, which would be renewed in the 1980s. The Goldwater-Nichols Department of Defense Reorganization Act of 1986 provides an excellent second case study for examining the influences that led Congress to increase its speed on a less public aspect of defense and national security.

During the 1980s, the subject of defense captured the attention of Americans from the average voting citizen to the leaders in the executive and legislative branches. With the pressures of the Cold War and economic uncertainty mounting, policy makers were presented the unpleasant task of attempting to balance the rising costs of defense with the political cost of cutting back social programs. Congress could hardly ignore a popular President elected to repair an ailing defense capability, yet some astute lawmakers recognized that improving military organizational effectiveness could serve as an alternative solution to the defense dilemma. The Goldwater-Nichols Act emerged from this unique political environment.

Congress, through Goldwater-Nichols, made sweeping changes in fundamental areas of defense organization. Its broad objectives included strengthening civilian authority, improving military advice to the President, National Security Council and Secretary of Defense, enhancing the role of the combatant commanders, increasing resource efficiency, improving joint officer management and to otherwise "enhance the effectiveness of military operations and improve the management and administration of

the Department of Defense."[119] Specifically the act made the Chairman of the Joint Chiefs of Staff (CJCS) the principal military adviser, gave him significantly more control over his joint staff, added a Vice CJCS with the full authority of the CJCS in his absence, solidified the joint duty requirements for senior officers and clarified the roles of combatant commanders in the field and the service chiefs.[120] Nearly unanimous opinion in the literature referenced in this chapter marks Goldwater-Nichols as the most significant defense reform since the National Security Act of 1947 created the Department of Defense.

The first section of this chapter outlines the historical background of defense reform after 1947 and establishes Goldwater-Nichols as a new and fast reform effort by Congress spanning a little less than five years as opposed to a simple stop along a forty-year reform road. Although the specter of Vietnam clouded the defense environment during the 1980s, the political environment lacked the sense of urgency present in the post-9/11 environment. Organizational failures impacted both defense and intelligence reform, but unlike the intelligence reform of 2004, Goldwater-Nichols did not occur during a publicly perceived national security crisis.

The second section explores the effects of the five variables on Congress's speed of action on defense reform: constituent concern, interest groups, committees and subcommittees, party leadership and presidential leadership. The reform environment fostered by the impact of these variables indicates Congress seized the opportunity to demonstrate influence and interest in national security affairs. Particularly important to the success of the Goldwater-Nichols Act were the positive forces of the armed services committees and their staffs in the House and Senate and the relatively neutral impact of constituent concern, party leadership, and presidential leadership that allowed for the eventual victory of pro-reform interest groups over the anti-reform groups.

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[119] *Goldwater-Nichols Department of Defense Reorganization Act of 1986*, Public Law 99-433, 99th Cong., 2d sess. (October 1, 1986).

[120] *Goldwater-Nichols Act,* §§201, 202, 211, 401–404.

B.   DEFENSE REFORM: HISTORICAL BACKGROUND

An analysis of Goldwater-Nichols by Thomas McNaugher and Roger Sperry of the Brookings Institute excellently summarizes what makes the act's passage appear so remarkable:

> For those impressed by the incoherence and fragmentation of Congress, the degree of consensus generated on Capitol Hill in passing the Goldwater-Nichols Department of Defense Reorganization Act was a pleasant and encouraging surprise. Congress took up an issue with which it was not deeply familiar (the last legislative reform having been passed in 1958), one on which it has historically divided sharply, and one for which there were no strong constituency pressures for action. Over a period of four years the Armed Services committees in both houses became familiar with the issue and ultimately passed what most would call thoughtful, coherent reform legislation.[121]

McNaugher and Sperry are not alone in their view that Goldwater-Nichols represents an aberration from traditional expectations of the Congress's interest and influence in the national security arena. In her study of the structural origins of the NSC, JCS and CIA, Amy Zegart largely discounts the role of Congress in the evolution of these three major security agencies, with Goldwater-Nichols standing as the odd exception. Zegart summarizes this outlier by stating "The truth is Goldwater-Nichols should never have happened. No theory or general explanation could have predicted its passage. Reform succeeded only because a series of factors converged at just the right moment, in just the right way. Had any of them been missing, the Joint Chiefs of Staff would still be hobbled today."[122] In contrast to Zegart's bold claim that Goldwater-Nichols was a unique case, this thesis concludes that the factors that influenced Congress's fast speed of action on defense reform are far from miraculous or unrepeatable. Not every "factor" was necessarily required to produce reform, but their combined effects did contribute to the fast speed at which it was accomplished.

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[121] Thomas McNaugher and Roger Sperry, *Improving Military Coordination: The Goldwater-Nichols Reorganization of the Department of Defense* (Washington, D.C.: Brookings Institution, 1994), 246.

[122] Amy Zegart, *Flawed by Design*, 162.

1. Defense Reorganization Prior to 1982

Before determining the speed of Congress on defense reform, however, a logical starting point for reform must be established. A case can be made for three main origins of Goldwater-Nichols. The first possibility assumes that the principles of the 1986 reforms, including a powerful CJCS with strong authority over the joint staff, were intended in the establishment of the JCS in 1947, but politically impossible to implement due to the power of the individual armed services, leaving Congress to sit "on the sidelines."[123] James Locher, the influential Senate Armed Services Committee (SASC) staff member inseparably tied to the 1986 reform, envisions it having, "ended a forty-five-year struggle to produce a unified military establishment."[124] While the significance of the reform has been widely respected, this does not indicate that Congress itself was, or should have been, fighting this battle throughout this time. Locher himself admits that new changes will be needed in the present century, which suggests that subsequent reform should not be viewed as a continual Congressional struggle, but rather as timely responsiveness to military necessity.[125] The massive nature of defense restructuring under the 1947 National Security Act should not be marked as merely a preliminary step for future reform. The Truman administration, Congress and the individual services, especially the U.S. Navy, made large compromises to get the Department of Defense, a new experiment in defense organization, off the ground. As such, Congress recognized that time would be required to determine its effectiveness and any need for future reform. Only in the broadest terms could Goldwater-Nichols be labeled as the finishing touch of a forty year reform effort by Congress.

A second possibility marks the Department of Defense Reorganization Act of 1958 as President Eisenhower's unfinished business in the way of defense reform.[126] Eisenhower's major purpose was to strengthen the civilian leadership of the military by

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[123] Zegart, *Flawed by Design*, 109.

[124] James Locher, *Victory on the Potomac: The Goldwater-Nichols Act Unifies the Pentagon* (College Station: Texas A&M University Press, 2002), 450.

[125] Ibid.

[126] Fred Thompson and L.R. Jones, *Reinventing the Pentagon: How the New Public Management Can Bring Institutional Renewal* (San Francisco: Jossey-Bass Publishers, 1994), 64–65.

increasing the influence of the Secretary of Defense. One student of that era summarized the reform as embodying, "the President's ideas marked with the permanent stamp of Congressional influence."[127] Scholars and policy makers throughout the reform debates of the 1980s agree that the 1958 defense reform was the last reorganization of significance. Zegart claims that these reforms "were more far reaching on paper than in practice," acknowledging the significance of the act but the stagnation of the implementation. Eisenhower himself noted the difficult road ahead for defense reform in his short signing statement on the 1958 Act, remarking:

> I HAVE APPROVED H. R. 12541, the Department of Defense Reorganization Act of 1958. Its enactment represents a major advance in our organization for defense. While some time will be required for its complete implementation, the Secretary of Defense is beginning this action at once.
>
> In order to maintain the proper relationship of the positions of the President, the Congress, and the Secretary of Defense, I am instructing the Secretary of Defense that any report to the Armed Services Committees of the Congress as to changes of functions established by law, as prescribed in this act, shall be forwarded first to the President.
>
> Now that this measure has become the law of the land, I know that the personnel throughout the military establishment, civilian and military, will cooperate fully with the Secretary of Defense to assure its faithful execution.[128]

President Eisenhower expected the reorganization to be implemented in full over time, rather than immediately. Eisenhower may have considered the business unfinished only for the executive branch, specifically the Defense Department, and satisfied with the statutory aid as passed by Congress.

The internal defense budgeting and organizational changes later introduced by Secretary of Defense Robert McNamara are indicative of the kinds of adjustments

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[127] Roger Bos, "Legislative-Executive Conflict: The 85th Congress, President Eisenhower, and the Department of Defense Reorganization Act of 1958" (Master's thesis, U.S. Naval Postgraduate School, 1964), 27.

[128] Dwight D. Eisenhower, "Statement by the President Upon Signing the Department of Defense Reorganization Act," *The American Presidency Project Online*, August 6, 1958, http://www.presidency. ucsb.edu/ws/index.php?pid= 11161.

expected in 1958.[129] Just as in 1947, the primary goal was to improve the effectiveness of the military organization and dampen the effects of inter-service rivalries through increased civilian authority. General Carl Spaatz, USAF (ret) illuminated the central theme, testifying, "In my opinion, the Defense Department never will be properly organized until full administrative authority is vested in the Secretary of Defense; and that condition is so stated in the law in no uncertain terms."[130]

Roger Bos concluded his study on the 1958 reform with a question: "The nation received the benefit of a workable Defense Department organization when President Eisenhower challenged the 85th Congress. Will we be as fortunate the next time?"[131] The "next time" would be nearly thirty years later and in the interim period both Congress and the Executive continued to treat defense organization as a work in progress with no urgency for organizational reevaluation. Unsurprisingly, advocates of reform in the 1980s characterized the Eisenhower reforms as incomplete in order to advance an image of a long overdue reorganization.[132] William Lynn and Barry Posen, part of the CSIS Defense Organization Project, stated, "The Eisenhower reforms culminated the postwar development of the joint military establishment. The structure that emerged in 1958 is, with only minor changes, the one operating today."[133] As a "culmination," the 1958 reform should be viewed as a complete reform effort with notable shortcomings, rather than an intermediate stage of a forty year reform.

The third and most reasonable start marker for the Goldwater-Nichols reform begins with the testimony of an outgoing CJCS, General David Jones (USAF), before the House Armed Service Committee in February 1982 and subsequent *Armed Forces Journal International* articles in March and April written by General Jones and Army

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[129] Thompson and Jones, *Reinventing the Pentagon*, 54–57.

[130] Senate Committee on Armed Services, *Department of Defense Reorganization Act of 1958: Hearings before the Senate Armed Services Committee*, 85th Cong., 2d sess., 1958, 403.

[131] Bos, "Legislative-Executive Conflict," 28.

[132] William Lynn and Barry Posen, "The Case for JCS Reform," *International Security* 10, no. 3 (1985-1986): 73–75.

[133] Ibid.

Chief of Staff General Edward "Shy" Meyer respectively.[134] Unlike the major reorganizations of 1947 and 1958 that emanated from the President, the first unmistakable call for modern reform was delivered to the Congress from within the defense bureaucracy. As General Jones himself recognized, while organizational frustrations had long existed, "The difference this time is that the proposals for improvement are coming from someone inside the system who for many years has been in the best position to understand the causes and consequences of its short-comings."[135] Policy makers, bureaucrats, scholars and journalists overwhelmingly agree on Jones's firestorm as the clearest trigger for the beginning of the Goldwater-Nichols reform movement in Congress.[136] While the 1986 reform addressed problems going back as far as World War II, the renewed movement gained life in 1982, was brought to maturity by the efforts of influential lawmakers including Sen. Barry Goldwater (R-AZ), Sen. Sam Nunn (D-GA), Rep. Les Aspin (D-WI) and Bill Nichols (D-AL), and was signed into law four and half years later by President Reagan on October, 1 1986.[137] Given the scale of the eventual reform and the stakes involved in tackling national defense, a timeline of less than five years to conclude the reform effort represents fast action by Congress.

2.   Defense Reform after 1982

A brief review of the legislative history between General Jones testimony and President Reagan's signing of Goldwater-Nichols is necessary to provide a frame of

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[134] David Jones, "Why the Joint Chiefs of Staff Must Change," *Armed Forces Journal International* 119, no. 7 (1982): 62–72; Edward Meyer, "The JCS: How Much Reform Is Needed?" *Armed Forces Journal International* 119, no. 8 (1982): 82–90.

[135] Ibid., 62.

[136] Gordon Lederman, *Reorganizing the Joint Chiefs of Staff* (Westport, CT: Greenwood Press, 1999), 33; Senate Committee on Armed Services, *Defense Organization: The Need for Change*, 99th Cong., 1st sess., 1985, S. Prt. 99–86, 14; House Committee on Armed Services, *Reorganization of the Department of Defense: Hearings Before the Investigations Subcommittee of the Committee on Armed Services,* 99th Cong., 2d sess., 1986, 1; Daniel Wirls, *Buildup: The Politics of Defense in the Reagan Era* (Ithaca: Cornell University Press, 1992), 88; Mark Perry, *Four Stars* (Boston: Houghton Mifflin Company, 1989), 333; Peter Roman and David Tarr, "The Joint Chiefs of Staff: From Service Parochialism to Jointness," *Political Science Quarterly* 113, no. 1 (1998): 97; John Cushman, "Congress Endorses Military Overhaul," *New York Times*, September 18, 1986; Zegart, *Flawed By Design*, 141.

[137] Locher, *Victory on the Potomac*, 433.

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reference for investigating the effects of the individual variables.[138] In April of 1982, the Investigations Subcommittee of the House Armed Services Committee (HASC) initiated a major chain of hearings that would include "nearly a thousand pages of testimony from forty-three witnesses in twenty hearings."[139] These hearings represented the first major step in what would become a recurring trend of the House taking an initial action on defense reform followed by slower, more calculated moves in the Senate. At the end of these preliminary hearings the House passed a "modest" defense reform bill that the Senate Armed Services Committee (SASC) held up until the end of the session effectively killing this first legislative effort.[140]

During the spring and summer of 1983, reorganization hearings took place both in the HASC Investigations Subcommittee and the SASC and several versions of a House bill were introduced. The final version, H.R. 3718, passed in the House, but was again blocked by the SASC, which instead initiated a staff study on defense organization.[141] In the next year the House, unable to get traction from the SASC, eventually attached its reforms to the 1985 Defense Authorization Bill to attempt to force major reorganization changes. These changes, however, were all but eliminated during the House-Senate conference.[142]

The final major legislative push towards reform came on the Senate side with the release of the SASC staff study in October 1985 with accompanying hearings and on the House side with yet another reform bill that passed before the end of the year. In 1986, the SASC finally passed its own version of "Goldwater" reform legislation after a tough markup of the bill in committee. The bill would go on to be unanimously approved by the Senate in May. After a series of HASC hearings, the House passed a "Nichols" reform

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[138] See also McNaugher and Sperry, *Improving Military Coordination*, 248–251 for an excellent abbreviated "Timeline of Major Events" for Goldwater-Nichols.

[139] Locher, *Victory on the Potomac*, 67.

[140] Ibid., 80–84.

[141] Ibid., 110–112.

[142] Ibid., 190–194.

bill in August, superseding the 1985 bill. This final legislation was merged with the Senate bill, approved by both houses of Congress in September and then signed by President Reagan.[143]

Although the Goldwater-Nichols defense reorganization did not occur under a national security crisis environment such the post-9/11 case, organizational failures did affect the political climate. A short summary of three significant external events establish the environmental context of the defense reorganizational battle.

First, although military leadership problems in Vietnam partially explain the growing sentiment for re-examining defense organization, they are hard to separate from the political issues. In April 1980, however, a tragic event took place that illuminated military problems independent of the political context. Operation Eagle Claw (also known as Desert One) was designed to use all the branches of the armed services in a joint effort to free the American embassy hostages from their Iranian revolutionary captors. Instead, at the end of the operation, poor interoperability combined with a lack of joint training and planning left eight servicemen dead from an aircraft collision and no hostages rescued.[144] The connection between defense reorganization and the Desert One disaster would be examined more closely after Gen. Jones opened the reform debate in 1982.[145]

A second "real world" example of the defense organizational problems occurred on October, 23 1983 when a terrorist car bomb exploded in front of the Marine barracks in Beirut, Lebanon killing over 240 American service members and wounding many more. While the terrorist attack itself did not necessarily reveal critical weaknesses in the leadership structure, the poor reporting of the event by senior commanders and the JCS did reflect significant problems. The "confrontational" attitude of the Commandant of the

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[143] McNaugher and Sperry, *Improving Military Coordination*, 250–251.

[144] Charles Cogan, "Desert One and Its Disorders," *The Journal of Military History* 67, no. 1 (2003): 214.

[145] Locher, *Victory on the Potomac*, 45–48.

Marine Corps, General P.X. Kelley before the HASC afterwards compounded the problem and further relayed an image of an entrenched commitment to a broken system by military leadership.[146]

Finally, only two days after the terrorist bombing in Lebanon, U.S. forces engaged Cuban soldiers on the island of Grenada in an operation named Urgent Fury. Although the operation ultimately succeeded, a host of communication and transportation problems between the Army and Navy left more unanswered questions about the ability of the services to work together effectively. Gordon Lederman summarized the overall outcome of these failures by concluding, "The Beirut debacle and the Grenada invasion did more than just produce empirical data for use by the pro-reorganization side. Additionally, these events also undermined the traditional respect afforded to the JCS in official government circles."[147] As the following review of the individual variables will show, although these failures did not necessarily become an issue of national urgency for the American public, interest groups and committees would point to them as evidence for a required reform of the defense community.

C. CONGRESSIONAL SPEED OF ACTION ON DEFENSE REFORM

A surface view of the general legislative history of defense reform perhaps suggests a straightforward political battle between the House and Senate, or an uncoordinated and sloppy effort to restructure an enormously complex organization. A closer examination of the influences on Congress's speed on defense reform reveals a heated battle between pro-and anti-reform interest groups, strong committee involvement, and the general neutrality of constituent concern, party leadership and presidential leadership The combination of these variables allowed Congress to speed its action to a fast pace on reform overall and provides explanations for the temporary speed bumps along the way.

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[146] Locher, *Victory on the Potomac* ,149–153.

[147] Lederman, *Reorganizing the Joint Chiefs*, 67.

1. Constituent Concern

The increasingly strong grip of the "pork barrel" on defense in the latter half of the twentieth century allowed constituent implications to drift into every aspect of the acquisitions and budgeting process in Congress.[148] In the case of defense organizational reform, however, it was the lack of public interest that provided an overall neutral to slightly positive effect, neither slowing down, nor speeding up Congressional action. Beyond the mere local economic impact of defense budgets, constituents also demonstrated interest in broad military and defense issues in the wake of the Vietnam War and the uncertainty of the Cold War balance of power. Congressional pro-reform leaders had to deal with the challenge of translating these broad concerns into support for specific measures to deal with complicated military issues.[149] Although the Jones and Meyer articles generated professional interest within Washington, the mainstream media was either unable or unwilling to convert the story to one of public interest.

Arguably, more robust media interjection into the process could have affected Congress's reform speed in either direction. A highly critical anti-reform author, Robert Previdi, suggested the Goldwater-Nichols Act "is a good example of insiders in Congress getting what they believe is right without the knowledge or approval of the American public. The press really has let the country down by not sufficiently covering this most important piece of legislation."[150] He based his argument on a belief that the public would have never allowed Goldwater-Nichols to pass if they had known about it, or perhaps more accurately, if the anti-reform forces maintained sufficient control of the story. He asserted that "key legislators like Congressman Les Aspin, Chairman of the House Armed Services Committee, who helped to get the legislation written and passed, admit the public knows nothing about it."[151] Whether this was the intent of the architects of reform or not presents a bit of a dilemma.

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[148] Zegart, *Flawed by Design*, 155–159.

[149] McNaugher and Sperry, *Improving Military Coordination*, 246–247.

[150] Robert Previdi, *Civilian Control Versus Military Rule* (New York: Hippocrene Books, 1998), 16.

[151] Ibid.*,* 11.

First, the reform followed in the wake of public interest in fraud, waste and abuse in the Department of Defense. Daniel Wirls considered this a key public consideration in the early reform debate in 1982–83 noting that "most citizens are not sure what a tank or bomber should cost, but they do know that a toilet seat should not cost $700 nor a claw hammer $435. The exposure of the parts-pricing scandals, perhaps more than any other issue, brought military reform to the attention of the American public."[152] No clear evidence demonstrates that the public directly linked Goldwater-Nichols as the solution to fraud, waste and abuse in the Pentagon, but the concept of general reform aimed at reducing overlap and increasing defense effectiveness certainly appealed to a public eager to see defense improvement but wary of spending costs.

A review of the defense issues most discussed in Gallup polls during the early to mid-1980s reveals public interest centered on general overall spending and security with no specific opinion data on reform. A perceptible trend demonstrated strong public support for increased defense spending at the beginning of the decade that shifted, over the course of President Reagan's two terms, to eventual public demand for decreases in the defense budget.[153] This may account for the slightly increased public and media interest towards the end of the reform battle.

Second, both reformers and anti-reformers desired at least a minimal amount of media coverage in order to present their case directly to the public with a controlled message. Barry Goldwater himself discussed the "absence of major media attention" as a positive factor in reform, in the sense that, unlike past experiences, there were no eager journalists seeking to turn the story into personal or political confrontations.[154] In essence, Goldwater settled for an indifferent media that did not understand reform, since a neutral and explanatory media outlet never emerged.[155] As reform gained momentum, the pro-reform leaders in Congress were able to shape what little media coverage existed.

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[152] Wirls, *Buildup*, 97.

[153] This trend was observed through a search of public opinion poll questions with "defense" and "security" related subject matter found on the Gallup Brain database, http://institution.gallup.com.

[154] Barry Goldwater, *Goldwater* (New York: Doubleday, 1998), 358.

[155] Vincent Davis, "Defense Reorganization and National Security," *Annals of the American Academy of Political and Social Science* 517, (1991): 158; Lederman, *Reorganizing the Joint Chiefs*, 76.

After years of work, James Locher and his associates had completed their enormous staff report on defense reform (to be discussed in more detail later) for the Senate Armed Services Committee. Rather than allow an uncontrolled leak, Senators Goldwater and Nunn tactically engaged the media with a series of Senate floor speeches starting on October 1, 1985, one year before Goldwater-Nichols would be signed into law. Locher remarks, "The two senators believed that print and television reporting on reform would be overwhelmingly favorable, spark public interest, and build pressure for change. This would differ with the reporting of postwar debates, when influential journalists had opposed unification."[156] Although the reform story never fully weaved its way into the fabric of public attention, by 1985 it was at least recognizable as a significant political event that had the attention of prominent senators.[157] In the end, Goldwater and Nunn held the advantage of controlling the story and, to a lesser extent, the interpretation of reform to constituents. At best, constituent influence over reform had a slight positive effect on increasing Congresses; at worst, constituents simply were not interested in the matter, allowing lawmakers to move at will. Significantly, interest groups limited their attempts to influence Congress to direct methods rather than taking their case directly to the public.

2.   Interest Groups

While the modern 24-hour news cycle has embraced interest groups, think tanks, and "talking heads" as an integral part of the information age, such was not yet fully the case in the 1980s. Categorizing interest groups on either side of defense reform generates interesting questions. Perhaps most importantly, who can be fairly counted as a reform or anti-reform interest group? I take a non-traditional, and perhaps controversial, approach of recognizing the individual services (the U.S. Navy in particular) and the Office of the Secretary of Defense (OSD), as best fitting into the interest group variable on the anti-reform side. Although they are part of the executive branch, the "presidential leadership" variable would be an inappropriate categorization, due to a lack of unequivocal public support from President Reagan against reform.

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[156] Locher, *Victory on the Potomac*, 320.

[157] Ibid., 320–332.

Is placing the U.S. Navy as an interest group a fair assessment? Senator Goldwater certainly thought it fair after he personally revealed, through a clever maneuver, its willingness to assume such a role. In perhaps the funniest episode of the reform battle, his staff once received a tipoff that the Navy had set up an office to torpedo the legislation. As Locher related the story:

> With mischief in his eye, Goldwater grabbed [staffer Gerald] Smith and me and said, "Let's find out what this is all about." Back in his office, Goldwater said, "I'm going to call this office and see what the Navy's up to" . . . when his call was answered, Smith and I saw a Goldwater we had never seen before: an actor. Disguising his voice, Goldwater asked the secretary who answered, "Is this the Navy office that is working to defeat the reorganization legislation?" When she said, 'Yes,' he inquired who worked there.[158]

The story ends with Goldwater getting her to reveal names of active duty officers working in the office. "As he hung, up, the senator said, 'Can you believe that? They're not supposed to lobby Congress on legislation. I can't wait to tell the committee.'"[159] As this anecdote suggests, the services, in particular the Navy, reached a point where rather than giving advice only through formal channels within the executive branch, they struck out on their own as interest groups.[160] In fact, one could argue that this was also the case in 1947 and 1958, with the services attempting to lobby both Congress and the executive simultaneously to preserve their bureaucratic-organizational structure. Zegart recognizes this type of organizational influence in her new institutionalist propositions.[161] While this thesis supports her idea of agencies as interest group influences, it does not agree that "Congress plays, at best, only a secondary role."[162]

The services were supported by a few "independent" advocates including the work of a retired Marine lieutenant general, Victor Krulak, who offered polar opposite solutions to the recommendations of Gen. Jones, including complete service control and

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[158] Locher, *Victory on the Potomac*, 403.

[159] Ibid.

[160] McNaugher and Sperry, *Improving Military Coordination*, 237.

[161] Zegart, *Flawed by Design*, 39–40.

[162] Ibid.

removal of the CJCS.[163] Krulak's book, which received the support of an anti-reform element of the retired military community, essentially only furthered the services' direct lobbying efforts. Ultimately, the anti-reform interest groups including the services' lobbying of the armed services committees and Congress as a whole failed to achieve its goal.

The pro-reform interest groups that would follow up the problems proposed by General Jones and Meyers centered mainly on policy think tanks and former top defense leaders. The most influential of these outside groups was the Defense Organization Project of Georgetown University's Center for Strategic and International Studies (CSIS) that "was initiated in mid-1983 on the premise that the national defense debate had maintained a myopic focus."[164] The CSIS study capitalized on the newfound freedom in policy circles to make widespread defense reform recommendations including strengthening the CJCS to serve "as the principal military adviser to the president, the secretary of defense, and the National Security Council, replacing the corporate JCS in that role."[165] The report of the steering committee, released in 1985, had the backing of a host of influential defense policy makers capped with the support and signatures of six former Secretaries of Defense. Although the report called for Congressional action it did not necessarily directly lobby Congress for such action.

The Navy's inability to win the interest group battle in spite of the backing of the Secretary of Defense may appear puzzling. Even highly respected think tanks such as CSIS hardly seem a formidable foe against the type of political pressure the Navy could levy. The problem the Navy faced was the same problem all interest groups face: effectively presenting their case to Congress and outlining the potential harm of a nonfavorable outcome. In 1947, a victorious U.S. Navy returning from World War II was able to convince Congress of their need to maintain autonomy and garner public support

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[163] Victor Krulak, *Organization for National Security* (Washington, D.C.: United States Strategic Institute, 1983), 123–133.

[164] Center for Strategic and International Studies, *Toward a More Effective Defense* (Cambridge: Ballinger Publishing Company, 1985), xi; Significant, but less influential studies included a Heritage Foundation study and an academic project from Samuel Huntington and others. See McNaugher and Sperry, *Improving Military Coordination*, 232.

[165] CSIS, *Toward a More Effective Defense*, 7.

for this position.[166] The Navy was unable to duplicate this task during the 1980s for a number of possible reasons. The scale of WWII led to a public interest in military affairs that would be nearly impossible to duplicate, especially without a draft to keep military service close to home for constituents. Additionally, Zegart claims that the Navy could bully Truman into compromise because it was "simply too important to ignore," further noting that the Navy might refuse implement any changes thrust upon it.[167] The Navy may have indirectly exercised the deterrent threat of making President Truman seem like a weak Commander-in-Chief. Though still influential in the 1980s, the Navy would have likely had a much harder time using such a deterrent to resist reform implementation from President Reagan.

Finally, the Navy, along with the rest of the Department of Defense, did not seem to have the ability to articulate their argument from an intellectual standpoint. Their efforts ranged from the radical prescriptions of Krulak, to the more common notion that things have worked well in the past and therefore should not change. These arguments fell on deaf ears for those in Congress who increasingly felt that the "broken" claim had been solidly established, not the least of whom were the new chairman of the SASC and its ranking minority member, Senators Goldwater and Nunn. The pro-reform interest groups, on the other hand, continued to effectively frame the intellectual argument in a manner Congress members could understand, even those opposed to reform. The potential harms of leaving the defense organization alone seemed as great if not greater than those of implementing major change. Therefore the pro- and anti-reform interest groups were surprisingly evenly matched and consequently had an overall neutral effect on Congress's speed. Because of this combined neutral effect, the influence of interest groups paled in comparison to the influence that the House and Senate Armed Services Committees wielded over defense reform.

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[166] Zegart, *Flawed by Design*, 126–130.

[167] Ibid., 129.

3.   Committees

Congressional committees contributed to an increased speed of defense reform more than any of the other variables. In discussing the committee variable, this thesis includes both lawmakers and staffs, recognizing the interconnected, synergistic power of skilled and motivated staff members working with influential Congressmen. The strongest evidence for this arises from the clear shift of reform momentum following crucial changes of leadership in key committees in both houses of Congress. The HASC and its Investigations Subcommittee made the opening bids for reform influence that were consummated by the power of the SASC. For the purposes of this study, determining which of these two was more influential is unnecessary. Understanding their combined influence over Congress's speed matters most.

Given General Jones's testimony in the House as a catalyst for reform, the HASC received an opportunity for acting upon a major national security issue the executive had effectively ignored for an extended period of time. James Locher, unsurprisingly, extends opening credit to Archie D. Barrett, a staffer for the HASC Investigations Subcommittee. According to Locher, Barrett convinced the subcommittee chairman Richard C. White (D-TX) of the importance of capitalizing on such an opportunity. The alignment of White's subsequent investigation hearings and the freshness of Jones and Meyer's testimony led to near immediate reform legislation in the House with a bill being passed in August of 1982, mere months after Jones's testimony. Though the legislation fell far short of the type of sweeping reform to come, the Investigations Subcommittee received no real opposition while capturing the attention of important players like Les Aspin who would eventually assume the HASC chairmanship and facilitate Goldwater-Nichols reform in the House.[168] After the Investigations Subcommittee chair transitioned to Bill Nichols (D-AL), he maintained interest in reform and, more importantly, the staff continuity of Arch Barrett. Nichols along with Ike Skelton (D-MO), acting as a concerned rank and file HASC member, would continue the reform trend and pass subsequent reform legislation in 1983.[169]

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[168] Locher, *Victory on the Potomac*, 59–81.

[169] Ibid., 94–97.

Just as the influence of committees would eventually be responsible for the momentum shift to higher speed of action in Congress overall, a particular committee chairman successfully brought the process to a halt for the first few years of the reform debate. Sen. John Tower (R-TX) as chairman of the SASC (1981–1984) ensured that all early House reform action died in the Senate. His continuing service in the naval reserves and reputation for supporting defense may indicate personal reasons for stalling on reform. However, the very fact that his power as committee chair was sufficient to almost singlehandedly slow reform demonstrates the crucial role of the SASC and its chairman.[170] Despite their leanings against reform, Tower and the SASC ranking minority member, Sen. Henry "Scoop" Jackson (D-WA), were unable to completely ignore the ramifications of the reorganization debate, in light of continued pressure from public reform advocates like former CJCS's Gen. Jones and Gen. Maxwell Taylor (U.S. Army). Tower and Jackson therefore commissioned Locher to study the issue in 1983.[171] Ironically, the resulting staff report, "Defense Organization: The Need for Change," when released in 1985, ended up as the most influential of all the reform studies on the SASC members. Although Tower remained opposed to reform, he had assigned significant resources into its investigation signifying that, even in the less receptive Senate, Congress did not automatically defer and allow the executive to work out its internal organizational and spending problems alone.

Between 1983 and 1985, the HASC continued to keep a mild form of reform debate alive through legislation, while the SASC allowed Locher and associates to build the broad case for reform. Barry Goldwater's assumption of the SASC chairmanship in 1985 removed the barrier to reform legislation allowing House momentum to increase significantly. Furthermore, Goldwater himself chose to represent the voice of reform

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[170] Locher, *Victory on the Potomac*, 90–93, 113–115; McNaugher and Sperry, *Improving Military Coordination*, 229.

[171] Senate Committee, *The Need for Change*, iii.

along with Sen. Sam Nunn, who had taken Scoop Jackson's place as the ranking Democrat on the SASC. Together they pushed committee reform influence to an entirely new level.[172]

Perhaps the greatest evidence for the committees as the driving forces behind reform comes from anti-reformers designating them as the enemy. Clearly, the SASC a whole was not a reform body. Initially it was divided nearly equally between pro-reform and *status quo* senators. Locher devotes a tremendous amount of his book to describing the maneuvering Goldwater and Nunn did to get the legislation through the committee. Goldwater and Nunn hardly expected the eventual 19–0 committee vote after a heated committee markup battle with 140 written and oral amendments offered, fifty-three coming from Navy proponent Sen. John Warner (R-VA).[173] Yet, the anti-reformers wisely recognized Goldwater, Nunn and the SASC staff as the primary competition for influence. Navy Secretary Lehman went so far as to refer to the draft Senate bill as the "Goldwater-Locher-Dave Jones Bill" in his correspondence with Secretary of Defense Caspar "Cap" Weinberger.[174]

During the final hearings in the House Investigations Subcommittee, after listening to the testimony of all the service chiefs, Rep. Nichols questioned the Army Chief of Staff, General Wickam, regarding his view of Goldwater and Nunn's commitment to change. Wickam recommended the HASC to "move with care, and move slowly" regarding the Locher report, sharply responding, "If the Congress in its wisdom wants to listen to the people that are not involved in fighting and building fighters, the Nation will suffer."[175] Wickam overtly drew attention away from the plethora of "fighters" who provided the basis for Locher report, to set up the "real" debate as between the military and the "non-fighting" SASC staff. The Marine Commandant, General Kelley, more directly asserted, "that Senator Nunn and Senator Goldwater directed the staff to prepare a bill that they thought represented consensus. I'm going to

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[172] Locher, *Victory on the Potomac*, 213.

[173] Locher, *Victory on the Potomac*, 404–413.

[174] Ibid., 389.

[175] House Committee, *Reorganization Hearings,* 134.

submit publicly, privately, and everywhere in the world—if that bill represented consensus from the hearings, I'm a monkey's uncle. That bill was almost a direct translation from the 645-page lopsided staff report."[176] The chiefs had always seen the House as the larger threat, since it had been passing reform bills for four years, but as the SASC began to demonstrate its resolve to make major changes, the chiefs focused their attention on the post-legislation House hearings hoping to set up favorable conditions for what would emerge from a conference committee after the Senate passed a bill.[177]

The committees, especially the SASC, increased reform speed through a few key moves. First, Goldwater made clear his personal commitment to reform as the SASC chairman. On the day of Weinberger's 1985 testimony before the SASC, Goldwater opened the hearing by alerting Weinberger, "I only have 1 more year with this committee. I made the statement that it is the most important task I have ever undertaken and I am not going to leave here with this thing dragging its feet. You might as well tell your boys over there to get ready because we are going to do all we can to help you reorganize."[178]

Second, Goldwater and Nunn used the Locher staff study report as the primary reform debate centerpiece. This created dual distractions in the House and Senate for the anti-reformers, especially the services and Navy Secretary Lehman. The top goals sought by the reformers were to increase the authority of the CJCS and to improve the quality of joint coordination through a better joint staff. The broad problems identified by the Locher study as well as the independent CSIS study allowed for a host of solutions. Goldwater and Nunn were able to exploit the unprecedented open debate that had emerged in the years following Jones's testimony.

McNaugher and Sperry refer to these first years of reform debate as a "gestation" period that was pushed forward by two significant military fiascos: the bombing of the

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[176] House Committee, *Reorganization Hearings*, 137.

[177] Ironically, after the Senate bill, the House passed yet another bill with even more drastic changes. Although these were eventually watered down in conference, it appears that throughout the process, the Defense Department could never be sure which house of Congress was the greater threat. See Locher, *Victory on the Potomac*, 421–433

[178] Senate Committee on Armed Services, *Reorganization of the Department of Defense: Hearings before the Committee on Armed Services,* 99th Cong., 1st sess., 1985, 68.

Marine barracks in Beirut and the Grenada invasion.[179] Nearly every study of the defense reform movement credits these events as real world evidence of the types of problems pronounced by the pro-reform actors.[180] These failures fell short of a full scale defense "crisis," but created a basic sense of urgency on which the HASC and SASC were able to capitalize. Both of these events pointed to weaknesses of JCS advice, communication, and decision making. The barely successful Grenada operation further reminded lawmakers of the depth of interoperability problems within the services. Pro-reform studies also pointed to earlier problems in Operation Eagle Claw (Desert One), the disastrous attempt to rescue the American hostages in Iran in 1980.[181] This connection provided further evidence within Congress that the Defense Department would not be able to implement meaningful change alone.

Radical reorganization suggestions that might have previously been dismissed as "unrealistic" now required open debate. In the wake of these events and the momentum in Congress, the Department of Defense was forced spend a significant amount of effort explaining their opposition to numerous reform incarnations from the CSIS study, to the SASC Staff report, to the House bills already passed. With everything on the table even the radical suggestions had to be dealt with, which allowed for only slightly less massive changes to appear as compromises. Locher summarizes this strategy as follows:

> A second advantage was greater freedom to use extreme recommendations as part of a negotiating strategy. In seven years on Capitol Hill I had repeatedly witnessed the central role of compromise in congressional politics. If our report recommended exactly what we thought was needed to fix those problems, the recommendation would become the starting point for prolonged negotiations and weakening compromises. We thus would likely end up with half a loaf: an incomplete and possibly unworkable set of reforms.[182]

Locher goes on to reveal Goldwater and Nunn dropped five of the seven "extreme recommendations" at the time of the final drafting of the bill once their purpose had been

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[179] McNaugher and Sperry, *Improving Military Coordination*, 229.

[180] Senate Committee, *The Need for Change*, 15.

[181] Lynn and Posen, "Case for JCS Reform," 69–70, 84–85; See also Charles Cogan, "Desert One and Its Disorders," *The Journal of Military History* 67, no. 1 (2003): 201–216.

[182] Locher, *Victory on the Potomac*, 329.

served. "Opponents had spent several months trying to shoot them down, especially the one to disband the JCS. Now Goldwater and Nunn could appear statesmen-like, earn goodwill with opponents, and undercut antireform arguments by dropping the extreme proposals."[183]

Finally, Goldwater and Nunn masterfully controlled the tone of the crucial debate within the SASC with the vital help of Senator John Warner. Warner, as the leading opponent of reform with the distinctive credential of having served as Navy Secretary, could have reframed the debate in partisan terms, and possibly sunk reform altogether. Instead, as Locher points out, "When Warner, a sincere and considerate gentleman, matched the two leaders' tone, the ingredients for a productive examination of the bill were present."[184] Warner's fifty-three amendments acted not as blockades, but as a way of shoring up the most important elements of defense reorganization. In the end Warner "won admiration for the way he led the opposition. He thoroughly challenged every idea and ensured that the Pentagon's perspective on each issue was well represented, but he was not intransigent."[185] The sixty percent of his amendments that passed did not alter the major reform goals, but did show how an open dialogue built such a powerful bill and no doubt led to the astonishing 95–0 vote to pass the bill on the Senate floor.[186] Goldwater, as chairman, also set a tone of seriousness on the matter and forced debate by stopping all other action on defense matters. He put a hold on military promotions, executive nominations and budget concerns until the SASC markup session was complete.[187]

The powerful armed services committees and the House Investigations Subcommittee positively affected the speed of reform action through the power of their staffs and the influential chairmen and ranking members. Not only did the committees

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[183] Locher, *Victory on the Potomac* ,388.

[184] Ibid., 407.

[185] Ibid.

[186] Ibid., 410.

[187] Ibid., 406.

foment interest in a complex aspect of national security, but they also managed to maintain a high level of serious debate over crucial military issues.

4. Party Leadership

Goldwater, Nunn, Nichols and Aspin protected the reform debate from the stranglehold of partisan politics. Their respected pro-defense political reputations partly accounted for this achievement, and their constant wariness of the danger of such a digression solidified their goal. With a Republican controlled White House and Senate, and Democratically controlled House, the debate seemed ripe for being bogged down in a power struggle by party leadership, a fact that was not missed by those on either side. Locher notes that, "[Navy Secretary] Lehman repeatedly charged that Democrats were going to make reform a political issue. Like Goldwater and Nunn, he understood that the reorganization campaign could not withstand the burdens of partisan politics."[188]

This is not to say that party affiliation was completely insignificant. Some Republican lawmakers may have considered the legislation to be party oriented in the sense that a massive overhaul of the Department of Defense would reflect a failure on the part of President Reagan's close friend Secretary Weinberger, despite the continued assurance of Goldwater and Nunn otherwise. John Warner, as previously argued, would have been in the ideal position to transform the issue into a party one, but he nobly refrained from this tactic. Ultimately, reform opponents were never able to reduce the debate to a strict party one, party leaders never engaged the issue on their own and the impact of the party leadership variable remained a neutral force on speed.[189]

5. Presidential Leadership

The presidential leadership variable, in the case of Goldwater-Nichols reform, maintained a neutral effect: it did not advance the increased speed from Congress, but neither did it restrain the speed. President Reagan was unwilling to use his full power to unleash the enormous potential to hinder Congress's momentum. Reagan, from the

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[188] Locher, *Victory on the Potomac*, 270.

[189] McNaugher and Sperry, *Improving Military Coordination*, 276.

beginning, wisely maintained a sideline stance on the defense reform issue. He let his public support and approval of Weinberger speak for itself, but also carefully distanced himself from the opposition by commissioning the neutral Packard Commission in July of 1985 to investigate the defense reform issue. Mark Perry notes that both pro-reformers and the Defense Department thought the Packard Commission would validate their conclusions, especially Secretary Weinberger, who turned out to be gravely mistaken.[190] Furthermore, the Packard Commission maintained an open dialogue with the reform movement in Congress and "throughout this dialogue, one common agenda united the commission and the SASC: achieving changes that would be best for the nation's security. There was never a hint of executive-legislative competition, partisan politics, or concern about who got the credit."[191] Reagan ensured that the issue never became one of Republican influence and never admitted its implications as a legislative bid for more power in the national security arena. While Goldwater-Nichols clearly represents Congress demonstrating its influence and interest in a previously unexplored area of national security policy, it did not indicate a public bid for Constitutional power, which would have likely slowed reform. The executive would retain its existing authority, and Congress was only trying to change how it was structured to exercise that authority.

President Reagan's relatively open stance on defense reform allowed for a fast speed from Congress. Had he been wholeheartedly behind it, it would have been even faster. Instead, he allowed the committee and interest group variables to drive the speed of reform. One possible critique to this approach might not allow for the President to "duck out of the fight," considering that major influence over an executive agency, in this case the Department of Defense, forces the President to accept the implications of a reduction in overall executive power. This critique would stem from the type of "unitary executive" model embraced by the second Bush administration. Since Reagan had not bound himself to such a model, he could assume the role of a faithful executive with a primary goal of making the nation more secure through defense.

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[190] Perry, *Four Stars*, 333.

[191] Locher, *Victory on the Potomac*, 392.

Another miscalculation would be to view the administration as homogenously anti-reform. Though Weinberger's voice may have had top access to the President's ear, his voice was not the only one. Beyond the military members willing to come forward on the side of reform, another significant body within the executive privately understood its importance. Reagan's National Security Advisor, Bud McFarlane, and other members of the NSC staff acknowledged the momentum in Congress and recognized the need for executive action. Locher's credits McFarlane as a crucial player in bringing about the independent Packard Commission.[192] A unified NSC, OSD, and armed services with the full support of the president against the reform movement would have likely severely retarded Congress's speed. This combined front never occurred. Pro-reform members within the NSC and other areas of the administration kept publicly neutral and their silence helped to balance Reagan's view on reform in spite of the opposition forces within the Department of Defense.

Reagan also enjoyed the personal reputation of putting defense first, which gave him the leeway to embrace reform as a function of defense improvement. The defense reform movement did not put his friend Caspar Weinberger's leadership on the table, but rather a long-term set of problems. Reagan had staked his 1980 campaign on the need to challenge the *status quo* of the national defense and won. Connecting the reform movement to the larger picture of improving lengthy defense problems of the JCS role and joint warfighting allowed Reagan to pitch Goldwater-Nichols as pro-defense. As Gordon Lederman wrote, "The Packard Commission's existence prevented Secretary Weinberger from enlisting President Reagan's support to combat the pro-reorganization movement because the Commission's existence suggested President Reagan's discomfort with the *status quo* of DoD's management."[193]

Reagan, effectively, could accept Goldwater and Nunn's continual assurances that they had no problems with Weinberger's leadership (other than his unwillingness to

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[192] Locher, *Victory on the Potomac*, 277–298. See also Perry, *Four Stars*, 330–333; Lederman, *Reorganizing the Joint Chiefs*, 63.

[193] Lederman, *Reorganizing the Joint Chiefs*, 70.

explore reform).[194] Weinberger, on the other hand, appeared unable to accept the divorcing of defense reform from his personal leadership of the Department.[195] Perry writes, "While Weinberger continually characterized it as a tacit critique of his capabilities—and a typical Washington turf battle—reform advocates refused to be drawn in."[196] Interestingly, his autobiography, detailing all of his seven years as Defense Secretary, avoids the topic altogether. Readers of his book alone would have no idea that during these *Seven Critical Years in the Pentagon,* it underwent the largest reorganization since 1947, that he opposed it, or that a person named Barry Goldwater ever existed.[197] Barring an extremely selective memory, one is left to assume that reform was an unequivocal loss for him politically and one he had no desire to recount, perhaps mistakenly assuming that his political loss reflected one for Reagan as well.[198]

Weinberger's reputation for wise spending and budgeting reforms made him an excellent candidate to have been the first to embrace reform. Some have noted that if he had initiated major reform in the wake of General Jones's testimony, there is a high probability that Congress would have let the Department of Defense run with it. This possibility is especially provocative given the history of autonomy Congress had extended to the Department over the last thirty years. As Locher suggests, "An early compromise with Weinberger would have appealed to Capitol Hill, where a solid reason for delaying action on a controversial measure is often popular."[199] With the likely full support of President Reagan, the counterfactual story may have ended with this study pointing to presidential leadership as the primary variable leading to increased speed from Congress. As we have seen, however, Weinberger instead fought to the bitter end and the committees drove the fight. Barry Goldwater was perhaps overly gracious in

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[194] Senate Committee, *Hearings*, 72–73.

[195] Locher, *Victory on the Potomac*, 244.

[196] Perry, *Four Stars*, 329.

[197] Caspar Weinberger, *Fighting for Peace: Seven Critical Years in the Pentagon* (New York: Warner Books, Inc., 1990).

[198] This differed from the Iran-Contra scandal which was an equally unpleasant topic, but one in which Weinberger could absolve himself and point the finger squarely at National Security Advisor Bud McFarlane. See Weinberger, *Fighting for Peace*, 353–385.

[199] Locher, *Victory on the Potomac*, 234.

asserting, "Cap Weinberger and the President did not try to cut us of at the pass. They supported us once we made our objectives clear."[200] More accurately he adds the following caveat: "Both also knew they could not defeat the measure."[201]

When the reform movement had reached an apex with both a House passed bill and a Senate bill unanimously approved by the SASC in 1986, President Reagan could publicly favor the general reform movement. Just a few days before the Senate's unanimous vote to pass the Goldwater Act in May of 1986, Reagan sent a bland message to Congress, reported by the *New York Times* as "Reagan's first direct entry into the running battle on Capitol Hill over the organization of the Pentagon."[202] Though direct, it was hardly a major move as the President in the same message showed support for the important proposals such as making the CJCS the President's principal military adviser. Reagan merely continued to frame the debate in terms of overall defense effectiveness improvement recommended by a large body of study including his own directed Packard Commission. Reagan kept the defense reform from ever appearing as a loss of executive influence over national security at the hands of an "imperial Congress." Perhaps in the end, this helped his presidency survive Congress's drastically more public move for control of national security in the wake of the Iran-Contra scandal.

D.   POSSIBLE CRITIQUES

Overall accusations of a disinterested and ineffective Congress on defense organization can be addressed in the same way as they were in the case of intelligence reform. Like the 2004 intelligence reform, a distinction must be made between Congressional apathy and delegated autonomy. As demonstrated in the background section, from 1947 to 1982 Congress generally deferred to the executive to implement the centralized defense organization it enacted in 1947 and reemphasized in 1958. The advocates for reform within the executive and the external failures eventually linked to organizational problems opened an opportunity for Congress to introduce organizational

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[200] Goldwater, *Goldwater*, 358.

[201] Ibid.

[202] Richard Halloran, "President Asserts His Military Role," *New York Times*, May 2, 1986.

principles that had nominally been recognized as necessary by past Presidents and defense secretaries. In other words, the long period of time without major defense reorganization does not reflect an inability of Congress to influence security in the defense arena, but rather a choice to allow the executive to attempt to implement past legislative actions.

A more compelling critique might suggest that rather than the combination of positive and neutral variables affecting Congressional speed, a single variable accounts almost exclusively for the increased speed of action. If the proposed variable would have been removed, defense reform would have failed. The two variables that might fall into this category are presidential leadership and the influence of the committees.

A first counterfactual scenario involves President Reagan having exerted both persuasive and political power to prevent defense reform. The eventual overwhelming Congressional vote in favor of Goldwater-Nichols indicates that by 1986 a presidential veto could not have overturned reform.[203] Had Reagan placed his full weight against reform earlier, however, would it have been enough to completely stall out the movement? The question itself invokes a second problem: President Reagan's use of persuasive powers most likely would have brought a large amount of media attention, and set up a major battle between the President and the Congress for influence over the defense establishment, as opposed to the smaller feud, which actually occurred between the Department of Defense and Congress. Expanding media involvement would have then shifted more importance to the constituent concern variable, thereby reducing the overall importance of the presidential leadership variable. Reagan's communication skills may have led to public support for the President's rights to protect his defense bureaucracy. Alternatively, the opposite effect may have occurred. The public aided by the media may have determined, as Congress had, that organizational problems had led to poor military operations and would continue to do so, therefore characterizing the President a stubborn proponent of a broken system. Defense reform under this scenario may have even happened faster. Although we cannot determine which direction a media

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[203] Locher, *Victory on the Potomac*, 429.

driven executive-legislative contest for defense organization would have pushed public opinion, a full-fledged anti-reform Reagan could not have been an exclusive variable for slowing reform because of its indirect impact on the constituent concern variable.

A second counterfactual scenario would basically give full credit for reform to the main Congressional committee leaders: Nichols, Aspin, Goldwater and Nunn. As this paper has shown, the committee variable did have the greatest impact on Congressional speed, but divorced from the other variables it may have had considerably less clout. Consider, as one counterfactual, the Republican Party leadership rising in opposition to Senator Goldwater in the Senate and undercutting the bipartisan nature of defense reform. Nunn, although influential, would have hardly been able to go it alone as SASC ranking member, and Congressional speed may have been reduced to waiting for a Democratic capture of the Senate in order to reinvigorate debate. The personal leadership within the committees may have not been sufficient to increase Congressional speed on reform without the neutrality of the variable of party leadership. The final critique focuses on whether or not it was necessary to gain any movement at all.

This last critique follows Amy Zegart's previously discussed hypothesis, that the absence of even one positive factor in defense reform would have completely halted the reform.[204] What this critique fundamentally reveals is the intricacy of how these variables work together. All of the variables have the ability to additively increase or decrease Congress's speed of action. Zegart's approach, however, assumes each input into the system has the independent ability to either start or stop Congressional action altogether. This theory relies on a view of the history of Congressional action that assumes that the way in which reform actually happened is the only way reform could have happened. The counterfactuals presented above imply that changes to the variables will result in changes of speed, yet a single variable is unlikely to have the power to completely stop reform due to the possibility of other variables to counteract new inputs. Although we cannot test how all of these scenarios would have played out, the shifting of variables demonstrated within this single case study (such as the SASC leadership changeover from Tower to

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[204] Zegart, *Flawed by Design*, 162.

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Goldwater) show how each variable, whether positive, negative or neutral, affects Congress's speed rather than affecting a simple binary option to act or not act.

E.   CONCLUSIONS

President Reagan's signing statement on the 1986 reform deftly endorsed the Goldwater-Nichols Act as a joint, interagency and interbranch measure:

> I have today signed H.R. 3622, the Goldwater-Nichols Department of Defense Reorganization Act of 1986. This legislation is the product of a 4-year effort led by the House and Senate Armed Services Committees. It is a milestone in the long evolution of defense organization since our national security establishment was created in 1947. Our thanks go to Senators Barry Goldwater and Sam Nunn, Representatives Bill Nichols, Ike Skelton, John Kasich, and Larry Hopkins, Secretary Weinberger, David Packard, the Joint Chiefs of Staff, and many others for their patience and perseverance in this effort.

> After long and intense debate, we have set a responsible course of action by taking another important step forward, building on improvements underway since 1981, and affirming the basic wisdom of those who came before us—the Forrestals, Bradleys, Radfords, and Eisenhowers—advancing their legacy in the light of our own experience.[205]

Notably, by marking the internal changes begun in 1981 and naming Eisenhower, Reagan suggests that like the 1947 and 1958 reorganizations, Goldwater-Nichols reforms were executive initiated changes with help where needed from the U.S. Congress. While reformers were justifiably appalled by a signing statement that praised the efforts of some of the staunchest opponents of reform, such as Weinberger and Forrestal, Reagan had brilliantly managed to publicly divert attention away from the strength of Congress's influence in a crucial area of national security. As the media and general public had not followed the issue closely, perhaps the assertion seemed completely plausible. As this chapter has shown, however, the four-year reform effort that ended in 1986 represented Congress demonstrating its influence and interest in national security matters. The powerful forces of the House and Senate Armed Services Committees and interest groups

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[205] Ronald Reagan, "Statement on Signing the Goldwater-Nichols Department of Defense Reorganization Act of 1986," *The American Presidency Project Online*, October 1, 1986, http://www.presidency.ucsb.edu/ws/index.php?pid=36525.

were unhindered by the neutral influences of constituent concern, party leadership and presidential leadership allowing Congress to move quickly and decisively with both houses confidently passing the final bill with a simple voice vote.

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V. CONCLUSIONS

A. OVERVIEW

This thesis explored the question of Congress's interest and influence in national security affairs and concludes that an important, but often neglected, approach to understanding this interest and influence is examining Congress's speed of action. Specifically, this thesis proposed a method of analyzing this speed by studying how the following five key variables affect it: constituent concern, interest groups, committees, party leadership and presidential leadership. This method was applied to two case studies of organizational reform of national security agencies. The defense and intelligence reform cases illustrated that the combination of neutral and positive variables led to an increased speed of action from Congress. A brief comparison of the cases will outline similarities and differences in the variables as well as the surrounding political and security environments.

B. DEFENSE AND INTELLIGENCE REFORM COMPARED

The intelligence reform of 2004 did not follow the exact path of the defense reorganization nearly twenty years earlier. The Cold War political environment of the 1980s, though tense, fell far short of the urgency felt in the post-9/11 national security crisis environment in which IRTPA was enacted. In spite of the environmental differences, however, Congress's speed of action increased steadily in both cases leading to defense reform in just under four years and intelligence reform in just over three. A brief review of each of the five variables' impact on the two cases will demonstrate similarities in Congress's overall speed and also account for the slight differences. Together these cases provide evidence that Congress does not need all variables to act positively. Speed increases rapidly with only one or two overall positive influences as long as the other variables remain neutral. Additionally, some of the variables did not remain constant over the course of the respective organizational reforms. In stark contrast

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to the conventional wisdom that Congress needs massive prodding to engage in the national security arena, these cases indicate Congress can also move energetically when potential obstacles remain neutral.

1.   Constituent Concern

Constituent concern stands out as one of the largest differences between the two reforms. While it remained neutral to slightly positive during the defense reform movement, it greatly influenced the increased speed of action on intelligence reform. Environmental change best accounts for this difference, for two reasons. First, the trigger event for intelligence reform, the 9/11 attacks, was nationally recognizable by a populace who demanded an accounting of their government officials, including Congress. The public became nearly instantly aware of the problem and its magnitude leading to a national security crisis environment. Additionally, the failure to protect the homeland struck a deeper chord with more Americans than failures such as the Marine barracks bombing in Lebanon or the Grenada debacle, which, though tragic, were distant and less understood. The environment at the time of Gen. David Jones's testimony, which triggered defense reform, had none of these crisis attributes.

Second, the information environment changed drastically in the two decades following Goldwater-Nichols. These changes allowed for faster and wider media dissemination than was possible in the early 1980s. Pinning partial responsibility for the 9/11 attacks on the intelligence community was relatively easy. The link between the failure to "connect the dots" and suffering a terrorist attack was simple to grasp compared to the complexity of the relationship between military operational failures and organizational defense reform. The media was able to incorporate the intelligence story as part of the larger terrorism theme and direct public attention towards the reform movement. More media attention at information age speeds does not, however, automatically ensure a positive effect on Congress's speed. In fact, as previously discussed, defense reorganization may have benefitted from the lack of media attention.

A media framework favoring the position of the Department of Defense could have pushed constituent concern against reform and may have ultimately slowed Congress's speed.

Although constituent concern affects Congress's speed of action on security matters just as in other policy areas, it is not the all powerful driving force painted by skeptics. While it positively influenced intelligence reform speed, Goldwater-Nichols showed that security legislation does not simply result from an attempt to appease constituents in order to secure reelection.

2.   Interest Groups

Congress reasonably expects to encounter interest groups on either side of a security policy debate. At times, they will be evenly matched resulting in an overall neutral influence on Congress's speed; at other times one side may gain an advantage. Quite unexpectedly, in the defense debate one may have expected the power of a retired officer corps backing an anti-reform Defense Secretary and JCS to have held the upper hand, but in fact, the stronger intellectual grounding of the reform interest groups evened the debate. This resulted in an overall neutral influence, which allowed the committees to take the lead. The crisis interest groups that helped drive the speed of intelligence reform, on the other hand, were not only public, but a by-product of an increasing constituent concern.

Neither the Navy nor the 9/11 families were traditional interest groups fitting the model of a general domestic policy lobby. They did not focus their efforts on campaign contributions or widespread control of the media. They did, however, transparently represent an interested faction and worked hard to frame the debate for Congress. The Goldwater-Nichols interest group battle was hard fought to a basic standstill allowing the committee variable to increase Congress's speed. The intelligence reform interest groups had a somewhat easier road, never encountering resistance anything near the scale of military pushback against Goldwater-Nichols. Although the reasons for this weaker resistance are unclear, one possibility might be a lack of experience in resisting organizational reform. While the armed services, arguably, resisted organizational

changes for 200 years, the intelligence community and its interest group supporters traditionally focused on protecting its secrecy and operations to include sources and methods. The organizational nature of the 2004 reform did not clearly endanger these past interests. Opponents of reform, therefore, may simply not have been adept at effectively explaining why organizational reform threatened their overall effectiveness.

While this explains the case of the CIA and smaller intelligence agencies, the Department of Defense stands out as an exception to this hypothesis considering its experience in amassing opposition support against organizational reform. For this reason, many of the key compromises of the 2004 intelligence reform, such as restraints on the DNI's budget and personnel authority, were made in deference to the Defense Department. Overall, the influence of the crisis-driven interest groups exceeded that of the Department of Defense and the latter, unable to significantly slow or stop the intelligence reform momentum, was forced to settle for limited concessions instead.

The information environmental changes are not insignificant to an interest group's ability to present its case to Congress; however, the new and faster paced environment does not favor one interest group over another. Both sides in any debate will enjoy the benefits of twenty-first century communication technology. Interest groups will retain the potential to be powerful influences on Congress's speed of action in future security policy decisions.

3. Committees

The powerful armed services committees of the House and Senate significantly influenced Congress's increased speed on the Goldwater-Nichols defense reform. Likewise, the intelligence committees positively affected the IRTPA reform, though not to the same degree they had affected previous changes like those in the Church era. These cases also require a short discussion of the political environments in which they took place. Though not at the height of their power, committees during the 1980s, while on the decline, were more powerful than those of the early twenty-first century. Thomas Mann and Norman Ornstein, in their lament over the alleged "Broken Branch," identify a

reform movement of the congressional committee system that started in the late 1960s with slow change over the next twenty years.[206]

Goldwater-Nichols could be characterized as one of the last hurrahs of the age of committees, or alternatively it may have been the first triumph of the "weaker" current committee model. Chapter IV demonstrated that, while influential, Barry Goldwater was well past the days when a chairman could simply muscle the rest of the committee into fast action. He and the SASC staff had to engage both the Department of Defense and the rest of the Congress in a heated battle. The SSCI during the time of intelligence reform did not use the force that Goldwater's SASC had employed, but this may simply be because it was unnecessary. The SSCI took the opportunity to be the stamp of approval on a concept that generated much greater widespread support than defense reorganization had enjoyed.

Future studies should also recognize that individual committees and subcommittees have unique characteristics and can change over time. The history of intelligence reform chronicled the rising power of the intelligence committees over the years, in part accounting for their influence in 2004. The House and Senate Committees on Homeland Security may play a large role (positive or negative) in the speed of the next generation of security decisions, or may wield little influence. In sum, committees played a positive role on congressional speed in both cases, and will continue to be an important variable for case specific examination.

4.   Party Leadership

The most controversial findings of this study may be the assertion that the party leadership variable remained a neutral force on speed in both cases. The more common theme today supposes, as James Pfiffner does, "In the latter quarter of the twentieth-century, Congress was transformed from a relatively consensual institution with significant overlap between the Democratic and Republican parties to an ideological,

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[206] Thomas E. Mann and Norman J. Ornstein, *The Broken Branch: How Congress Is Failing America and How to Get It Back on Track* (New York: Oxford University Press, 2008), 52–64.

polarized battlefield with virtually no middle ground."[207] Pfiffner claims this polarized environment affects not only domestic social policy, but security policy, specifically with regards to overseas military campaigns such as Afghanistan and Iraq.[208] While growing partisan polarization is difficult to ignore, it is not the definitive single variable in determining Congress's interest and influence on national security, as these two cases demonstrated.

In both the Goldwater-Nichols and the IRTPA reforms, political space existed to maneuver in a bipartisan manner as the near unanimous support for both bills on the floor eventually proved. An alternative characterization may consider these cases as examples of bipartisan neutrality rather than bipartisan support. In both cases anti-reformers unsuccessfully attempted to twist the debate into a partisan one. Had they been successful, the likely result would have been a much slower speed from Congress. Even overwhelming support for reform by the ruling party does not necessarily promote a faster speed, as it can engender greater entrenchment by the opposing party leading to various delays, and a likely secondary impact on the variables of constituent concern, committees, and presidential leadership. The defense and intelligence reform successes suggest that a neutral party leadership variable may have the greatest probability of fostering a faster speed from Congress on national security issues.

5.   Presidential Leadership

Presidential leadership represents the least understood variable. Though this thesis does not deny the existence of a struggle for influence between the President and Congress, the struggle on national security matters can be indirect and, at times, temporarily laid aside. The modern cynic, doubtful of the ability of the President and Congress to ever work together, would benefit from consideration of the type of "intermixture of powers" envisioned by Alexander Hamilton in his defense of the roles of

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[207] James P. Pfiffner, "Partisan Polarization, Politics, and the Presidency: Structural Sources of Conflict," in *Rivals for Power: Presidential-Congressional Relations*, ed. James A. Thurber, 4th ed. (Lanham, MD: Rowman and Littlefield Publishers, Inc., 2009), 38.

[208] Pfiffner, "Partisan Polarization," 49–56.

both the President and Senate in treaty making.[209] Hamilton recognized ". . . the joint possession of the [treaty] power in question, by the President and the Senate would afford a greater prospect of security than the separate possession of it by either of them."[210] At the time Hamilton was writing the treaty power was arguably the most crucial of all national security powers considering the weak state of the military. Hamilton understood that, in spite of the intentional power struggle designed by the Constitution, the Congress and President could and would work together on matters of the utmost national security to the benefit of the nation. The curious presidential compliance in the Goldwater-Nichols and IRTPA reforms, therefore, should not be as surprising as many have considered it to be.

Both cases involved presidents with early reluctance towards reorganization of their executive security agencies by Congress, but generally neutral stances as Congress picked up speed. Both Reagan and Bush were also able to effectively assume partial credit for the respective reforms at the end of the process. The presidential strategy to ultimately embrace these security reforms prevented the external appearance of a diminishment of the powers of the executive office. Ironically, the strategy of allowing Congress to take the main initiative protected executive national security powers as effectively, if not more, than Eisenhower's personal initiation of the 1958 defense reform.

Presidential popularity varied widely between the two cases as well, with Reagan near the height of his popularity and Bush, though having won the 2004 election, nearer to the middle of his downward spiral.[211] Both defense and intelligence were hot topics for the two presidents respectively, which may account for their careful management of the issues. Neither president wanted to be viewed as an obstruction to the improvement of important national security agencies. Whether the public would have backed an anti-reform effort based on presidential leadership remains to be seen, but the risk of a

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[209] Alexander Hamilton, "Federalist No. 75," in *The Federalist Papers*, ed. Clinton Rossiter (New York: Penguin, 1961), 450.

[210] Ibid., 452.

[211] "Presidential Approval Ratings from 1945–2008," *Wall Street Journal Online*, http://online.wsj.com/public/resources/documents/info-presapp0605-31.html; Interestingly, Eisenhower was at the bottom of his popularity at the time of the 1958 defense reorganization.

backlash outweighed the benefits of such a course. A more optimistic view concludes that both presidents actually did desire quality reorganizations to ensure greater national security, and the constructive debate within Congress helped to create a more positive image of reform in the minds of the two reluctant chief executives. Whether the pessimist's or optimist's argument appeals more, the end result was the same. The presidential leadership effect on Congress's speed was neutral, allowing an increase in reform momentum.

6.   Summary

The cases of the Goldwater-Nichols defense reorganization and the IRTPA intelligence reform suggest a non-traditional model of Congress's speed of action on national security issues. Overwhelmingly positive influences are not needed for Congress to increase its speed. Instead, one or two positive variables in conjunction with other neutral variables are sufficient to move Congress to faster action. The armed services committees were the driving force behind defense reform in the 1980s, especially after the key changeovers in the chairmen's seats. The 2004 intelligence reform benefitted from the additional overall positive influences of constituent concern and interest groups in addition to the minor positive force of the SSCI. These additional positives account for the small difference in Congress's speed in the two cases.

The last three variables, committees, party leadership, and presidential leadership, while related, are not permanently interconnected, as some might argue. Inadvertently, the Republican control of both branches of Congress in the twenty-first century gave the appearance that these three variables should be viewed as a single force driving policy. The generally identical security goals of President Bush, the Republican Party and its allegedly weak committee leaders in the early 2000s were an exceptional case, however, and should not suggest that these variables will always work in harmony. While procedural changes in Congress may continue to lessen the impact of the committee variable, such changes are not necessarily permanent. Furthermore, the first year of the Obama administration reintroduced a striking independence of party leadership from

presidential leadership. In that regard, the next major security question may resemble Goldwater-Nichols much more than the IRTPA reform.

C.   AREAS FOR FURTHER APPLICATION

This limited study explored two cases of Congress demonstrating interest and influence over national security policy, specifically in the area of structural reorganization. The proposed Congressional speed model of analysis can also be effectively applied to a much larger body of cases such as treaty ratification, declarations of war, and authorizations of military force. Two brief examples for further application are the War Powers Resolution of 1973 and organizational reform within the Department of State.

The literature review marked the War Powers Resolution as a major event in the study of presidential-congressional relations. As such, it would make an excellent case for applying the model of analyzing the five variables' impact on Congressional speed in this crucial area of national security on two levels. First, given the enormous Constitutional implications of the act, determining why Congress increased its speed of action on a 200-year-old issue might shed light on other longstanding unresolved security questions. Second, it would pave the way for individual studies of the authorizations of force before and after its implementation. Such studies would be especially useful to determine what effect the War Powers Resolution itself may have had on the five variables. For example, did the War Powers Resolution set in motion changes to the way constituent concern or presidential leadership affect Congress's speed?

A second case for further review would examine efforts to reform another important agency of national security: the Department of State. Considering the vast interagency problems in the reconstruction of Iraq after 2003, one is left to wonder whether or not the State Department will be Amy Zegart's next "flawed" target for reform. If so, the story told will likely be subject to the same misinterpretations of Congress's speed. Researching the history of State Department reforms dating back to 1946 is likely to reveal a similar pattern to the defense and intelligence reforms, with a few distinctive differences.

First, internally driven changes tend to pacify Congress when interest groups, constituents and presidents remain silent. Recall James Locher's theory that had Secretary Weinberger shown more effort to initiate major internal defense changes, Goldwater-Nichols may have never happened.[212] True, a motivated individual lawmaker may stoke debate within a party or committee, but cannot singlehandedly increase Congress's speed. The State Department, on the prompting of President Nixon, made major internal changes in the 1970s with the belief that the Foreign Service Act of 1946 was ". . . fundamentally sound and just as appropriate for the problems of the seventies as it was for the problems of the fifties."[213] The six-hundred page reform plan, *Diplomacy for the 70s*, likely kept Congress at bay until the end of the decade, allowing the State Department time to refine the changes it determined would require legislative assistance. By 1979, Secretary of State Cyrus Vance was ready to present those changes to Congress. Piggybacking on the successful implementation of the 1978 Civil Service Reform Act, Congress and the State Department passed a major change to the Foreign Service Act by 1980.[214] The 1980 Act included a variety of management changes within the personnel structure including the establishment of a Senior Foreign Service to serve as "the corps of leaders and experts for the management of the Service and the performance of its functions."[215] Other changes involved setting the stage for future integration of the U.S. Information Agency (USIA) and the U.S. Agency for International Development (USAID) by including them on a newly established Board of the Foreign Service.[216] No doubt the presence of a past advocate of organizational reform, Sen. Frank Church, as the Senate Foreign Relations Committee chairman positively influenced rapid action by Congress.

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[212] Locher, *Victory on the Potomac*, 234.

[213] U.S. Department of State, *Diplomacy for the 70s: A Program of Management Reform for the Department of State* (Washington, D.C.: Government Printing Office, 1970), 27.

[214] Senate Select Committee on Foreign Relations, *Foreign Service Act of 1979: Hearings on S. 1450*, 96th Cong., 1st sess., 1979, 180. See also House Subcommittee on International Operations of the Committee on Foreign Affairs and the Subcommittee on Civil Service of the Committee on Post Office and Civil Service, *The Foreign Service Act: Hearings on H.R. 4674*, 96th Cong., 1st sess., 1979.

[215] *Foreign Service Act of 1980*, Public Law 96-465, 96th Cong., 2d sess. (October 17, 1980), §103.

[216] Ibid., §210.

Second, in the 1990s State Department reform took on a different aspect than the defense and intelligence battles as the party and presidential leadership variables played a much larger role. Sen. Jesse Helms (R-NC) as Chairman of the Senate Foreign Relations Committee in conjunction with then Sen. Joseph Biden (D-DE) made a strong push for a bipartisan reform beginning in 1997 after previous attempts in 1995 and 1996 had failed.[217] The final outcome of the reform involved the abolishment of USIA, USAID and the U.S. Arms Control and Disarmament Agency as separate entities, incorporating their functions into the Department of State.[218] More generally, the Foreign Affairs Agencies Consolidation Act of 1998 reorganization intended "to maximize the efficient use of resources, which may lead to budget savings, eliminated redundancy in functions, and improvement in the management of the Department of State," as well as to strengthen "the leading role of the Secretary of State in the formulation and articulation of United States foreign policy."[219] The reform act was finally signed by President Clinton embedded within a massive emergency omnibus bill on October 21, 1998.[220] The topic of State Department reform would be briefly revisited once more in early 2001 before more pressing problems, highlighted by the 9/11 attacks, overshadowed the subject.[221] Overall, the 1990s State Department reform case would be an excellent area for future study and application of this thesis's analytical framework.

The benefit of expanding upon this study by examining a wider range of past cases is better predictive quality for future congressional involvement in national security affairs. Policy makers with specific security decisions, whether organizational reform of a security agency or the potential use of force, would not have to rely on finding a "model"

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[217] Senate Committee on Foreign Relations, *Foreign Affairs Reform and Restructuring act of 1997*, 105th Cong., 1st sess., 1997, 265-273; See also House Committee on International Relations, *Foreign Policy Reform Act: Markup of H.R. 1486*, 105th Cong., 1st sess., 1997.

[218] *Foreign Affairs Agencies Consolidation Act of 1998*, Public Law 105–277, 105th Cong., 2d sess. (October 21, 1998), Subdivision A, Title XI, §1102.

[219] Ibid.

[220] See also THOMAS (The Library of Congress), "H.R. 4328," http://thomas.loc.gov/cgi-bin/bdquery/z?d105:HR04328: for details on the omnibus H.R. 4328 (Public Law 105–277).

[221] For details see Senate Committee on Foreign Relations, *State Department Reform: Reviewing the Report of the Independent Task Force Cosponsored by the Council on Foreign Relations and the Center for Strategic and International Studies*, 107th Cong., 1st sess., 2001.

case study to determine at what speed Congress is likely to act.[222] Instead, they could look to the five variables outlined in this thesis, in the context of the political and security environment, and make a more informed plan for gaining Congress's support through faster action. Most importantly, policy makers must not discount the interest and influence of Congress in national security affairs.

D.   IMPLICATIONS FOR FUTURE SECURITY POLICY

Congress plays a vital role in the formation of national security policy. This thesis has included the views of those who have diminished this role, as well as those who have elevated its role too high. A principal finding of Amy Zegart's study of the national security agencies asserted, "the Congress appears to be much weaker and more insignificant than most political scientists generally admit."[223] The findings of this author require a categorical rejection of Zegart's conclusion, which suggests only a marginal value of Congress in national security matters. She does, however, qualify this claim with the key word "appears." Zegart's bold assertion must be viewed in light of the "strong Congress" generation of scholars before her. More accurately, when Congress *appears* weak on the surface, greater care must be taken in examining its speed of action. Congress, rather than constantly micromanaging the affairs of the national security agencies has allowed the executive time to implement specific reforms, assessed successes or failures and then quickly reacted when required. This model will not assuage critics with strong normative intentions for unceasing congressional meddling in every corner of national security structure and policy. Those who need only assurance that Congress maintains a healthy interest and influence in this area should, however, take heart in this thesis's findings.

Ideally, policy makers looking at the next major changes in the U.S. national security arena would attempt to inject legislation at a time when all five variables are likely to have a positive impact on Congress's speed, perhaps due to an unexpected and

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[222] The types of pitfalls that this thesis's method avoids are explored in an excellent work on the misapplication of historical cases by policy makers. See Richard E. Neustadt and Ernest R. May, *Thinking in Time: the Uses of History for Decision Makers* (New York: The Free Press, 1986).

[223] Zegart, *Flawed by Design*, 225.

highly favorable political or security environment. Such a perfect case is unlikely and, at the same time, unnecessary. As this study has shown, instead policy makers, including legislators, should look for opportunities when most of the variables are likely to be stable and neutral, allowing for intentional positive change in one or two of them.

For example, those desiring a major reform of the State Department might look for a party and President who are neutral towards reform and enlist the media to stir up constituent concern or interest groups to frame the debate. Another possibility would be for a concerned committee or subcommittee member to engage the committee leadership, ideally in a bipartisan manner, at a time when all other variables are generally neutral. Admittedly, the more sweeping the desired changes, the more difficult it will be to find neutral variables. A complete reworking of interagency relations, for example, between all government organizations responsible for any aspect of national security would be less likely to encounter a favorable variable set than an individual agency reform. On security decisions of this magnitude, however, it is helpful to remember that potential obstacles such as interest groups can be neutral for two reasons. Interest groups may be neutral because no groups are concerned with the change or, as Goldwater-Nichols proved, they can take on an overall neutral quality because of an equal battle between positive and negative forces. Likewise, a President may be neutral because of an overall lack of concern for the subject, or because internal tensions, like Reagan and Bush experienced, lead him or her to take a hands-off approach.

The next major national security issue may not be organizationally oriented and may instead be a major international security treaty or the use of military force. Regardless of the type of action taken, Congress's speed of action will affect the outcome. Based upon this study's findings, policy makers inside or outside of Capitol Hill looking for fast action should avoid setting up conflict. Instead they should attempt to capitalize on neutral and positive variables to achieve greater cooperation with Congress.

E.   FINAL SUMMARY

Alexander Hamilton, in Federalist No. 29, referred to "that body which is constituted the guardian of national security" immediately following his defense of the

power of Congress over the militia.[224] Though he was most likely conferring the title upon the federal government as a whole, it is Congress's powers that he explicitly mentions. He and the other Framers of the Constitution regarded Congress as a crucial arm of this guardian. Congress, far from rejecting this duty, has demonstrated time and again its interest and influence over the national security of the United States. Understanding this interest and influence requires examining Congress's speed of action on national security matters. An effective method for analyzing this speed of action is observing the effects of five variables: constituent concern, interest groups, committees, party leadership and presidential leadership.

Specifically, this thesis reviewed Congress's speed on the Goldwater-Nichols defense reorganization of 1986 and the intelligence reform of 2004, finding in both cases that a combination of positive and neutral variables led to increased speed by Congress and fast major reforms of the respective national security agencies. Additionally, political and security crisis environments were shown to affect the five variables, which in turn affect Congress's speed. Underlying tensions in national security policy, in these cases organizational problems, have led to a mistaken perception of Congress as apathetic. Congress, however, reacted quite quickly to proven evidence of such problems, usually encapsulated in trigger events. The historical background of defense and intelligence reform also indicated a pattern of Congress giving the executive branch time to implement change after major legislative national security agency reforms.

In conclusion, Congress will continue to play a vital role in the national security policy arena. Policy makers and legislators who carefully examine the influences on Congress's speed will have an advantage over those who simply view Congress as an obstacle to overcome. They will be able to identify the variables that may be slowing Congress down, direct their efforts accordingly, and achieve their goals through calculated cooperation with the first branch of the United States government.

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[224] Hamilton, *The Federalist Papers*, 182.

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