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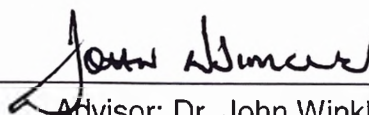
DISMANTLING THE "DEEP STATE": THE EVOLUTION OF LEGITIMACY IN THE AMERICAN
INTELLIGENCE COMMUNITY

By Sydney Carol Stanard

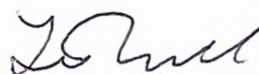
A thesis submitted to the faculty of The University of Mississippi in partial fulfillment of the
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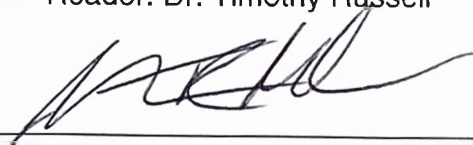
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ABSTRACT

SYDNEY CAROL STANARD: Dismantling the “Deep State”: The Evolution of Legitimacy in the American Intelligence Community
(Under the direction of Dr. John Winkle)

This thesis explores the nature of legitimacy and how it applies to the American intelligence community. The laws and regulations that allow the intelligence community to be a legitimate actor within the American democracy have changed over the years, and there have been periods where these safeguards have failed. I will examine how and why these legitimacy crises, were rectified in the past and how current legitimacy questions are affecting the intelligence community. My research is based on open-source information, such as the work of political scientists, statements by former intelligence professionals, and the legal and legislative record.

My research finds that the legitimacy of the intelligence community is based on its neutrality, transparency, and accountability, with specific care being placed on accountability. The process of making the intelligence community accountable is reactionary, however. Current questions of the intelligence community’s neutrality being made by prominent politicians and political pundits are largely unfounded, though these questions may have a negative effect on perceived neutral

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LIST OF ABBREVIATIONS

CIA--CENTRAL INTELLIGENCE AGENCY

COMINT--COMMUNICATIONS INTELLIGENCE

DCI--DIRECTOR OF CENTRAL INTELLIGENCE

DEA--DRUG ENFORCEMENT ADMINISTRATION

DHS--DEPARTMENT OF HOMELAND SECURITY

DHS I&A--DEPARTMENT OF HOMELAND SECURITY OFFICE OF INTELLIGENCE
AND ANALYSIS

DIA--DEFENSE INTELLIGENCE AGENCY

DNI--DIRECTOR OF NATIONAL INTELLIGENCE

DOD--DEPARTMENT OF DEFENSE

DOE--DEPARTMENT OF ENERGY

DOJ--DEPARTMENT OF JUSTICE

ELINT--ELECTRONIC INTELLIGENCE

FBI--FEDERAL BUREAU OF INVESTIGATION

FISA--FOREIGN INTELLIGENCE SURVEILLANCE ACT

FISC--FOREIGN INTELLIGENCE SURVEILLANCE COURT

GEOINT--GEOSPATIAL INTELLIGENCE

HPSCI--HOUSE PERMANENT SELECT COMMITTEE ON INTELLIGENCE

HUMINT--HUMAN INTELLIGENCE

ICA--INTELLIGENCE COMMUNITY ASSESSMENT

IC--INTELLIGENCE COMMUNITY

IC EEOD--INTELLIGENCE COMMUNITY EQUAL EMPLOYMENT AND OFFICE OF
DIVERSITY

IG--INSPECTOR GENERAL

INR--STATE DEPARTMENT BUREAU OF INTELLIGENCE AND RESEARCH

IOB--INTELLIGENCE OVERSIGHT BOARD

IRTPA--INTELLIGENCE REFORM AND TERRORISM PREVENTION ACT OF 2004

MASINT--MEASUREMENTS INTELLIGENCE

NGA--NATIONAL GEOSPATIAL INTELLIGENCE AGENCY

NRO--NATIONAL RECONNAISSANCE OFFICE

NSA--NATIONAL SECURITY AGENCY

NSC--NATIONAL SECURITY COUNCIL

ODNI--OFFICE OF DIRECTOR OF NATIONAL INTELLIGENCE

OIA--DEPARTMENT OF TREASURY OFFICE OF INTELLIGENCE AND ANALYSIS

OMB--OFFICE OF MANAGEMENT AND BUDGET

OSINT--OPEN SOURCE INTELLIGENCE

PCLOB--PRIVACY AND CIVIL LIBERTIES OVERSIGHT BOARD

PIAB--PRESIDENT'S INTELLIGENCE ADVISORY BOARD

SECDEF--SECRETARY OF DEFENSE

SIGINT--SIGNALS INTELLIGENCE

SSCI--SENATE SELECT COMMITTEE ON INTELLIGENCE

USA FREEDOM ACT--UNITING AND STRENGTHENING AMERICA BY FULFILLING

RIGHTS AND ENSURING EFFECTIVE DISCIPLINE OVER MONITORING ACT

USA PATRIOT ACT--UNITING AND STRENGTHENING AMERICA BY PROVIDING

APPROPRIATE TOOLS TO INTERCEPT AND OBSTRUCT TERRORISM ACT

INTRODUCTION

The U.S. intelligence community, aka those government agencies tasked with gathering and analyzing global and domestic intelligence, can seem, to an outsider, like an unknowable entity. Hollywood has perpetuated the myth that the intelligence community (IC) is capable of creating sci fi gadgets, super spies and soldiers, and other things usually left to the realm of action movies. It is easy for the general public to buy into the idea that the U.S. government has this kind of capability, as the real IC is so shrouded in mystery, though out of necessity for its national security charter rather than because it is trying to hide sci fi-type weapons. The U.S. intelligence community is a massive federal bureaucracy--an already notoriously opaque entity--made even more unknowable by its classified workload.

It is a wonder that something like this can exist within a democratic society. Americans believe our government is ruled by checks and balances and that policy decisions are made by representative bodies. However, the shadowy, bureaucratic IC seems to be counter to these ideals. In this thesis, I will make the case that the IC is not. The federal bureaucracy, with the 17 intelligence agencies in particular, is stringently regulated, and a complex series of legislation and oversight bodies work to keep the IC in check. This legal foundation did not spring up overnight, though, and because of that, there have been several periods of lax regulation.

Whenever the federal government failed to regulate the IC properly, the spy agencies tended to stretch their charters and overstep their bounds, eventually infringing on civil liberty. Whenever this would happen, the federal government would eventually come in and fill in the regulatory gaps, once again restraining the IC. This process has lead to times of massive

legitimacy crises for the IC. The ebbing and flowing of the IC's legitimacy has been a serious hindrance to the agencies' effectiveness and has undermined public trust.

I intend to argue that the intelligence community is in the midst of a new legitimacy crisis right now, though this one is very different from those of the past. Previous legitimacy crises had been caused by a lax in regulation leading to civil liberty issues. However, now the IC is facing accusations of being politically motivated and politically biased in its analysis. These critiques are very different from those of the past, and I will explore them in depth. I will examine whether the newest legitimacy crisis is even a crisis and whether these accusation of bias hold up to scrutiny.

The first step in this inquiry is to determine what is meant by "legitimacy" within the context of the intelligence community. I will introduce different theories of legitimacy and analyze how they relate to bureaucracies. The notion that a large bureaucracy is an inherently undemocratic body is not new, and I will look at the arguments for and against this as well as ways a bureaucracy can become more democratic. I will then attempt to demystify the intelligence community, laying out the function and purview of each of the agencies as well as the regulatory bodies that oversee them. The IC is much less cryptic once one has a basic understanding of how it is structured.

After I have laid down the groundwork, I will then begin my more substantive examination of the IC's legitimacy. I will show the areas where the IC has failed in the past because a lack of regulation and how the government eventually addressed these issues. The legislation ruling the IC has evolved substantially over the decades, and often a lapse in legitimacy lead to a major overhaul of the IC's legislative charter.

This new question of illegitimacy has only emerged in the past three years, with the campaign and eventual election of President Donald Trump. President Trump has been an outspoken critic of the IC and has regularly made public statements questioning the neutrality and efficacy of the IC. I want to explore whether his criticisms are founded and whether they are

causing a legitimacy crisis for the IC. Today's situation is very different from those of the past, when it was uncovered that the IC had been encroaching on civil liberties. Will President Trump's critiques have a similar outcome on the IC as did past legitimacy crises? And, is the President creating a legitimacy crisis where one did not need to exist?

I chose this avenue of research because, as someone who hopes to one day work in the national security sector, I recognize just how important our intelligence structure is to the foundations of U.S. national security. A trend is emerging where political pundits and politicians have begun speaking about the "deep state" as if it is a legitimate aspect of the American bureaucracy, and I found that very concerning. The idea of a "deep state" is counter to American values of a representative government that operates transparently and accountably.

With this thesis, I'm attempting to discredit the increasingly popular notion that the intelligence community acts as an illegitimate "deep state." Though there have been periods where the IC has failed to act as a truly legitimate actor, I attempt to prove that there is a broader structure of bureaucratic accountability in place that eventually works to reign in any truly rogue agencies. My research has been limited, however, by the intelligence community's classified workload. There were multiple instances where I was not able to gain exact data relating to my thesis question--for example, the IC does not publish the exact number of its employees. However, I have worked around this limitation, and I believe that I have been able to find enough open source data that I have been able to effectively extrapolate my conclusions and illustrate my thought process to the reader.

I hope that this thesis proves enlightening. My goal is to make the American intelligence community less opaque and unknowable, and show the reader that the IC has a legitimate standing within our democratic system. The "deep state" does not exist, but the hard work that the men and women of the IC do everyday to keep this country safe is incredibly real.

What is Legitimacy?

Before we even begin to ponder the question of the American intelligence community's legitimacy, we must first address an even more fundamental question: What even is "legitimacy?" The notion of legitimacy has morphed and evolved over the centuries, though, at its core, the question of an institution's legitimacy is the question of how it has the right to rule--who or what gives this institution the power to impose its will on others?

The American notion of legitimacy began with John Locke--a 17th century English philosopher and the man from whom Thomas Jefferson drew much of his ideas upon which he based the Declaration of Independence. Indeed, the first line of the Declaration, in which Jefferson states that all men have the "right to life, liberty, and the pursuit of happiness," is directly drawn from Locke's idea of the fundamental rights of "life, liberty, and the pursuit of property." Locke's theory of political consent forms the basis of his ideas on a government's legitimacy. He frames the dynamic of a government and its people as that of a legal trust (Simmons, 1999b).

Unlike a contract, when two parties enter into a trust the settler (the citizens) establish an end to be pursued by the trustee (the government), and the settler grants rights for the trustee to use in order to pursue that end (Simmons, 1999b). A contract lays out very specific actions the parties must take in order to fulfill the contract, but a trust is more expansive. By granting their rights to the trustee, the settlers show that they trust (in the more common sense) the trustee to fulfill its duties without injuring the settlers (Simmons, 1999b). And, unlike a contract, the settlers can withdraw their trust at any time should they be unhappy with the trustee's actions. Thus, Locke establishes the idea of "volunteerism" (Simmons, 1999b).

"Men being... by nature, all free, equal and independent, no one can be put out of this estate, and subjected to the political power of another, without his own consent" (Locke, pp. 293, 1768). Thus, in order for a government to be legitimate, it must have the consent of those whom it governs. Locke suggests that consent is a deliberate act and knowledge and awareness of consent must be present in order for that consent to be valid (Simmons, 1999b). Simmons believes that, in a democracy, Locke would agree that actual participation in that democracy would count as consent—though some other theorists believe that a person's decision to continually reside somewhere would count as Lockean consent (Simmons, 1999b). Hoff disagrees; she says that "a legitimate government need not accept explicit acts of consent that are precipitate, wrongful, or self-subordinating, and it need not wait upon the explicit avowal of the free persons it governs" (Hoff, pp. 15, 2015). She says that, if a government fosters a society where its citizens are educated and socially developed enough to understand governmental consent, then that is sufficient under Lockean views (Hoff, 2015).

Though Locke was vague on his ideas of what consent truly is, a combination of the factors suggested by Simmons and Hoff seem to be the most convincing idea of political consent in today's modern American democracy. Regardless of the details, Locke's idea of volunteerism and government as a trust are enduring, and they guide political theorists to this day. Most modern ideas of legitimacy have Lockean volunteerism at their core, as we shall see.

Max Weber is considered the other major political philosopher to lend his ideas to the foundation of the theory of legitimacy. He argued that there are three types of legitimate political authority—traditional, charismatic, and rational-legal (Page, 1985). Traditional and charismatic authority are not widely accepted now in the modern world, but rational-legal authority is still the predominant source of modern governments' legitimacy around the world and across regime types (Page, 1985). Rational-legal authority derives its legitimacy from laws and regulations. A government must have expressed and defined its powers through a set of laws and norms and must abide by those laws and norms in order for it to have rational-legal authority (Page, 1985).

The United States is a rational-legal society, with our government and laws being either enumerated in the state and federal Constitutions and legislation or accepted through our courts and common law system. The idea of rational-legal authority is particularly applicable to the intelligence community because, as we shall explore in more depth later, the American intelligence community is a system of bureaucracies. All 16 of the intelligence agencies are Executive Agencies, meaning they are created by the Office of the President in order to address a specific problem ("Executive Agencies," n.d.). The executive has the right to do this because, in the Constitution, the President will "require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices" ("Executive Agencies," para. 2, n.d.). Thus granting executive departments (agencies) the right to exist and the President the right to create them.

Weber's theory of bureaucracy lays it out as a "governmental system in which officials dominate...and conduct...is based upon the application of general rules" (Page, pp. 6, 1985). Because of this, bureaucracy is the "purest form" of rational-legal authority (Page, 1985).

Much of the modern work done examining the theory of legitimacy has been done through an international lens, though still largely drawing from the ideas of Locke and Weber. Martha Finnemore's idea of legitimacy--though directly applied to a unipolar superpower operating on the world stage--can easily be translated to domestic politics. Like Locke, Finnemore largely bases her theory of legitimacy on trust between the government and its citizens (Finnemore, 2009). She says that that trust can only exist if the government abides by the social norms and values of its citizens, and if there is mass resistance--not necessarily escalating to any kind of physical resistance--then the government has lost its legitimacy (Finnemore, 2009).

Finnemore argues that trust and the ability of the government to disseminate information to its citizens--thus fostering more trust--are the foundations from which legitimacy is built upon (Finnemore, 2009). The best way to foster this trust is to institutionalize authority--much like

Weber's idea of rational-legal authority--and create institutions. Though Finnemore was talking about international institutions like the UN, the same argument can be made for domestic institutions. She argues that, because institutions have stated goals and principles that are supported by legal authority, they are legitimate (Finnemore, 2009). Even if an institution broadens its size and scope, if it is doing so in order to achieve its goal, then it still retains that legitimacy as long as the people it's serving still trust it (Finnemore, 2009).

This is an interesting distinction that will be important to explore deeper later on. Finnemore argues that an institution must have trust from its *citizens*, but that trust from the person or body who created it (as in the President or Legislature) is not necessary. She says that institutions often act as checks on whether leaders are operating in accordance with society's norms and values, and that losing the trust of the leaders--while retaining the trust of its citizens--may be an indicator that the institution is doing its job (Finnemore, 2009).

Finnemore bases her ideas on the more traditional models of Weber and Locke, but there is another theory of legitimacy that has become popular in the modern era which does not draw from Locke or Weber--that of the responsibility to protect or "R2P." When Evans and Sahnoun first introduced the idea of R2P, they were chiefly focused on the legitimacy of international intervention, with the recent tragedies of Rwanda, Kosovo, and Bosnia fresh in their minds (Evans & Sahnoun, 2002). The doctrine of R2P says that sovereignty in the modern world is no longer the simple Westphalian notion of a state's sole ability to express authority over the people and resources in its territory and the idea that that sovereignty must be respected (Evans & Sahnoun, 2002). Instead, the R2P doctrine says that, if a state wishes to be the sovereign power in its territory, it has a responsibility to protect all those who reside in its territory, and, should the state fail to protect its people, other sovereign nations and international organizations have the right to violate that country's sovereignty in order to intervene and protect the people living there (Evans & Sahnoun, 2002). Thus, under the R2P doctrine, nations only retain their legitimacy if they are able to protect their citizens.

Is this, then, applicable to the question of the legitimacy of the intelligence community? I believe that it is. As the intelligence community exists solely to protect Americans and American interests, I believe that R2P can be scaled down and applied to these largely domestic questions. With this idea, the intelligence community remains legitimate as long as it continues to protect Americans and American interests. It does not need an “intervention” unless it fails to fulfill its duties. In this way, we can look at 9/11 as a failure of the intelligence community to protect the U.S. and thus a loss of legitimacy, and the 9/11 Commission and subsequent restructuring of the intelligence community as an intervention.

These various theories of legitimacy can be synthesized into one, more comprehensive, theory containing five parts. In order to be legitimate, an institution must:

1. Be established through legal means and abide by legal rules and norms.
2. Maintain the trust and support of those whom it serves.
3. Be responsive to public opinion.
4. Ensure that, should it grow and expand its reach, it will only take actions that support its original goal.
5. Be able to correct itself should it lose legitimacy.

I believe these guidelines offer a good roadmap going forward for examining the legitimacy of the intelligence community as a whole, however, there is one more important factor that deserves a deeper look, and that is the legitimacy of bureaucracy. The main criticism of the intelligence community, and of bureaucracy as a whole, is that it creates a “deep state,” or government institutions that act independently of elected officials' and citizens' wishes. This is unique to bureaucracies and will be examined further in the next chapter.

Bureaucratic Legitimacy

Despite what Hollywood would have you believe, the American intelligence community is a government bureaucracy just like any other government agency. Though its missions may be

more glamorous and exciting than that of the Department of Agriculture or the Postal Service, intelligence agencies are structured in much of the same way, and their legitimacy flows from the same sources as the more mundane bureaucracies. The intelligence community does face some additional hurdles, as their missions are largely secret by their very nature and thus cannot rely on transparency to bolster their legitimacy, but that does not mean that there hasn't been criticism of other American public bureaucracies for their opacity in the past either.

A good place to begin an examination of the legitimacy of bureaucracies is to examine what a bureaucracy is in the first place. A bureaucracy is an institution, in this case a governmental institution (though private bureaucracies exist as well), where a cadre of officials or administrators with some type of specialized knowledge or training enact policy or programs (Page, 1985). Bureaucracies have clear hierarchical structures and clearly defined responsibilities that have been enumerated in their charters (Page, 1985). Like we mentioned in the previous chapter, bureaucracies are the purest form of Weberian rational-legal authority (Page, 1985). Bureaucrats--the officials who populate these government agencies--have highly defined roles, responsibilities, and positions within the bureau's hierarchy as defined by the laws and charters that create these agencies. Even the government pay scale is clearly defined, hierarchical, and legislated (Page, 1985).

The United State's governmental agencies are populated with two types of bureaucrats--the career official and the appointed official (Page, 1985)l. These two types of bureaucrats are very different in their goals and in their outlook. Like their title suggests, career officials join the bureaucracy with the goal of a career-long service. They often have specialized education and will certainly have specialized training. They are promoted based on merit, and their power is derived from the knowledge of their department and how to navigate the bureaucratic mazes within (Page, 1985). Appointed officials are, instead, political officials appointed by either the President or Congress with the bureaucratic appointment being merely a stopping point along their career path. They typically populate the upper echelons of the bureaucracy, and may or

may not have specialized knowledge of the bureaucracy or the field in which the bureaucracy concerns itself (Page, 1985).

Typically, in the intelligence community, appointed officials are drawn from members of the House or Senate Permanent Select Committee on Intelligence, from the upper ranks (typically Brigadier Generals or higher) of the armed services, or, as we have seen with the recent appointment of Gina Haspel, from the upper ranks of the career officials. This makes sense, as the intelligence community is much more opaque and specialized than other government bureaucracies, and a previous familiarity with it will serve appointed officials well.

Work has been done to examine the types of personalities that populate government bureaucracies, specifically by Anthony Downs, whose work splits bureaucrats into two groups--Self-Interested Bureaucrats and Mixed-Motive Bureaucrats (Downs, 1994). Each group, he says, consists of smaller sub-groups--Climbers and Conservers in Self-Interested and Statesmen, Zealots, and Advocates in Mixed-Motive (Downs, 1994). Stafford Thomas takes Down's work and extends it further, applying it directly to the bureaucracy of the CIA (Thomas, 1999).

Bureaucrats who are Climbers seek power, prestige, and wealth through their bureaucratic careers (Thomas, 1999). Thomas says that the CIA typically does not reward Climbers, as the Agency's culture is that of loyalty to the nation over oneself. That isn't to say that there are no Climbers at the CIA--Thomas specifically points to Aldrich Ames, the infamous spy who betrayed his Agency and country for personal gain, as a notorious Climber (Thomas, 1999). However, because Climbers are seen as self-interested careerists, they are rare in the CIA's more altruistic culture.

Thomas states that Conservers are even more rare at the CIA. Conservers are the prototypical bureaucratic stereotype--they seek personal convenience and career security over all else (Thomas, 1999). Thomas cannot point to a specific example of a CIA Conserver--though with such a large agency, he is sure they exist. Instead, he says that observations have been

made within the Agency that some case officers tend to focus on quotas rather than quality of their information and that some Station Chiefs have been accused of rigidly sticking to the status quo (Thomas, 1999). This would certainly count as examples of Conserver behaviour.

Statesmen--the first of the "Mixed-Motive," or as Thomas calls them "Altruistic" bureaucrats--are a very rare breed, regardless of the government agency. They are high-minded individuals with national interest--regardless of their own personal beliefs and preferences--always in the forefront of their decision making (Thomas, 1999). Though Thomas was writing before the creation of the position of Director of National Intelligence, the role of the DNI seems to be a good fit for a Statesman-type office. The DNI acts as a moderator for the 16 different intelligence agencies, and he is there to formulate a national intelligence priority and plan, regardless of the specific desires of each individual agency.

Zealots, Thomas states, are the opposite of Statesmen (Thomas, 1999). They have a fanatical view of their very specific office within their agency, with their loyalty not extending beyond their desk or station. Thomas refers to them as "true believers" (Thomas, 1999). He points to James J. Angleton, the Cold War CIA Chief of Counterintelligence, as an Agency Zealot. Angleton was obsessed with "mole hunting," believing that his assumption that there was a high level Soviet mole (spy) within the CIA was undoubtedly true. His fanatical search for Soviet agents continuously brought him into conflict with his colleagues and superiors (Thomas, 1999).

The final bureaucratic personality Thomas examines is that of the Advocate. The Advocate has a broader attachment to an organization as a whole or to the specific functions of that organization, such as national security. They are more nuanced than both Statesmen and Zealots, with their loyalty falling in the middle (Thomas, 1999). Advocates are the most numerous personality within the intelligence community, and they tend to be the career officials who rise to the ranks of leadership (Thomas, 1999). Thomas points to Dr. Harold P. Ford as a prime example of an Advocate. A 30 year veteran of the CIA, Ford served in multiple CIA

divisions as well as as a Chief of Station. He then left the CIA to become a staffer for the Church Committee and for the Senate Select Committee on Intelligence ("Harold P. Ford," 2016). After returning to the CIA, he helped form and later chaired the National Intelligence Council and was awarded the National Intelligence Distinguished Service Medal ("Harold P. Ford," 2016).

Obviously Ford is a uniquely distinguished person within the CIA, however his Advocate personality is the most common within the Agency's ranks (Thomas 1999). It is not a great leap to extend this assumption to the rest of the intelligence community. Because of the intelligence bureaucrats' ideas of public service, self sacrifice, and indoctrination into their agencies' ideologies, it makes sense that altruistic bureaucrats are the most common personalities in the intelligence community (Thomas, 1999).

What, then, do these bureaucrats do? Like all other government bureaucrats, intelligence community officials implement and define policy (Peters, 1995). As they operate under a Weberian rational-legal authority, their main concern is adherence to laws, norms, and procedures more so than their bureaucratic counterparts in private organisations (Peters, 1995). Despite of (or in some cases because of) this adherence to laws and norms, the general public tends to hold two conflicting views of bureaucracies (Peters, 1995). Either bureaucracies are seen as leviathans eating up civil rights and liberties and expanding their reach ever farther beyond their original scope. Or, they are seen as ineffectual quagmires criss crossed with red tape and apathy (Peters, 1995). One need only to watch a *Jason Bourne* movie or search through the "Deep State" hashtag on Twitter to see to what camp public opinion assigns the intelligence community.

Glennon agrees with this opinion of the IC, though he does not go so far as to call it a "deep state." He says that the U.S. government's national security apparatus is split into "Trumanite" institutions and "Madisonian" institutions, aka the intelligence bureaucracy and the traditional three branches of government set out in the Constitution. Glennon states that the "Trumanite" IC thwarts control by the traditional checks on government by utilizing tactics to

make it seem like the government would fall apart without it, such as threat exaggeration, secrecy towards the public as well as government officials, and conformism within the workforce (Glennon, 2015).

Glennon states that this double government is, indeed, controlled by the bureaucracy, as the three branches of government are both too weak and too unwilling to truly act as a check on it. He says that the legitimacy of the IC is derived from false accountability. "The appearance of accountability is, however, largely an illusion fostered by those institutions' pedigree, ritual, intelligibility, mystery, and superficial harmony with the network's ambitions (Glennon, pp. 114, 2015)."

I disagree with Mr. Glennon--although legitimacy is difficult for a bureaucracy to establish in a democratic society, especially if that bureaucracy's basis is built on secrecy, it is not so impossible as to be an "illusion."

This inherent suspicion of bureaucracies is not unique to the intelligence community. Bureaucracies are staffed by unelected careerists whose job it is to enact policy and sort out the details of that policy's implementation and interpretation (Page, 1985). Thus it seems that bureaucracies may be an anathema to democracy--allowing permanent, unknown officials to be involved in the policy making process while excluding the public (Page, 1985). This is a major blow to bureaucracies' legitimacy--particularly to the generally opaque intelligence community. Page offers some ideas on how to reinterpret bureaucracies in a democracy.

The first legitimizing idea that Page presents is that of a "representative bureaucracy" (Page, 1985). He says that, if a bureaucracy's staff, particularly those in the upper echelon of the agency's ranks, reflects the ethnic and socioeconomic makeup of the nation, then that bureaucracy is operating more democratically (Page, 1985). In 2006, the ODNI appointed its first Chief of Equal Employment Opportunity (EEO) and merged the office with IC Diversity Strategy Division (DCD), creating the IC EEOD ("Diversity and Inclusion," n.d.). The IC EEOD released its first comprehensive report of the IC's demographic makeup and hiring data in 2016,

which showed that, since the IC EEOD was created, the intelligence community's diversity hiring (that of women, minorities, and people with disabilities) had slowly increased (IC EEOD, 2016). The IC EEOD has since released multiple reports on suggestions of how to better the hiring percentages of minorities and how to foster workplace environments that are welcoming and accommodating to them ("Diversity and Inclusion," n.d.). This shows that the intelligence community is making its way towards fulfilling Page's idea of a representative bureaucracy.

Page also floats the idea of a "pluralistic approach" to bureaucracy (Page, 1985). He states that the nature of bureaucracy guarantees there is no centralized political authority making decisions within the agency. Negotiation and adjustment of policy implementation and interpretation within a variety of groups ensures that bureaucracy acts almost like a democracy in and of itself (Page, 1985). Because bureaucracies are so large, they encompass a broad range of ideas and interests which are articulated in the creation of policy strategy (Page, 1985).

Like his idea of pluralistic bureaucracy, Page's idea of "institutional bureaucracy" carries the idea that bureaucracies are inherently democratic (Page, 1985). He says that, if a bureaucracy is created by a democratic government, then the fact that those who created the bureaucracy were democratically elected instantly legitimizes the agency (Page, 1985). He says that bureaucracy emerged, in its current state, hand-in-hand with democracy, and it shouldn't be seen as an anathema to it (Page, 1985).

Page's ideas might be overly optimistic. Bureaucracies are not democratic by nature-- they have their own interests and agendas, and they will seek to implement policy in the way that best serves those agendas (Caiden, 1996). It is impossible to separate bureaucracies from politics, though a number of safeguards have been put in place in order to do just that. Bureaucrats are discouraged from voicing their political views publicly or engage in partisan activities (Caiden, 1996). They are also encouraged to give forthright and objective advice and recommendations to policy makers rather than make policy decisions (Caiden, 1996) This is particularly true of the intelligence community, which stresses its objectivity, though it has gotten

a good deal of criticism from policy makers recently for perceived partisanship (Hayden, 2018). Bureaucrats are also rewarded for good work and loyalty, regardless of the administration, by being promoted based on a merit system rather than a political one (Caiden, 1996).

Regardless of how well an agency ensures its neutrality, there will always be public scepticism (Peters, 1995).

“Even if bureaucrats try to act impartially and manage to contract out of active politics, the general public and the pressure groups they deal with do not see them this way. Public confidence in the neutrality of the public bureaucracy is difficult to build because of ingrained anti-authoritarian mores and lingering adverse images of partisanship, corruption and inefficiency. It is easily destroyed by isolated incidents and by the deliberate distortions of mass media and anti-government and anti-bureaucratic groups. Sensation has more news value than routine performance; one slip and the whole gets tarred with the same brush. With the public willing to believe in partisanship and the others willing to supply the evidence, the public bureaucracy will always be made to appear partisan (Caiden, pp. 33, 1996).”

Though illusive, neutrality is a key component in a bureaucracy's legitimacy. If neutrality is not a convincing enough legitimiser, there are internal instruments of accountability built in to the bureaucratic structure (Peters, 1995). Things like publicity, internal discipline, investigations, and funding are all checks on a bureaucracy. Publicity ensures bureaucratic transparency and responsiveness to the public (Peters, 1995). This is a particular challenge for the intelligence community, though, as their activities are largely classified and will remain that way. Internal discipline and investigation, though, are particularly effective in the intelligence community, with its ever vigilant regard for security and secret keeping.

Counterbureaucracies also exist, and they act as particularly effective checks on government agencies (Peters, 1995). Counterbureaucracies serve to “break the monopoly on information that the bureaucracy appears to hold by creating their own independent sources of information” (Peters, pp. 219, 1995). With the intelligence community, this can be the independent research of staffers on the House and Senate intelligence committees, foreign relations committees, or armed services committees as well as researchers at influential think tanks like the Foundation for Defense of Democracy. Counterbureaucracies can also be seen in

the ODNI, which acts as a moderator between the different intelligence agencies to ensure that one agency does not have a monopoly on information.

Bureaucracies in general, and the intelligence community in particular, are a whole nother beast when it comes to legitimacy. As naturally secretive and opaque institutions, the public and even policy makers are inherently distrustful of them. This severely cripples their legitimacy, as discussed in the previous chapter, public trust and the ability to respond to public opinion are key factors in legitimacy. On top of this, I believe that bureaucracies have additional hurdles in order to ensure their legitimacy.

In order to be considered a legitimate organization in a democracy, a bureaucracy must have, in addition to the five factors from the earlier chapter:

1. Neutrality
2. Transparency
3. Accountability

The reason the notion of the "Deep State" has become so popular in recent years is that, along with its opacity, which the public seems to have taken as a given, the intelligence community's neutrality has come into question. These accusations are deeply undermining the intelligence community, and are affecting morale and its ability to properly conduct business (Hayden, 2018). The question, then becomes, are these accusations founded on the truth? Does the intelligence community have a neutrality problem, and thus a legitimacy problem?

An Overview of the Structure of the IC

This Chapter will cover a wide breadth of topics to inform the reader why the intelligence community exists, what it does, and why it is important. The intelligence community (IC) is a large and complicated bureaucratic structure with many agencies and regulatory bodies contributing to and controlling it. It can be potentially overwhelming attempting to piece out this complex web of interwoven bureaucracy, and a discussion of the intelligence community would be lacking without a thorough overview of just what the IC is and what it does.

In this chapter, we will explore what it is the intelligence community does on a day-to-day basis and, within that, its *raison d'être*. We will also have short bios of the seventeen different agencies that make up the IC as well as an overview of the legislation and regulatory bodies that govern those agencies. We will conclude this chapter with a brief history of the IC, touching upon the major events that have shaped and defined the American IC during its comparatively brief existence.

What is Intelligence and What Does it Do?

Broadly speaking, intelligence is information that has been collected, processed, and narrowed (i.e. analyzed to determine what is important) to meet the needs of a policymaker (Lowenthal, 2017). Information, and thus intelligence, can be anything that is knowable—whether it is the daily routine of a drug lord or the types of screws used to build an adversary's ballistic missiles—thus intelligence takes many forms and comes from a wide variety of sources (Lowenthal, 2017). An interesting caveat of intelligence is that it is largely secret. The value that comes from knowing what the intelligence is saying is that that knowledge then helps

policymakers, warfighters, and law enforcement make well-informed decisions about national security. Should our adversaries know what our intelligence says, they could anticipate our decisions, and thus, negate the need for intelligence (Lowenthal, 2017). This is why the world of intelligence is largely secret--there would be no need for intelligence without the secrecy.

Intelligence helps policymakers make important decisions, but it is not limited to that goal. Intelligence helps the U.S. avoid strategic surprise (Lowenthal, 2017). There is a distinction between strategic and tactical surprise that is important to understand. Strategic threats are large, long term threats, big-picture events, and major developments. Tactical threats are small, situational threats such as whether or not a particular terrorist has access to a firearm. Intelligence can definitely help the U.S. avoid tactical threats, in fact, the various military intelligence agencies focus largely on tactical issues, but tactical threats are not the main goal of the IC as a whole. The IC exists to help the U.S. avoid a nuclear attack or determine whether a rising power is potentially aggressive, not avoid a single shipment of drugs coming across the border.

The IC is also important because it provides a stable source of long-term expertise (Lowenthal, 2017). The world is a dynamic place, and areas that had long been areas of little importance to national security can quickly become hot-spots overnight. The bureaucrats within the intelligence agencies have had years to develop knowledge and expertise on niche security issues and areas that policymakers would never have the time to develop. Bureaucrats are also a much more stable source of expertise than policymakers who could easily lose their next election and be out of office. Thus intelligence experts are key resources for both new and seasoned policymakers.

We have already touched upon how intelligence assists with a policymaker's decision making, but an important aspect of intelligence is the fact that it is tailored to that specific policymaker (Lowenthal, 2017). For example, the Secretary of State and Secretary of Defense need two very different types of intelligence in order to perform their jobs. The Secretary of

Defense would care a lot about an adversary's new naval developments but would only have a passing interest in that country's abuses against journalists, while the Secretary of State would have his priorities reversed. The type of intelligence given to these two policymakers would differ in the information provided because of their different jobs and priorities. The same thing happens vertically. A Major in the field would care much more about detailed, tactical intelligence than the Secretary of Defense himself.

Though the U.S. intelligence community is relatively new (more on this later), intelligence has been utilized by militaries and politicians for centuries. Most modern Western intelligence apparatuses have their roots in systems set up in the late 14th and early 15th centuries, as the modern Westphalian state began to take shape (Lowenthal, 2017). Queen Elizabeth I and Cardinal Richelieu were both responsible for creating the robust British and French intelligence systems that the U.S. would eventually base its own intelligence community upon (Lowenthal, 2017). Even Russia, the U.S.'s long-running adversary, has had a continuous intelligence bureaucracy in place since Ivan the Terrible began using intelligence in the late 1500s. In contrast, the U.S. didn't formalize its intelligence community until WWII (Lowenthal, 2017).

That does not mean the U.S. did not utilize intelligence in the century and a half preceding WWII. George Washington organized and directed the Culper Ring--the nation's first spy ring--based in New York City during the Revolutionary War (Rose, 2006). The spy ring informed General Washington of occupying British Army's movements within the city, which served as the British headquarters and base of operation in America (Rose, 2006). The Culper Ring was extremely successful, reporting several potential British surprise attacks to Washington and even uncovering the betrayal of Benedict Arnold (Rose, 2006). Despite the spy ring's success, though, it went the way of all U.S. intelligence operations before WWII--it was disbanded as soon as the war was over (Rose, 2006), (Lowenthal, 2017).

Despite not being formalized in the U.S. until the 1940s, the process of intelligence creation has not changed from the process utilized in the early days of the nation. Intelligence

production operates under a five-step, circular process known as the "intelligence cycle" (Lowenthal, 2017). Initially, a policymaker will ask the intelligence community a question, and then the intelligence community will direct their collection efforts towards trying to collect information pertaining to that question (Lowenthal, 2017). The information that is collected is then processed or exploited in order to make it usable to analysts--usually, it is translated or data is cleaned up. After the information is made understandable, it is passed on to analysts, who then turn the information into intelligence by piecing together what is important or significant about the information within the frame of the policymaker's question (Lowenthal, 2017). The new intelligence is then disseminated to the policymakers, typically through briefings or memos, and the policymaker then decides if they will use the intelligence and will eventually ask new intelligence questions (Lowenthal, 2017).

We will take a closer look at the three steps that make up the bulk of the intelligence cycle--collection, processing, and analysis. Collection is the most "glamorous" part of the intelligence cycle because it is the aspect of the intelligence community that is most often portrayed in the media. However, collection is not a Jack Ryan action movie--in fact HUMINT, that is information gathered from human sources, is only one type of collection out of many (Lowenthal, 2017). HUMINT is largely conducted by the CIA, though DIA and the service intelligence units conduct HUMINT collection as well (Lowenthal, 2017), thus making it one of the smallest sources of information for the intelligence community. It is a high risk/high reward type of collection, and that risk makes it not as desirable as other areas of collection (Lowenthal, 2017).

SIGINT, or signals intelligence, however, is low risk/high reward, and thus it is one of the most utilized types of collection (Lowenthal, 2017). SIGINT can be gathered from a huge variety of sources--satellites, phone and internet data, recorded conversations or videos--generally, if it is a type of information that is recorded on some type of electrical device, it is SIGINT (Lowenthal, 2017). Because SIGINT is such a catch-all term, it is often further divided into

ELINT (electronic intelligence) and COMINT (communications intelligence) (Lowenthal, 2017). Many agencies have their hands in SIGINT, but the powerhouse of the SIGINT world is the NSA--the largest of the 17 intelligence agencies (Lowenthal, 2017), (Kaplan, 2016).

Related to SIGINT are GEOINT (geographic intelligence) and MASINT (measurements and signals intelligence) (Lowenthal, 2017). GEOINT pertains largely to information about terrain or geography, which is collected primarily through satellite imagery. The NGA (National Geospatial Agency) is the primary producer of GEOINT (Lowenthal, 2017). MASINT, on the other hand, largely pertains to scientific measurements of things such as an adversary's missile's blast capacity or the volume of an adversary's ship. MASINT focuses mainly on collecting information on weapons systems and industrial capabilities of our adversaries. This particular type of intelligence is performed largely by the DIA (Defense Intelligence Agency) (Lowenthal, 2017).

OSINT (open-source intelligence) the final major type of collection is often overlooked or assumed to be not as important as its more secretive counterparts, however, it is a major source of information for the IC, especially as social media has become widely used (Lowenthal, 2017). Open-source refers to anything that is openly available to the public, such as a newspaper or a public social media account. The importance of the information gathered from local papers or social media accounts cannot be understated. OSINT is a key source of intelligence throughout the intelligence community (Lowenthal, 2017).

After information is collected, though, it needs to be processed. Probably the most common form of processing is translation; sometimes this is tied to the analysis of information, but not always. Many agencies employ dedicated translators (Lowenthal, 2017). Along with translation, information may be decoded or cleaned up during the processing and exploitation process. The processing and exploitation of information is largely an "in-house" activity in the U.S. IC--an agency will do its own processing rather than farm it out to a different agency (Lowenthal, 2017). Interestingly, the U.S. has such a robust collection wing that there is no way

that all the information collected can all be processed and exploited. Some say that the analysis of information begins at the processing stage when processors or exploiters decide what bit of information is important enough for them to translate or clean up (Lowenthal, 2017).

Analysis is the final major step of the intelligence cycle and is the key step in making the information gathered into something usable and meaningful. The U.S. engages in a system of “competitive analysis,” meaning that multiple analytical groups within an agency or within the IC itself will all look at the same issue and do their own individual analysis (Lowenthal, 2017).

Though the process may seem redundant at first glance, this, in fact, helps eliminate biases and groupthink--major analytical pitfalls. This can cause important analysis to drag on and potentially lead to “footnote wars,” with each different agency attempting to maintain a separate point within a largely salient issue (Lowenthal, 2017).

The intelligence cycle is key to the constant flow of information to and from the policymakers and the IC, and it is fundamental to the structure of the community. The intelligence cycle is what drives the massive bureaucratic behemoth that is the intelligence community, with its 17 different agencies and countless employees.

The 17 American Intelligence Agencies

The American intelligence community is comprised of seventeen separate agencies, each with its own unique domain and purpose. Before 2004, each of these agencies existed as their own separate entities with little cross-interaction or intelligence sharing (Lowenthal, 2017). However, after Congress passed the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA), most of these agencies now answer to the Office of the Director of National Intelligence (ODNI), which directs and coordinates the agencies' activities. A few members of the IC do not fall under the purview of ODNI, instead only using their intelligence in-house. These outside agencies are the Drug Enforcement Administration and some FBI intel activities, which all fall under the jurisdiction of the Department of Justice, as well as both the Treasury

Department and Department of Homeland Security's intelligence divisions (Lowenthal, 2017). Except for the Coast Guard Intelligence Unit, which falls under the DHS rather than DoD, all of the individual service intelligence units--the 25th Air Force Division, Army Intelligence Command (INSCOM), Office of Naval Intelligence, and the Marine Corps Intelligence--do not coordinate with ODNI (Lowenthal, 2017).

It is important to understand exactly who it is people are referring to when they mention the U.S. intelligence community. It is a massive enterprise with many different facets and agencies, and, though it is easily painted as a monolith, it is not one. Many of the accusations of illegitimacy have been leveled at individual agencies, and it is key to understand just what it is these agencies do.

The Central Intelligence Agency (CIA)

The CIA is the U.S.'s second longest-standing civilian intelligence agency (coming in second to the State Department's Bureau of Intelligence and Analysis), though CIA is certainly the most well known. The U.S.'s civilian intelligence enterprise had its beginning in the COI (Coordinator of Information) and the OSS (Office of Strategic Services), which were created by President Franklin D. Roosevelt in 1940 in order to help develop propaganda and intelligence respectively during WWII, though COI was later disbanded and the OSS was absorbed into the Department of Defense during the war (Lowenthal, 2017). Both of these organizations were based largely on the British intelligence model and served as a training ground for future civilian intelligence professionals who would serve as the first members of the CIA. The turning point for U.S. intelligence was after the end of World War Two in 1947 when President Truman signed the National Security Act, creating the Central Intelligence Agency. Prior to this, the U.S. would disband its intelligence apparatuses once peacetime was achieved, however, with the Cold War looming, President Truman created a permanent legal basis for U.S. intelligence (Lowenthal, 2017).

The National Security Act created the CIA and the Director of Central Intelligence (DCI) (now Director of the Central Intelligence Agency-DCIA). The Act also laid out the CIA's major charter: it is to be a civilian agency with no ability to command troops or police, and it is required to only collect upon foreign targets, with no domestic purview (ODNI, n.d.-a). Structurally, the CIA's main client is the President, with most of its intelligence being used by the executive branch (CIA, 2018), though it coordinates with ODNI. The CIA is one of the three all-source U.S. intelligence agencies (with DIA and State INR being the other two), meaning that it utilizes every type of collection. However, the CIA specializes in HUMINT--in fact, the CIA coordinates all HUMINT activities in the IC (Lowenthal, 2017).

The Defense Intelligence Agency (DIA)

Established in 1961 by President Kennedy's Secretary of Defense Robert McNamara, DIA serves as the Department of Defense's main source of intelligence and, along with the CIA and State INR, is one of the three U.S. all-source agencies (Lowenthal, 2017). SecDef McNamara created DIA in response to suspicions that Air Force intelligence was intentionally overestimating the Soviet missile threat in order to justify a larger budget for itself. Though the individual service branches retain their own in-house intelligence units to this day, DIA acts as a clearinghouse for all DoD intelligence in order to avoid parochialism (Lowenthal, 2017).

DIA employs a mix of military and civilian employees in many fields, ranging from the hard sciences, economics, and a variety of humanities disciplines (ODNI, n.d.-b) As the major source of intelligence for the DoD, DIA serves a variety of clients from the Secretary of Defense, to field commanders, to individual warfighters in both combat and non-combat missions (DIA, n.d.). Unlike the CIA, whose main client is the President and his Cabinet, DIA answers to the SecDef, the Joint Chiefs of Staff, and the Unified Combatant Command (DIA, n.d.). Unlike the individual service branches (except the Coast Guard), DIA also coordinates with ODNI (Lowenthal, 2017).

The National Security Agency (NSA)

The NSA, the primary source of the U.S.'s SIGINT intelligence, is the largest and possibly most well-funded of all the IC agencies (Kaplan, 2016). Officially created in 1952 by President Truman, the NSA had its roots stretching back into the first World War when the U.S. created its first military code breaking unit. By the end of World War Two, each of the services had its own code breaking apparatuses, and, intending to foster cooperation among the service codebreakers, Truman consolidated them into the NSA (Kaplan, 2016).

Like DIA, NSA is a DoD agency that also coordinates with ODNI, and employs both military and civilian employees (Lowenthal, 2017). The NSA focuses on SIGINT and cyber threats, housing both the Central Security Service (CSS), which focuses on cryptology (NSA, n.d.) and USCYBERCOM, which is one of the U.S.'s United Combatant Commands and focuses on offensive and defensive cyber warfare (Kaplan, 2016).

The National Geospatial-Intelligence Agency (NGA)

NGA began as the National Imagery and Mapping Agency (NIMA), which was created in 1996 in order to consolidate all of the services' mapping and satellite efforts (NGA, n.d.). After the restructuring of the IC following 9/11, NIMA was rebranded as NGA in 2003 in order to refocus its mission on geographic intelligence (NGA, n.d.). Along with DIA and NSA, NGA is a DoD agency that also coordinates with ODNI and employs both military and civilian personnel (ODNI, n.d.-c).

The National Reconnaissance Office (NRO)

Though NRO was founded in 1961, it was decades before it was declassified in 1992 after the end of the Cold War (NRO, 2017). NRO deals with SIGINT and GEOINT like NSA and NGA, but it has the unique mission of designing, building, launching, and maintaining the U.S.'s intelligence satellites (NRO, 2017). Like the three previous agencies, NRO is housed under the DoD, but employs both civilian and military personnel and coordinates with ODNI (NRO, 2017).

The Federal Bureau of Investigation (FBI)

The FBI is the oldest member of the IC, though it has never solely been an intelligence agency. The FBI began in 1908 when President Teddy Roosevelt's Attorney General Charles Bonaparte created an investigative wing of the Department of Justice which would later be called the Bureau of Investigation and finally the Federal Bureau of Investigation (FBI, n.d.). The FBI has always used intelligence, using information and analysis to make arrests and build cases, but intelligence had never been its main priority (FBI, n.d.).

However, in 2002 former FBI Director Robert Mueller announced a reorganization of the Bureau in response to 9/11, making intelligence and prevention of attacks on the homeland the Bureau's primary goal (FBI, n.d.). A Directorate of Intelligence was created, counterterrorism work was greatly expanded, and the walls that had formerly separated intelligence and law enforcement activities were torn down (FBI, n.d.).

Like other members of the IC, the FBI's Directorate of Intelligence and its Counterintelligence Division coordinate with ODNI (Lowenthal, 2017).

The Drug Enforcement Administration (DEA)

Like the FBI, DEA is a law enforcement agency under the Department of Justice, though it only deals with drug-related cases. Since its founding in 1978, DEA has utilized intelligence to help make arrests, build cases, and establish patterns of drug trafficking. However, its Intelligence Program has grown significantly since its inception (DEA, n.d.). DEA does not coordinate with ODNI, instead only using the intelligence it produces in-house (Lowenthal, 2017).

Department of Homeland Security Office of Intelligence and Analysis (DHS I&A)

President Bush created the Department of Homeland Security in 2003 following the terrorist attacks on 9/11. DHS is tasked with keeping the homeland (the continental United States, Hawaii, Alaska, and U.S. territories) secure from terrorist attacks and other similar threats (ODNI, n.d.-d). DHS's Office of Intelligence and Analysis has a unique role, as it is the only member of the IC that is tasked with delivering intelligence to local, state, tribal, and

territorial law enforcement. This intelligence-sharing is key to its mission, as DHS focuses on preventing threats carried out locally (ODNI, n.d.-d). DHS I&A does not coordinate with ODNI (Lowenthal, 2017).

Department of State Bureau of Intelligence and Research (State INR)

Founded by President Truman's Secretary of State George Marshall in 1947, State INR is the direct descendant of the Office of Strategic Services (OSS), making it the oldest civilian intelligence agency in the U.S. (State, n.d.). INR, along with CIA and DIA, is one of the three all-source agencies within the IC, and it is tasked with a wide variety of functions. Chiefly, INR provides intelligence for the Secretary of State and other American diplomats at home and abroad (State, n.d.). INR is unique, however, in that it is also tasked with reviewing planned covert action operations. The State Department is the hub of U.S. foreign policy, and INR ensures that all covert action operations the U.S. wishes to carry out align with U.S. foreign policy (State, n.d.). INR answers directly to the Secretary of State, and it coordinates with ODNI (Lowenthal, 2017).

Department of Energy Office of Intelligence and Counterintelligence

The Department of Energy houses experts with unique knowledge of nuclear science and energy security, and DoE's Office of Intelligence and Counterintelligence focuses on these issues (ODNI, n.d.-e). The DoE Office of Intelligence and Counterintelligence answers to the Secretary of Energy and coordinates with ODNI (Lowenthal, 2017).

Department of Treasury Office of Intelligence and Analysis (OIA)

Founded in 2004 as part of the larger attempt to revamp the IC, The Department of the Treasury OIA focuses on intelligence that is financial or economic in nature. Some of its main topics of analysis are the tracking of illicit financial networks and identifying financial and economic threats (ODNI, n.d.-f). The Secretary of the Treasury directs the OIA, and the OIA also coordinates with ODNI (Lowenthal, 2017).

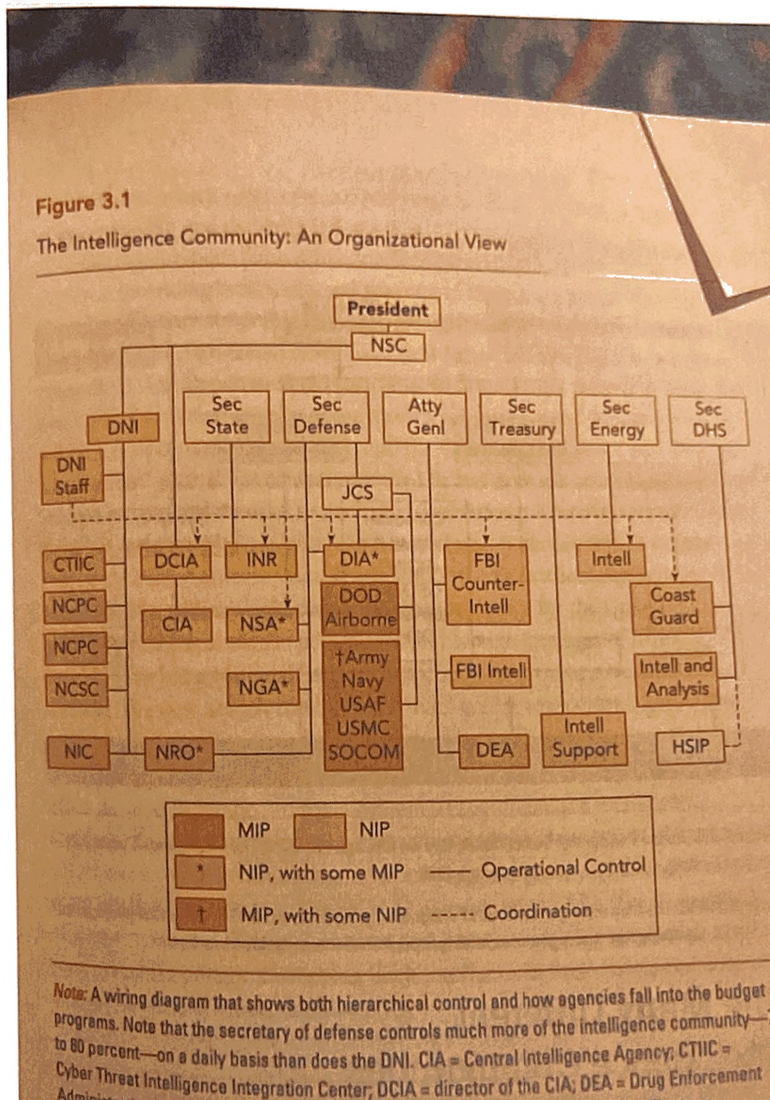
The Services Intelligence Units

Each branch of the armed services has its own in-house intelligence unit that provides intelligence specifically for that branch. Much of the intelligence produced by each of these units is tactical intelligence, with larger, strategic issues being worked out by DIA. The individual service intelligence units are: The 25th Air Force Division, Army Intelligence and Security Command (INSCOM), The Office of Naval Intelligence, Marine Corps Intelligence, and the Coast Guard Intelligence Unit (ODNI, n.d.-g). Except for the Coast Guard Intelligence Unit, which is under the purview of the Department of Homeland Security, all of these units fall under the DoD and the Joint CHiefs, and, again except for Coast Guard, do not coordinate with ODNI (Lowenthal, 2017).

Office of the Director of National Intelligence (ODNI)

The final member of the IC is ODNI, which coordinates and directs almost all of the intelligence produced by the U.S. government. For most of its history, the IC existed without an overarching coordinating body, which lead to issues of “stovepiping”--agencies refusing to share information with other agencies (Lowenthal, 2017). Issues of poor coordination and communication were largely responsible for the IC failing to anticipate the 9/11 terrorist attacks. In an attempt to correct these issues, Congress passed the Intelligence Reform and Terrorism Prevention Act of 2004 (IRTPA), which created the position of Director of National Intelligence (DNI) and the Office of the Director of National Intelligence (ODNI) (Lowenthal, 2017).

ODNI has has its own offices--called National Centers-- which coordinate activity within the IC for key issues (ODNI, n.d.-h). There are four National Centers: The National Counterterrorism Center (NCTC), The Cyber Threat Intelligence Integration Center (CTIIC), The National Counterproliferation Center (NCPC), and The National Counterintelligence and Security Center (NCSC) (ODNI, n.d.-h). ODNI and its National Centers ensure the implementation of the National Intelligence Program (NIP), which directs the actions of the IC (ODNI, n.d.-h). The Director of National Intelligence also serves as the President's and National Security Council's chief advisor on intelligence matters (ODNI, n.d.-h).



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Oversight Bodies

Regulatory bodies exist in each of the three branches of government to act as checks on the IC.

Executive Branch

The President: The President must approve all covert or classified foreign missions and has the ability to appoint intelligence committees and commissions. He also appoints the heads of the various intelligence agencies (Lowenthal, 2017).

The National Security Council (NSC): Created by the National Security Act of 1947, the National Security Council acts as the President's chief advisory board for all national

security issues. It is staffed by the President, the Vice President, the Secretaries of Defense, State, Treasury, and Energy, as well as the Chairman of the Joint Chiefs of Staff, the National Security Advisor, and the Director of National Intelligence. The NSC's main duty beyond its advisory role is that of coordination. The Council coordinates national security policy among different agencies and is required by law to be informed of intel activities, analyses, and findings (All Gov, n.d.).

The President's Intelligence Advisory Board (PIAB): Originally created by President Eisenhower during the Cold War, the PIAB serves as a source of independent appraisal of the IC. Consisting of 16 citizens who are not members of the government, the PIAB has access to all necessary information needed for them to assess the effectiveness of the IC. The PIAB issues reports on the quantity, quality, and reliability of the intelligence generated by the IC and makes recommendations on improvements to the IC to the President (White House, n.d.).

The Intelligence Oversight Board (IOB): The IOB is a standing committee within the President's Intelligence Advisory Board (PIAB) which consists of no more than four members. The IOB oversees the IC's compliance with the Constitution and all applicable legislation, executive orders, and presidential directives (White House, n.d.).

The Office of Management and Budget (OMB): The OMB is part of the Executive Office of the President and is responsible for budget and oversight for all executive agencies, including the IC. The OMB has many tasks including: 1) budget development and execution; 2) management of the agencies including oversight of agency performance, financial management, and information technology; 3) coordination of all federal regulations issued by executive agencies; 4) oversight of legislative coordination with federal agencies; 5) ensuring compliance by executive agencies with all executive orders and presidential memoranda.

Privacy and Civil Liberties Oversight Board (PCLOB): Created by the Intelligence Reform and Terrorism Prevention Act (IRTPA) in 2004, PCLOB was originally intended to review proposed laws, regulations, and executive branch policies pertaining to the IC to ensure

that privacy and civil liberties were not being infringed upon. However, because of vacancies on its board, PCLOB has been inactive since 2008 (DHS et al, 2013).

Legislative Branch

Senate Select Committee on Intelligence (SSCI): Created in 1976, SSCI provides critical legislative oversight of the IC. Composed of 15 Senators--8 from the majority party and 7 from the minority party--SSCI members must include two Senators (one from each party) who also serve on the Appropriations, Armed Services, Foreign Relations, and Judiciary Committees in order to ensure proper coordination among the relevant committees. SSCI conducts hearings, investigations, and reviews of intelligence activities and national security situations. The Committee also writes the annual legislation funding the IC as well as additional legislation limiting or permitting certain intel activities. SSCI also confirms all Presidential appointees to intelligence positions (SSCI, n.d.).

House Permanent Select Committee on Intelligence (HPSCI): Created a year after the establishment of SSCI, HPSCI serves as the House counterpart to the Senate Committee. Unlike SSCI's more bipartisan layout, HPSCI's membership is proportional to the party makeup of the House. The Committee has oversight of both the civilian and military intel agencies and has a hand in developing funding for the IC. The IC is also required by law to notify HPSCI of all covert action plans (Lowenthal, 2017).

Other Legislative Committees: The IC resides within several different executive agencies that all have different purview and oversight. Because of that expansive nature, other legislative committees have a hand in IC oversight as well, including: the House and Senate Armed Services Committees, the House and Senate Judiciary Committee, the House and Senate Homeland Security Committees, and the House and Senate Appropriations Committees (Lowenthal, 2017).

Judiciary Branch

Foreign Intelligence Surveillance Court (FISC or FISA Court): Commonly referred to as the "FISA Court" in reference to the Foreign Intelligence and Surveillance Act of 1978 which established it, the Court exists to provide a safeguard against warrantless searches and seizures conducted by the intel community. Consisting of 11 federal judges appointed by the Chief Justice of the Supreme Court, the FISA Court acts as the magistrate to issue secret warrants to the IC in national security cases. Should the IC wish to get a FISA warrant, the government must first prove the person they wish to collect on is an agent of a foreign power (FISA, 1978). The FISA Court is a controversial aspect of the IC and will be discussed in greater detail in the next chapter.

Inspectors General: Each executive agency, including the intel agencies, has an Office of Inspectors General and an Inspector General who has been appointed by the President and Confirmed by the Senate. The IG's job is to conduct audits and reviews of their organizations to ensure that all activities comply with federal law, executive orders, and agency policy. They must then report their findings to agency heads and to Congress (Lowenthal, 2017).

Legitimacy Crises and Their Legal Remedies

This chapter aims to expand upon our understanding of the IC by examining the legal framework that governs it in depth. More importantly, however, this chapter seeks to understand how legislation has impacted the legitimacy of the IC. The intelligence community has experienced major legitimacy crises in the past, and examining these events through a legislative and legal framework will provide the most useful understanding of these incidents. In chapter one, I argued that a bureaucracy depends on three things to establish legitimacy: transparency, accountability, and neutrality. The legislation chartering the IC has had an interesting interplay with these three principals, with accountability, in particular, ebbing and flowing depending on the demands of the nation. Ultimately, I aim to lay out the idea that the legal and legislative foundation of the IC is largely reactionary, mostly due to the opaque nature of the intel bureaucracy.

We see time and again, that legislative reforms of the IC are enacted only after the public becomes aware of some form of misconduct committed by the intel community. Namely, the IC is only reformed once it experiences a legitimacy crisis. I have argued that legitimacy, at its core, is based on public perception--do the American people perceive the IC as transparent, accountable, and neutral? We have seen that, historically, action is only taken against the IC whenever the public perceives that it has failed in some way. I am not writing this thesis to make a judgement call on the reactionary nature of intelligence legitimacy, but to merely point out the process and incidents I believe may trigger that process in the future.

The Intelligence Community is governed by a large body of laws and executive orders that both authorize and regulate its activities. The laws that have a hand in regulating and

authorizing the IC are so numerous that an exhaustive exploration of them would eventually be meaningless. Every budget bill and military-related bill, not to mention all of the laws and executive orders passed that explicitly relate to the IC, touch on some aspect of IC operation (Lowenthal, 2017). Instead, we will look at the major laws, executive orders, and directives that affect the IC.

The most important authorization of the IC is possibly the most overlooked. It is easy to look at the various laws and regulations that have been established over the past couple decades and forget to pay attention to the foundation of the whole enterprise: the Constitution. The IC--and any other federal agency-- could not exist if the Constitution did not provide a means for its existence. In Article II, Section 2 of the Constitution, the Framers wrote that the President may "require the Opinion, in writing, of the principal Officer in each of the executive Departments, upon any Subject relating to the Duties of their respective Offices" (U.S. Const., Art. II, Sec 2). By acknowledging the existence of potential executive offices and departments, the Constitution, in turn, allows for their creation ("Executive Agencies," n.d.). In Article II, Section 3, the Constitution says that the President must "take Care that the Laws be faithfully executed" (U.S. Const., Art. II, Sec. 3), which has also been cited as the grounds for the creation of executive agencies as these offices are the means by which the President carries out this task ("Executive Agencies," n.d.).

The President also has an obligation to protect the nation. The President serves as the Commander in Chief of the military and, upon taking the oath of office, swears to "preserve, protect and defend the Constitution of the United States" (U.S. Const., Art. II, Sec. 1). This obligation to act as the country's chief protector, gives the President a powerful argument for the creation of national security-focused agencies (Lowenthal, 2017). Interestingly, though executive agencies ultimately answer to the president, they are created by an act of Congress and are, in part, regulated by Congress as well.

The Constitution grants Congress the ability to regulate federal agencies with the “power of the purse” (“Executive Agencies,” n.d.). In Article I, Section 9, Congress is given the ability to create appropriations bills to fund government functions (U.S. Const., Art. I, Sec. 9), and the allocation, or lack thereof, of funding, acts as a powerful regulatory check on the IC and other executive agencies. Though not explicitly laid out in the Constitution, Congress also has the power to create committees to oversee agencies and investigate their doings.

The National Security Act, 1947

For nearly two centuries, the Constitution remained the only major authorization for any type of potential intelligence agency. This worked, as prior to WWII U.S. intelligence efforts were rooted solely within the military and typically disbanded following wartime (Lowenthal, 2017). This changed, however, when Congress passed the National Security Act of 1947 following the end of WWII and in anticipation of the Cold War. The Act created the modern security apparatus as it both rearranged the structure of the U.S. military and created the first permanent civilian intelligence agency. The National Security Council, established under the Act, became the nation’s chief national security advisory body. The Act also consolidated the military under the Joint Chiefs of Staff and created the position of Secretary of Defense (The National Security Act, 1947). Both the National Security Council and the Department of Defense (hereafter DoD) have a huge hand in both intelligence creation and regulation. More groundbreaking, however, was the National Security Act’s creation of the Central Intelligence Agency--the first agency of its kind.

The Act is not very specific when laying out the CIA’s charter. Section 102, subsection d. states that the CIA’s duties are:

“(1) to advise the National Security Council in matters concerning such intelligence activities of the Government departments and agencies as relate to national security;

(2) to make recommendations to the National Security Council for the coordination of such intelligence activities of the departments and agencies of the Government as relate to the national security; (3) to correlate and evaluate intelligence relating to the national security, and provide for the appropriate dissemination of such intelligence within the Government using where appropriate existing agencies and facilities: PROVIDED, That the Agency shall have no police, subpoena, law-enforcement powers, or internal-security functions: PROVIDED FURTHER, That the departments and other agencies of the Government shall continue to collect, evaluate, correlate, and disseminate departmental intelligence: AND PROVIDED FURTHER, That the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure;

(4) to perform, for the benefit of the existing intelligence agencies, such additional services of common concern as the National Security council determines can be more efficiently accomplished centrally;

(5) to perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct (The National Security Act, Sec. 102, 1947)."

The general language in this section has allowed the CIA a large field to operate within, essentially only limiting it by forbidding the agency police or subpoena power, ensuring it only operates in the foreign sphere. The National Security Act also laid out a CIA that would act as the clearinghouse and chief coordinator of all American intelligence, with the Director of Central Intelligence (DCI) at its helm--the Act stating that all of the duties given to the CIA would be "for the purpose of coordinating the intelligence activities of the several Government departments and agencies in the interest of national security." (The National Security Act, Sec. 102, 1947)

The DCI would act as the head of the National Security Council and the Director of the CIA. He would simultaneously be in charge of coordinating all intelligence produced in the U.S. and in charge of directing an individual agency within that intelligence structure (Lowenthal, 2017), (The National Security Act, 1947). This would cause issues later down the road when other, powerful intelligence agencies emerged and each agency fell into the trap of its own parochialism, with the DCI acting more as chief of the CIA than chief of the IC. This major structural problem would cause the U.S. to overlook the intelligence pointing to 9/11, leading the IC to undergo a massive structural overhaul in 2004 (more on this later) (Lowenthal, 2017).

The National Security Act was groundbreaking for American intelligence, as it marked the establishment of the IC as we know it today. That being said, the National Security Act provided almost no legal direction for the infant CIA. Limiting the CIA so that it had “no police, subpoena, law-enforcement powers, or internal-security functions” (National Security Act, Sec. 102, 1947) was a step towards ensuring accountability and neutrality, as it prevented the CIA from acting as a domestic spy agency and muddling the line between law enforcement and intel. However, this accountability was limited, with no Congressional oversight established and not even a detailed charter to act as a guiding principle for the CIA.

The weakness of the National Security Act led to the CIA and subsequent agencies filling in the gaps left by the vague legislation with their own ideas of what was within their purview. And, with these agencies having only to answer to the President, there was ample opportunity for abuse.

The Foreign Intelligence and Surveillance Act (FISA), 1978

Following the National Security Act in 1947, there were no major laws relating to the IC passed for decades. That does not mean that the IC did not change during that period of time-- in fact, it greatly expanded during those decades in response to the Cold War. The urgency to outmaneuver the Soviet Union led to a Wild West where the IC faced little oversight and

operated far beyond its original scope (Schwarz, 2008). Most of the IC's transgressions were found to have been known and sanctioned by the executive branch with the "assumption that the government's role would remain forever secret" (Schwarz pp. 23, 2008).

This all came to light in 1975 when the United States Senate Select Committee to Study Governmental Operations with Respect to Intelligence Activities--nicknamed the "Church Committee" after its Chair Senator Frank Church--exposed these abuses. Because the mandates controlling the IC were so few and so vague and because little to no oversight existed during the early part of the Cold War, the IC was able to fill in the cracks in order to pursue nebulous goals like national security, subversion, and containment. These buzzwords offered little guidance to the powerful spy bureaucracy, and the IC quickly began overstepping its bounds, infringing on civil liberties and international norms (Schwarz, 2008).

Senator Church and his Committee exposed a myriad of abuses, particularly towards domestic groups and American citizens the IC and politicians deemed "subversive," like the Civil Rights Movement and anti-Vietnam War protests. Most damnable was the FBI's effort to destroy Dr. Martin Luther King Jr. by attempting to induce him into committing suicide. The Church Committee showed that the IC, with executive branch knowledge, had knowingly used illegal means to spy on and harass citizens and infiltrate entirely lawful domestic groups. IC agencies conducted illegal wiretaps, illegally opened mail, and, chillingly, tested experimental combat drugs on unknowing Americans (Schwarz, 2008).

Beyond spying on potentially "subversive" American citizens, the Church Committee exposed Presidents using the IC to spy on political rivals at home and abroad. Multiple assassination plots were hatched within the walls of Langley, including multiple attempts to assassinate Fidel Castro, with the CIA even reaching out to the Mafia for help. The IC also orchestrated a number of coupes and revolutions in order to expel democratically elected socialist or communist governments--most notably that of Iranian Prime Minister Mohammad Mosaddegh whom the U.S. replaced with his monarchical predecessor. This attempt at Soviet

containment would notoriously backfire in 1979 with the explosion of the anti-American Iranian Islamic Revolution (Schwarz, 2008).

These were some of the darkest days for American democracy and legitimacy, as the controversy exposed by the Church Committee would permanently scar the reputation of the IC hereinafter. We discussed in Chapter One about how nutreality, transparency, and accountability were essential for a bureaucracy to maintain its legitimacy, however, the Church Committee showed that, during the early part of the Cold War, the IC had not been held to any of these mandates. The spy agencies and the Presidents and Executive Branch officials who allowed them to operate in such an illegal way essentially undermined the entire intelligence enterprise by enabling actions under the “assumption of perpetual secrecy, nonexistent oversight, and vague, fuzzy mandates” (Schwarz pp. 22, 2008).

The Church Committee's shocking findings outraged lawmakers and citizens alike, and prompted Congress to pass the Foreign Intelligence Surveillance Act (FISA) in 1978 in order to reign in the rogue IC and make it more accountable to the American people.

One of the most egregious violations of civil liberties that had been committed by the IC during the Cold War was its illegal surveillance of U.S. persons and groups in the name of national security (Schwarz, 2008). FISA directly addressed this issue by requiring the IC to get prior authorization (a warrant) in order to conduct a search, even in cases involving foreign agents and national security (DHS et al, 2013a). In order to ensure the secrecy necessary to carry out intelligence operations, FISA created the Foreign Intelligence Surveillance Court (commonly called the FISA Court) which is a special Federal Court that holds nonpublic sessions during which it will grant the IC secret warrants (DHS et al, 2013a).

In order for the IC to conduct a wiretap on a “foreign power” or an “agent of a foreign power” suspected of espionage or, as later amended, terrorism, the government must first acquire a warrant from the FISA Court (FISA, 1978). A “foreign power” or “agent of a foreign power” could be a U.S. citizen, a permanent resident alien, or a U.S. corporation, and, if that is

the case, FISA has additional requirements the IC must meet before it is granted a warrant (DHS et al, 2013a). Unlike a traditional criminal warrant, when first passed, FISA required the government to demonstrate probable cause to “believe that ‘target of the surveillance is a foreign power or agent of a foreign power,’ that ‘a significant purpose’ of the surveillance is to obtain ‘foreign intelligence information,’ and that appropriate ‘minimization procedures’ are in place” (DHS et al, 2013a), (FISA, Sec. 1801, 1978). These requirements would later be updated with the passage of the USA PATRIOT Act, and these new requirements would cause a legitimacy crisis of their own.

Though FISA largely was created to deal with illegal wiretaps and other electronic surveillance, it also dealt with the issue of physical searches, pen registers, trap and trace devices, and acquiring third party business records for intelligence purposes. In all of these cases, the warrant acquisition process is the same, with the same levels of burden of proof, as the electronic and wiretap warrant acquisitions (DHS et al, 2013a).

There is an aspect of FISA that is of particular note, as it had a part to play in one of the IC's most pressing legitimacy crises decades after the passage of FISA --that of the NSA's mass collection program. This issue will be addressed in detail later in the chapter, so for now, a mention of this aspect of FISA will suffice. In the event that the IC accidentally intercepts communications "under circumstances in which a person has a reasonable expectation of privacy and a warrant would be required for law enforcement purposes, and if both the sender and all intended recipients are located within the United States," (FISA, Sec. 101, 1978) then the government is required to destroy those records (FISA, 1978). The IC must do this "unless the Attorney General determines that the contents indicate a threat of death or serious bodily harm to any person" (FISA, Sec. 101, 1978).

Similar to how normal criminal warrants make exceptions for exigent circumstances, FISA too has an exception to the warrant requirement. The President is allowed to authorize electronic surveillance for foreign intelligence purposes for up to one year without the IC

needing to obtain a FISA warrant (DHS et al, 2013a). The President may do this only if the Attorney General certifies that there is "no substantial likelihood that the surveillance will acquire the contents of any communication to which a U.S. person is a party," provided the surveillance is directed solely at communications among or between foreign powers, or 'the acquisition of technical intelligence ... from property or premises under the open and exclusive control of a foreign power'" (DHS et al, 2013a), (FISA, Sec. 102, 1978).

In its original iteration, FISA created a means of accountability for the IC, something that it lacked and desperately needed. The success of the Church Committee too proved that the IC was able to be held accountable by the newly created Senate Select Committee on Intelligence. By bringing in both Congress, through HPSCI and SSCI, and the judiciary, through FISC, FISA also bolstered the IC's neutrality. No longer were the intel agencies beholden only to the President, and subject only to his whims.

FISA has been amended several times, often as part of larger national security legislation. During the post-9/11 era, FISA was greatly rolled back, and post-Snowden leaks, FISA was strengthened and made more transparent. This ebb and flow of FISA's purview was part of larger measures and will be examined in greater detail when the laws that amended FISA are discussed later in this chapter. Despite the changing nature of FISA, it has been a bedrock of the IC's legitimacy. FISA laid the groundwork for a more lawful IC and cleared up the legislative vagueness that allowed the spy agencies and the executive branch to run free. The Church Committee showed just how dangerous an unchecked intelligence apparatus could be, and FISA was the first of Congress's attempts to reign it in.

The Intelligence Oversight Act, 1980

Shortly after Congress passed FISA, the Intelligence Oversight Act was introduced in order to further the government's regulation of the IC and bolster its accountability. This law made Congressional oversight of the IC explicit, overturning an earlier law that required the

President to report all CIA covert activities to Congress, instead making the IC directly accountable to Congress. With the passage of the Intelligence Oversight Act, the IC--and CIA specifically when covert operations are proposed--must keep the House Permanent Select Committee on Intelligence (HPSCI) and the Senate Select Committee on Intelligence (SSCI) informed of its operations (Intelligence Oversight Act, 1980).

The IC must keep the Intelligence Select Committees "fully and currently informed" of any "significant anticipated intelligence activity" and the directors of each intelligence agency must "(1) furnish information requested by the Select Committees on Intelligence; and (2) report in a timely fashion to such committees any illegal intelligence activity or significant intelligence failures" (Intelligence Oversight Act, Bill Summary, 1980). This does not mean that the IC must first get Congressional approval before carrying out an intelligence operation, merely that Congress must know of its existence. This may seem like an Act with no teeth, but Congress still retains the "power of the purse." Should the IC choose to take "significant intelligence action" contrary to Congress's wishes, Congress retains its power over the IC's budgets.

The Intelligence Oversight Act represents the first major attempt by Congress to make intelligence--particularly the operational side--more transparent. Though the majority of the American people cannot be kept abreast of what the IC is doing, those who represent the American people (and who hold security clearances) now have the explicit ability to demand transparency.

Executive Order 12333, 1981

In the year following the passage of the Intelligence Oversight Act, President Ronald Reagan issued one of the most important Executive Orders to deal with the IC. Executive Order 12333 did what many critics of the IC had wanted for a while: it enumerated the roles and responsibilities of the IC as a whole as well as those of specific agencies (Ex. Order 12333, 1981). The Order also laid out an extensive list of rules of conduct that intel agencies must

follow in order to protect civil liberties, such as not conducting illegal searches and seizures, a ban on human experimentation without the consent of the subject of the experiment, a ban on assassinations, and others (Ex. Order 12333, 1981). Executive Order 12333 has existed largely unchanged since President Reagan's issuance in 1981, though President George W. Bush amended it in 2004 and 2008 in order to account for the restructuring of the IC and the creation of the DNI and ODNI (Ex. Order 12333, 1981). Executive Order 12333 has provided a clear layout for the IC, and it has become one of its key guiding principles.

The cumulative effect that FISA, the Intelligence Oversight Act, and Executive Order 12333 had on the IC was transformative. These laws created a system of accountability for the IC, and they demanded neutrality and transparency. FISA, the Intelligence Oversight Act, and Executive Order 12333 amounted to a legitimate and largely successful attempt to rectify many of the problems and abuses committed by the IC in the early Cold War. However, the Church Committee and the laws it inspired were not without their critics, especially after 9/11. Journalist Chris Mooney explains, "The Church bashing began the day of the World Trade Center massacre...when former Secretary of State James Baker said that Church's hearings had caused us to 'unilaterally disarm in terms of our intelligence capabilities'" (Mooney, para. 4, 2001). This sentiment was not uncommon among conservative politicians and commentators, even author Tom Clancy--known for his spy novels--attacked Church, saying "The CIA was gutted by people on the political left who don't like intelligence operations, and as a result of that, as an indirect result of that, we've lost 5,000 citizens this week" (Mooney, para. 4, 2001).

9/11 was an unimaginable disaster, and much of the blame for the IC's inability to predict the attacks is very much deserved. Experts and former intelligence professionals blamed the IC's failure to predict the 9/11 attacks for a myriad of reasons. Many blamed the laws that were put in place following the Church Committee findings, saying they put an undue burden on the IC (Smith, Bergman, & O'Connor, 2001). Others pointed to the IC's inability to adapt to the changing threat landscape after the end of the Cold War, the IC's lack of analysts with Arabic

language skills, and the chilly relationship between the CIA and FBI (Smith, Bergman, & O'Connor, 2001). Jeffrey Smith, former General Counsel to the CIA who personally drafted some of the regulations under fire, had a prescient viewpoint:

"It is premature to conclude, simply because there are a lot of rules passed by Congress, by the way, signed by a number of presidents of both parties going all the way back to President Ford... I think it is wrong to conclude in a simplistic fashion that these rules and regulations, which have been designed to constrain the activities of an intelligence agency in a democracy... I think it's a mistake to immediately conclude that those rules need to be thrown out just because of this one terrible intelligence failure" (Smith, Bergman, & O'Connor, para. 74, 2001).

The fallout from 9/11 caused massive upheaval in the IC, as it was both restructured from the ground up and massively expanded, both in size and in scope. This expansion and the new intelligence practices it brought with it would cause the largest legitimacy crisis for the IC since the Church Committee's findings came to light.

USA PATRIOT Act, 2001

Merely six weeks after the September 11 attacks, Congress passed the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act, mercifully nicknamed the PATRIOT Act, with overwhelming bipartisan support (Dept. of Justice, n.d.). The Act's goal was to build upon the tools law enforcement already used in drug and organized crime cases and extend them to terrorism cases. Before the passage of the PATRIOT Act, many means of investigation used in organized crime cases, such as wiretaps, were not legally extended to terrorist cases. Then-Senator Joe Biden said during the floor debates of the PATRIOT Act, "The FBI could get a wiretap to investigate the mafia, but they could not get one to investigate terrorists. To put it bluntly, that was crazy! What's good for the mob should be good for terrorists." (107 Cong. Rec., p. 9,10/25/01)

The PATRIOT Act gave investigators more power to conduct surveillance of suspected terrorists by allowing wiretaps to be used, including the highly controversial "roving wiretaps," which, unlike traditional wiretaps, which are authorized to be used on a particular phone or communications device; roving wiretaps were authorized to be used on a particular suspect and all of their numerous personal communication devices--such as cell phones, computers, and pagers (Abramson & Godoy, 2006), (Dept. of Justice, n.d.). The Act also gives law enforcement the ability to obtain a delayed notification warrant, commonly known as a "sneak and peek warrant," meaning that, should there be reasonable suspicion that the suspect would flee, destroy evidence, or take any other action to avoid arrest should they be informed of the warrant, then law enforcement can conduct the search prior to giving notice to the suspect (Dept. of Justice, n.d.).

Critics' main argument against both the roving wiretaps and sneak and peek warrants are that they could lead to privacy violations. Sneak and peek warrants have been found constitutional in criminal cases, which have a much higher criteria for obtaining a wiretap, thus critics' concerns were moot. However, because the language in the PATRIOT Act is particularly broad when concerning roving wiretaps, privacy issues are especially concerning. Critics say that the roving wiretaps, because they are attached to all of the suspect's communication devices, could cause potentially privacy violations with anyone who comes in contact with the suspect (Abramson & Godoy, 2006). But, like sneak and peek warrants, roving wiretaps have been found constitutional in criminal cases and have been used in this capacity for years.

The PATRIOT Act also allowed law enforcement to obtain a search warrant anywhere a terrorist-related activity occurred, regardless if that was to be the jurisdiction where the warrant was to be executed (Dept. of Justice, n.d.). Critics said that law enforcement's ease of obtaining a FISA warrant could potentially harm civil liberties, as, because FISA warrants are secret and the burden of proof is much lower than for criminal warrants--all that the government must do is

prove the suspect is an agent of a foreign power--then law enforcement could get around the traditional warrant process by obtaining a FISA warrant (Abramson & Godoy, 2006).

The PATRIOT Act also increased the penalties for those who commit terrorist acts, for those who help or harbor terrorists, and those who provide material support for terrorist groups. Knowingly harboring anyone who has committed or plans to commit terrorist offenses was now illegal, and maximum penalties for terrorist-related crimes, such as arson and destruction of national-defense materials, increased along with the penalties for conspiracy to commit terrorist acts. The PATRIOT Act also eliminated the statute of limitations for certain terrorist-related crimes (Dept. of Justice, n.d.).

Another controversy surrounding this section of the PATRIOT Act concerned the ban on giving material support to terrorist groups. Critics said it infringed on the First Amendment, as well as set up a possibility of guilt by association (Abramson & Godoy, 2006). It was also conceivable that a person could unknowingly give material support to a terrorist group. Many groups have charity organizations set up as fronts for fundraising activities, and it is reasonable to assume that not everyone who gives to these charities may be aware of the terrorist activities their money is actually going to fund (Etzioni, 2004).

One of the most controversial aspects of the PATRIOT Act was its facilitation of information sharing between law enforcement and intelligence agencies, which was a major criticism aimed at the IC following its failure to predict the September 11 attacks (Dept. of Justice, n.d.). Prior to the PATRIOT Act, FISA had created a "wall" between law enforcement and intelligence, which limited information sharing. The fear was that, because FISA warrants had a much lower threshold to obtain--intelligence agencies needed only to prove that the "primary purpose" of the warrant was to collect information for intelligence and national security purposes--they do not meet the standard of a criminal warrant that is held to fourth amendment scrutiny (Seamon & Gardner, 2005). Because intelligence agencies do not have law enforcement powers, this lower standard for a FISA warrant did not infringe on fourth

amendment rights as the information obtained through it would not be used to prosecute. The PATRIOT Act changed the language of that FISA statute, instead rewording it to say that intelligence gathering needed to be a "significant purpose" of the warrant rather than the previous "primary purpose." Essentially, this tore down the wall between intelligence and law enforcement, as now prosecutorial purposes could be among those used for the application for the warrant (Sales, 2010).

When the PATRIOT Act eliminated the wall between the IC and law enforcement agencies, critics feared that law enforcement bodies would use information obtained through a much less stringent FISA warrant to obtain information that would later be used in a criminal case (Sales, 2010). Though this amendment of FISA made it easier for the IC and law enforcement to find and prosecute terrorists, it put civil liberties at risk. This has amounted to a major blow to both accountability and neutrality, though largely for law enforcement agencies.

Another majorly controversial part of the PATRIOT Act was Section 215, known as the "Tangible Things" or "Business Records" provision. It amends FISA so that it permits the collection of "tangible things (including books, records, papers, documents, and other items) for an investigation to obtain foreign intelligence information" (USA PATRIOT Act, Sec. 501, 2001). These items could be collected as long as they did not pertain to a U.S. person, though, should the IC look for information of this nature associated with a U.S. person, then it must be relevant to preventing terrorism or espionage (Mann, 2014). At the time, critics said that the breadth of this provision could potentially encompass all types of paper and documents, including library and bookstore records (Abramson & Godoy, 2006), but the scope of its interpretation went far beyond that. Section 215 is notorious, as it is the section that the government interpreted as permitting the NSA's bulk collection of metadata, which only came to light in 2013 with the Edward Snowden leaks (Mann, 2014). (More on this later in this chapter).

The PATRIOT Act essentially rolled back some of the most fundamental aspects of FISA, creating for itself a series of legitimacy crises. The Section 215 and the "significant

purpose" clause especially were harmful to the IC in the long run, as they seriously threw the agencies' accountability into question. By making it easier for the IC to spy on U.S. citizens and for law enforcement agencies to access information not gathered through a criminal warrant, the PATRIOT Act was often at odds with the Fourth Amendment. The fallout from the PATRIOT Act was not isolated to the law's immediate passage, as the effects of Section 215 were felt far into the next decade.

Intelligence Reform and Prevention Act (IRTPA), 2004

Three years after the passage of the PATRIOT Act, Congress passed the Intelligence Reform and Terrorism Prevention Act (IRTPA). IRTPA did what many inside the IC and the government had been asking for since 9/11--that is, streamline the IC and make intelligence sharing within the IC easier (DHS et al, 2013b). IRTPA created the Director of National Intelligence and the Office of the Director of National Intelligence to take over as the head of the IC, a position that nominally fell to the Director of Central Intelligence previously (for more information about the DNI and ODNI, see chapter 2). Within ODNI, IRTPA established the National Counterterrorism Center (NCTC), which would serve as a multiagency clearinghouse, analyzing and integrating all intelligence pertaining to terrorism within the IC (DHS et al, 2013b).

Along with these streamlining efforts, IRTPA also created the Information Sharing Environment (ISE), the ISE Program Manager (PM-ISE), and the Information Sharing Council (ISC) in order to help fix the IC's pigeonholeing problems. The ISC would create information-sharing policies, and the PM-ISE would implement them across the IC (DHS et al, 2013b).

IRTPA also established the Privacy and Civil Liberties Oversight Board (PCLOB), which was subsequently made into an independent federal agency. PCLOB was intended to review proposed laws, regulations, and executive branch policies to ensure that privacy and civil liberties are "appropriately considered," and to ensure that guidelines and considerations were made for the protection of civil liberties. PCLOB, however, has been inactive since 2008, as it

has been unable to perform its duties due to unfilled vacancies on its board (DHS et al, 2013b). The inactivity of PCLOB means that this oversight board is essentially useless, existing in name only. Though the idea would be a significant bolster to the IC's accountability, PCLOB is essentially hollow.

More successfully, IRTPA requires each executive department or agency that possesses law enforcement or anti-terrorism functions to designate a privacy and civil liberties officer. The Civil Liberties Protection Officer is separate from the Inspector General of each agency and cannot compel the agencies to do anything and is not required to issue reports to Congress (DHS et al, 2013b). Unlike PCLOB, this section of IRTPA has been much more successful, and has strengthened both the IC's accountability and neutrality.

Following IRTPA, there were few pieces of groundbreaking legislation passed that pertained to the IC. In 2007, Congress passed the Implementing Recommendations of the 9/11 Commission Act (the 9/11 Commission Act), though that act largely built upon what IRTPA had already established. The major IC-related thing to come out of the 9/11 Commission Act was the creation of Department of Homeland Security Fusion Centers, which would foster partnerships and cooperation between state, local, tribal, and regional law enforcement (DHS et al, 2013c).

Several years passed before the IC had to face a legislative overhaul again, but when it did, the new legislation was to rectify the cause of one of the IC's largest legitimacy crises ever. In 2013, Edward Snowden, a former contractor for the NSA, leaked a court order that showed that the agency was gathering detailed call records from Verizon's customers on a daily basis (Nakashima, 2015). This revelation set off a tailspin of debate and distrust that hadn't been seen in the U.S. since the Church Committee. The NSA said that it had interpreted Section 215 of the PATRIOT Act in a way that permitted the bulk collection of metadata in the event that the data could be used to foil a terrorist plot (Nakashima, 2015). The data collected contained the date, time, and duration of calls to and from all phone numbers, though any specific personal identifying information was not included (Mann, 2014). This did not quell the critics, however,

with many arguing that, even without the identifying information, the metadata could reveal intimate details of a person's life and amounted to a warrantless search and seizure under the Fourth Amendment (Mann, 2014).

USA FREEDOM Act, 2015

The government scrambled to rectify this breach of personal liberty, and in June 2015, Congress passed the Uniting and Strengthening America by Fulfilling Rights and Ensuring Effective Discipline Over Monitoring Act, shortened to the USA FREEDOM Act (USA FREEDOM Act, 2015). The main purpose of the Act was to ban the NSA's bulk collection program, instead requiring the IC to make any FISA applications for call records with a "specific selection term," defined as a term that "specifically identifies a person, account, address, or personal device" in an attempt to limit the scope of the search (USA FREEDOM Act, Sec. 501, 2015).

The NSA bulk collection program--called PRISM-- utilized a complex series of "hops" to help identify which phone numbers' data to collect. Author Fred Kaplan explains the "hops" the best: "When the NSA found someone in contact with foreign terrorists, its analysts could go back and look at every phone number the suspect had called (and every number that had called the suspect) for the previous five years. The retrieval of all those associated numbers was called the first 'hop.' To widen the probe, analysts could then look at all the numbers that *those* people had called (the second hop) and, in a third hop, the numbers that *those* people had called" (Kaplan, p. 230, 2016).

The USA FREEDOM Act aimed to tighten the access to those "hops" by applying burdens of proof the NSA must meet before collecting on that hop. The NSA could collect on the first hop--the people who had called and been called by the suspect--only if "reasonable grounds to believe that the call detail records sought to be produced on [a] specific selection term...are relevant to [an authorized] investigation," and it has "a reasonable articulate

suspicion" that the selected term (i.e. the suspect or suspected phone number, etc.) is "associated with a foreign power engaged in international terrorism or activities in preparation therefore, or an agent of a foreign power engaged in international terrorism activities in preparation therefore" (USA FREEDOM Act, Sec. 101, 2015), (Liu, 2015). In order for the NSA to collect information on people within the second hop--those who have had contact with people who have had contact with the suspect--the NSA must have "session-identifying information or a telephone calling card number identified by the specific selection term," i.e., they must show that a person within the second hop is also associated with terrorist activities (USA FREEDOM Act, Sec. 501, 2015) (Liu, 2015). Third hop searches are no longer allowed.

The Act imposes similar guidelines for pen registers and trap and trace devices, and makes any information garnered from collection deemed by the FISA court to be "deficient concerning any U.S. person" to be inadmissible in court (USA FREEDOM Act, Sec. 702, 2015). The Act also requires the "prompt destruction of all call detail records" that are determined to not pertain to foreign intelligence information (USA FREEDOM Act, Sec. 501, 2015), (Liu, 2015). The FREEDOM Act also makes exception for "roamers" to the prohibition on targeting of U.S. persons. The Act defines "roamers" as a lawfully targeted non-U.S. person who suddenly, and for a brief period of time, shows up in the United States (Liu, 2015).

This section of the FREEDOM Act tackles the bulk collection issue head-on in attempt to reclaim some of the legitimacy the IC lost in the opinion of the American public. With the end more-indiscriminate bulk collection, the NSA was held more accountable to the Fourth Amendment of the Constitution.

The rest of the FREEDOM Act deals with reforming the FISA Court in an attempt to make the secret court more transparent. The Act allows for the appointment of amici curiae to assist the Court with with issues where the amici can present a "novel or significant interpretation of the law," though only when the FISA Court deems such matters relevant (Liu, para. 9, 2015). The FREEDOM Act also allows for a limited appellate review of the FISA Court

by allowing questions of law posed by the FISA Court to be reviewed by the U.S. Supreme Court (USA FREEDOM Act, 2015). The Act also requires the DNI to perform a declassification review of Court opinions that include any significant interpretation of law and to make certain parts of that opinion publically available (Liu, 2015). In addition to declassified sections of these significant cases, the FISA Court must also disclose to Congress and the public "various items regarding the number of orders and certifications sought and received; estimates of the number of people targeted and affected by surveillance; and the number of appointments of amici curiae" (Liu, para. 10, 2015).

The USA FREEDOM Act has been the most recent major act of legislation to affect the IC. A study of the evolving regulatory information surrounding the IC shows a pattern of ebb and flow, with the intelligence community going through periods where it oversteps its bounds and infringes on civil liberties and periods where the government acts to rectify those wrongs. However, though there are periods of ups and downs, the regulation of the IC is continuously moving forward, as the government attempts to find a regulatory sweet-spot. The Intelligence Community is critical for national security, but understanding how to regulate it in a democracy that holds civil rights and liberties in high regard has proven to be challenging. The IC, at its core, is secretive, opaque, and exclusive--anathema to a democratic bureaucracy, and this disjointed relationship has lead to several legitimacy crises. The legislative correction of the IC is a reactionary process; however, the government has largely been able to address the issues at the core of the crises. In the next chapter we will explore the three largest crises the IC has ever had to deal with, and we will later compare those to another potential crisis that could be around the corner.

Current Questions of Illegitimacy and What They Mean for the IC

The previous chapter made it clear that the intelligence community's legitimacy has been in flux for as long as it has existed. The IC has had periods where it has seriously been questioned as an institution, and rightfully so. Much of the IC's standing is dependent on how reactive it is to public opinion and public censure. In Chapter One, we explored how, in order to establish legitimacy in a democratic society, bureaucracies must maintain neutrality, transparency, and accountability. However, because of the nature of intelligence and spying, the IC has a major hurdle to overcome. It cannot be truly transparent. Thus, the intelligence community relies inordinately on neutrality and accountability, with varying levels of success throughout its history. Lapses in accountability have severely crippled the IC in the past, leading Congress to restructure the whole enterprise several times (see Chapter 3). Lapses in accountability to the American people is par for the course for the U.S. spy agencies, and our lawmakers have become sensitive to this and have attempted to create systems to safeguard against it.

However, over the past three years, a new question of illegitimacy has begun to plague the IC. Prominent voices have begun to question the agencies' neutrality, often publicly and vehemently. The leading critic of the IC is President Donald Trump himself, with many within the Republican Party and executive branch agreeing with his critiques. (However, a significant number of Republicans, many involved in the national security sector, have come out directly against the President's assessment of the IC, which we will discuss later in the chapter.) The major question the IC and the American people are faced with now is: how is this different from last time? Are the questions of the IC's neutrality as legitimate or as serious as the questions of

its accountability? Can we compare President Trump's distrust of the IC to the major legitimacy failures that have plagued the spy institutions in the past? To do this, we must compare the two, paying close attention to whether the current accusations are true and from where they stem.

One of the major differences between past accusations (the ones which we explored in depth in the previous chapter: the Church Committee findings, the fallout from the PATRIOT Act, and the NSA's mass collection program) is that the scandals the IC faced in the past were proven to be happening. Congressional and legal investigation into these incidents showed them to be true and made them known to the American people--thus the IC was able to be held accountable. These accusations of politicization, though, have yet to be investigated and thus have not been proven to be true. This thesis is not a federal investigation, so determining, without a shadow of a doubt, the IC's neutrality is far beyond its scope. However, there is a wealth of evidence publicly available that shows that the IC as an institution is largely an objective actor--regardless of bureaucrats' personal opinions.

Last chapter, we explored how the IC was able to become illegitimate in the past and how Congresses and Presidents then were able to rectify that issue. In the three major incidents we discussed--Church, the PATRIOT Act, and the NSA's collection program--we saw that the IC was able to act unrestrained by law, allowing it to conduct intelligence activities without regard to civil liberties. In each of these cases, the laws governing the IC were not clear or well defined (or in the case of the PATRIOT Act, the laws were too hastily and emotionally written) so the IC was able to fill in the gaps of the law with its own interpretation, giving these powerful agencies too much leeway.

After each of these incidents, the IC had to be reformed and reworked. One of the biggest issues the IC faces is that its accountability process is reactionary. Because it cannot be transparent, it is often not held accountable until issues are exposed by an outside entity--typically Congress or whistleblowers. The reactionary nature of IC reform has seriously undercut the agencies' legitimacy in the past; however, the opacity of the IC, though frustrating for

lawmakers and citizens alike, is necessary for it to do its job. You cannot have an effective spy or intel agency without a degree of secrecy. This can make the IC a magnet for criticism, but, as we saw in Chapter 3, the intelligence community has been able to be revised several times in order to make it more accountable to Congress and citizens. The House Permanent Select Committee on Intelligence, the Senate Select Committee on Intelligence, and the IC's internal inspector generals have all been bedrocks of intelligence accountability. Though the IC is only held directly accountable to small, select bodies, the intel community has become much more palatable to our democracy with these changes.

Current Criticisms: A Question of Neutrality

This brings us, then, to the newest conundrum facing the IC. On August 17 2016, then-candidate Donald Trump received his first briefing from the intelligence community after a campaign rife with critiques of the IC. That morning, when asked by a Fox News anchor whether he trusted the intelligence community, Trump replied that he did not. Trump stated, "Not so much from the people that have been doing it for our country...I mean, it's been catastrophic. In fact, I won't use some of the people that are standards...I won't use them because they've made such bad decisions" (Hayden, pp. 68 2018). President Trump made similar statements throughout his campaign, once publicly questioning the need for the President's Daily Brief (PDB)—one of the most important intelligence products produced by the IC, by saying, "I don't have to be told—you know, I'm, like, a smart person. I don't have to be told the same words every single day for the next eight years" (Gonyea, para. 9, 2016).

This lack of understanding of the IC and its importance, as well as the blatant lack of trust in the IC, irked many national security professionals, but the President has not been the only critic of the intel community during his tenure in office. Trump and his supporters seem to advocate for the notion of the existence of a "deep state"—the idea that there is a double government of sorts, one that is public and duly elected, and one that is composed of career

bureaucrats who enact their own policy agenda regardless of the electorate's desires. The "deep state" has been an enduring notion, as the very nature of bureaucracy, particularly in regards to a powerful national security bureaucracy, is, at its core, shadowy and undemocratic (for more on this topic, see chapter 1) (Glennon, 2015). The critique that the IC acts as a deep state is a common one among its critics. Former Speaker of the House Newt Gingrich has said, "Of course the deep state exists...they create a lie, spread a lie, fail to check the lie, and then deny that they were behind the lie" (Hannity, para. 8, 2017). Political pundit Sean Hannity takes it one step further, saying that not only does the "deep state" exist, but that it was putting forth a "massive effort to destroy Trump" (Hannity, 2017, 0:07).

The President has spoken out against the intelligence community on many occasions. Most recently, in late January, Mr. Trump released a series of Tweets condemning the IC after several top intelligence officials--CIA Director Gina Haspel, FBI Director Christopher Wray, NSA Director Paul Nakasone, NGA Director Robert Cadillo, DIA Director Gen. Robert Ashley, and DNI Dan Coats--testified before the Senate Select Committee on Intelligence regarding the IC's Annual Threat Assessment. The assessment focused on threats posed by China and Russia, as well as North Korea's failure to disarm its nuclear arsenal completely. They also noted that, despite the U.S.'s pullout from the 2015 Joint Comprehensive Plan of Action (commonly referred to as the "Iran nuclear deal"), Iran has continued to honor the agreement and does not show signs it is developing a nuclear program (Volz & Strobel, 2019). These assessments all run counter to the President's personal claims, and, likely because of that, he Tweeted a series of criticisms in response to the testimony.

The President wrote, "The Intelligence people seem to be extremely passive and naive when it comes to the dangers of Iran. They are wrong!... Be careful of Iran. Perhaps Intelligence should go back to school!" (realDonaldTrump, 2019a) (realDonaldTrump, 2019b). This rash of criticism shocked many in the intelligence field and elicited condemnations from several high profile intel professionals, including Rep. Adam Schiff, chairman of the House Intelligence

Committee, and former CIA director John Brennan. In response to the Tweets, former CIA Deputy Director Michael Morell stated, "This is a big deal. Presidents have the right to disagree with the analysis that's put in front of them. Presidents have the right to take their policies in a different direction than suggested by the intelligence they receive. Never should a president critique his intelligence community publicly. It's dangerous" (Nicholas & Strobel, para. 4, 2019).

This recent incident is not isolated, with the President publicly criticizing the IC with regularity, especially regarding analysts' assessments of Russia. During a summit in Helsinki in July 2018, President Trump explicitly sided with Russian President Vladimir Putin over the question of Russian interference with the 2016 U.S. presidential election. In January 2016 the IC released an Intelligence Community Assessment in which the community firmly agreed that Russia had attempted to influence the election, a major point of contention with the President (more on this later). During the July summit, Mr. Trump said that, despite the IC's assessment, he was not convinced that Russia had meddled in the election, and said that the U.S.'s policy of investigating Russia was "foolish" (Mason & Pinchuck, 2018). This accusation came soon after the U.S. Justice Department announced an indictment of 12 Russian spies for hacking into the Democratic National Convention (Mason & Pinchuck, 2018).

Mr. Trump has publicly gone against the IC's assessments often, with Russia being the most common, but he has also disagreed with analysts regarding their assessment of Kim Jong Un's commitment to denuclearization (Mason & Pinchuck, 2018) as well as whether Saudi Prince Mohammed bin Salman was involved in the killing of American-based journalist Jamal Khashoggi (Elving, 2018). Disagreement on intel assessments is not unique to this president, and it is completely within the scope of the president to reject the IC (Priess, 2019, 2016). However, President Trump's attitude towards the IC's analysis, particularly his very public and emphatic criticism of the IC enterprise as a whole is very concerning.

All the President's Accusations: Evidence of Bias in the IC

There is a great deal of speculation over why the President is so critical of the intelligence community and why he has acted counter to its recommendations so often and so publicly. The President's critics often attribute his actions to the FBI's investigation into the Trump campaign's connection with Russia and the IC's assessment that Russia interfered with the election. On the other hand, the President's supporters accuse those intelligence leaders of attempting to undermine the President for political reasons. As previously stated, this thesis is not a federal investigation and will not pass judgement on either the President or the IC in this regard. We can, however, examine President Trump's lack of faith in the intelligence community without bringing up the question of whether or not he or those connected with him are guilty of any criminal act.

In order to examine whether the President's accusations against the IC are undermining the agencies' legitimacy, we must first understand why the President is making these accusations. His personal anti-establishment ideals, a rocky transition period, and members of his staff who have had bad relations with the IC in the past, (not to mention the FBI conducting an investigation into him and his close associates) are all likely reasons the President is not enthusiastic about the intelligence agencies. However, besides the Special Counsel's investigation (which we will discuss in more detail later), the most likely cause of the President's animosity towards intelligence are instances where current and former members of the IC have mounted personal attacks against his character. Not only have these angered Mr. Trump, who has been noted of valuing the loyalty of his inferiors very highly (Comey, 2018), (Hayden, 2018), but these instances actually give clout to his argument that the IC is biased.

The 2016 Presidential election was extremely contentious with then-candidate Trump amassing a fair amount of criticism from both within and outside the Republican party. His staunch anti-establishment and populist rhetoric alienated many leaders in his party. His campaign promise that he would "drain the swamp" that was the Washington bureaucracy did not endear him to IC bureaucrats. However nothing was quite as concerning to establishment IC

officials as Trump's inflammatory rhetoric regarding national security issues. During the campaign, he made alarmist comments about Muslims and immigrants, said he would bring back waterboarding, and maintained that he would order the military to kill terrorist suspects' families, despite it being a war crime to do so (Hayden, 2018). In an interview with CNN in 2016 Mr. Trump said, "It's interesting what happens with the Geneva Convention. Everybody believes in the Geneva Convention until they start losing (Hayden, pp. 57 2018)."

This flippant attitude towards national security norms shocked and outraged a fair number of intel professionals, particularly those from Mr. Trump's Republican party. Though there is not any open source data that says it outright, it is very easy to extrapolate that the intelligence community and national security bureaucracies all tend to be staffed heavily by Republicans. A poll from 2015 showed that 40% of federal bureaucrats identify as Republican, and among those Republican bureaucrats, the issue they consider most important to the U.S. is national security (Government Executive, 2015). There is a notion regarding bureaucracy that "where you stand depends on where you sit," meaning, bureaucrats vote according to their bureaucratic interests. A bureaucrat who believes that national security is the most important issue facing the U.S. will more than likely work within the national security sector (Frieden, Lake, & Schultz, pp. 155, 2016). Additionally, some of Mr. Trump's most vocal critics are intel professionals who identify themselves as Republicans.

On March 2, 2016, the conservative national security publication "War on the Rocks" published an "Open Letter on Donald Trump from GOP National Security Leaders." The statement, coordinated by a former Counselor of the Department of State and the managing director of The FerryBridge Group--a defense consulting firm--contained 122 signatures of past and present national security and intelligence officials including the deputy-director of the DIA and President Bush's homeland security advisor (Cohen & McGrath, 2016). The letter was strongly worded and stated many reasons why these individuals felt Mr. Trump was unfit for office, many of which centered around his extreme remarks regarding national security. The

letter concluded by stating, "Mr. Trump's own statements lead us to conclude that as president, he would use the authority of his office to act in ways that make America less safe, and which would diminish our standing in the world. Furthermore, his expansive view of how presidential power should be wielded against his detractors poses a distinct threat to civil liberty in the United States" (Cohen & McGrath, para. 11, 2016).

This letter was a sharp, personal criticism of candidate Trump, but the ire of intel and national security professionals would become much more heated after Mr. Trump secured the Republican nomination. In August 2016, a second, more high profile letter was published in *The New York Times*. This letter, titled "A Letter From G.O.P. National Security Officials Opposing Donald Trump," contained 50 signatures from some of the most prominent voices in national security issues, including Michael Hayden, former director of both the CIA and NSA, John Negroponte, former Director of National Intelligence, and William H. Taft IV, former Deputy Secretary of Defense and former Ambassador to NATO, among other equally-high-level former officials (Ayer et al, 2016). This letter raised similar points to the first letter published in "War on the Rocks," however it contained a key difference. In it, these officials said that, though they had their reservations about candidate Hillary Clinton, they explicitly state, "None of us will vote for Donald Trump" (Ayer et al, pp.1 2016).

These letters made it very clear that many prominent Republicans within the national security and intelligence sectors were "never-Trumpers." The personal nature and vehemence of these attacks on Trump likely deepened his already-present distrust of the IC. It also made it difficult for Mr. Trump to find qualified candidates willing to fill senior level positions in his administration once he was elected, forcing him to rely on his cadre of loyalists who shared his suspicions of the intelligence agencies.

President Trump's transition into office was extremely rocky. His lack of qualified candidates to nominate for high-level positions, his rocky relationship with his staff (Feldscher, 2017) and with his intelligence briefers (Walcott, 2019), as well as the ongoing Special Counsel

investigation into whether his campaign was tied to Russia have posed major challenges to Mr. Trump's administration. Two weeks before the President was to be inaugurated, the IC released their Intelligence Community Assessment: Assessing Russian Activities and Intentions in Recent U.S. Elections. This was a bombshell for both Trump and the American people, as the IC said in no uncertain terms that Russia had made a concerted effort to influence the 2016 Presidential Election. One of the ICA's Key Judgments, which stated with "high confidence" was: "We assess Russian President Vladimir Putin ordered an influence campaign in 2016 aimed at the U.S. presidential election. Russia's goals were to undermine public faith in the U.S. democratic process, denigrate Secretary Clinton, and harm her electability and potential presidency. We further assess Putin and the Russian Government developed a clear preference for President-elect Trump" (ICA, pp. ii 2017).

The 2017 Russian-Interference ICA had been ordered by the Obama administration so that the incoming administration would have an agreed-upon comprehensive assessment of the state of Russian influence on U.S. elections. The President's supporters and the President himself used this as proof of the IC's bias, which was not helped by the fact that the IC released the ICA two weeks before Trump's inauguration. Following its release, President Trump attacked the IC on Twitter, stating, "These are the same people that said Saddam Hussein had weapons of mass destruction." Two days later, he continued, "They have no idea if it's Russia or China or somebody. It could be somebody sitting in a bed someplace. I mean, they have no idea" (Hayden, pp. 106 2018).

Shortly after the release of the ICA, the IC got word of an incomplete intelligence document compiled by former British MI6 case officer Chris Steele. Known as the "Steele Dossier," the document compiled Mr. Trump's alleged ties to Russia. The IC took steps to notify the President-elect of the document's existence, with then-FBI Director Comey briefing Mr. Trump on the dossier and its contents. The dossier was to remain classified, however, it was leaked to BuzzFeed News and published online shortly after (Hayden, 2018). The President-

elect was furious with this, and implied that the IC had purposefully leaked the document to the press. He Tweeted, "Intelligence agencies should never have allowed this fake news to 'leak' into the public. One last shot at me. Are we living in Nazi Germany?" (Hayden, pp. 112 2018).

The President took all of this as a personal attack on his character, and not without reason. The two letters from GOP national security leaders were direct, strongly-worded attacks on Mr. Trump's person, and, although these officials were retired, their opinions still reflected upon the IC. The timing of the ICA was suspect as well, as the IC had been working on the document for months by that time. The most solid proof that the President has of the IC holding a bias against him is the misconduct of James Comey and of other Special Agents connected to investigations into Mr. Trump and his associates.

Former FBI Director James Comey is currently under investigation of the release of classified FBI memos that he wrote following his meetings with President Trump (Turley, 2018). His staff has also not fared well, as it was revealed by the FBI Inspector General that one of the Special Agents working on the investigation into the Trump campaign ties and Hillary Clinton's email scandal showed a clear bias against Mr. Trump. The Special Agent, Peter Strzok, said in a text to an FBI lawyer whom he was having affair with, that Trump would never become president because, "We'll stop it" (BBC, para. 16, 2018). The Inspector General's report stated that the texts implied "a willingness to take official action to impact the presidential candidate's election prospects" (von Spakovsky, para. 6, 2018). The FBI fired Mr. Strzok in response to the scandal. Though the FBI Inspector General's report found no institutional bias against Mr. Trump in the Bureau, individual bias was clearly held by some agents (BBC, 2018) (von Spakovsky, 2018).

The President's supporters were furious when this came to light. It showed that an Agent who had direct responsibility for investigating the President held very strong biases against him (von Spakovsky, 2018). In response to this, House Republicans opened an investigation into the FBI shortly after Mr. Strzok's texts came to light. Though the investigation concluded with no

significant findings, it did call on the FBI to open a special investigation into the Bureau's bias which has yet to be done (The Guardian, 2018).

These actual and imagined attacks on the President by the intelligence community have caused an air of distrust and anger between the two, with Mr. Trump repeatedly berating the IC on Twitter and in interviews. Trump is not the first President to receive criticism from the IC-- President Obama's reform of the IC following the Snowden leaks were criticized as "doing serious damage" to intel collection capabilities (Fleitz & Lopez, pp. 1, 2014). However, the criticism of President Trump seems to be of a more personal nature, and the investigations into his campaign and his associates is a compounding factor.

The Special Counsel Investigation

On May 17, 2017, Deputy Attorney General Rod Rosenstein appointed former FBI Director Robert Mueller to lead a special counsel investigation into whether or not the Trump campaign colluded with Russia. The appointment came after President Trump fired FBI Director James Comey, leading Congress and the Department of Justice to believe that an independent investigation into the President was necessary (Axios, 2019). Almost immediately, President Trump and his supporters railed against the investigation, calling it a witch hunt and politically motivated. The President has claimed that the investigation was unconstitutional, though a grand jury and the DC Court of Appeals disagreed (In Re: Grand Jury Investigation, 2019).

The Special Counsel's investigation, often referred to as the Mueller investigation, has been a lightning rod of controversy for the two years it has been going on. President Trump has been very vocal about his distrust of the investigation and his fears that the investigation may be partisan. In one of his many Tweets on the topic, the President said, "This whole Russia Probe is Rigged. Just an excuse as to why the Dems and Crooked Hillary lost the Election and States that haven't been lost in decades. 13 Angry Democrats, and all Dems if you include the people

who worked for Obama for 8 years. #SPYGATE & CONFLICTS OF INTEREST!"

(realDonaldTrump, 2018).

Though the President and his supporters were quick to criticise the Mueller investigation, their criticisms were often not in response to findings issued by the investigation. Robert Mueller and his team were incredibly tight-lipped about the goings on in the investigation. Peter Strzok, the FBI agent who was found to have a clear anti-Trump bias, was involved in the investigation early on, but, after his dismissal in August of 2018, there was little actual controversy coming out of the investigation (Axios, 2019) (BBC, 2018). Commentators have taken Mueller's silence during the investigation, as well as the lack of leaks coming out of his office, as a sign of his commitment to a thorough and neutral investigation (Schwartz, 2018). In January of this year, BuzzFeed News published a story citing a leak it had received from the Mueller office. In a rare move from the typically silent Mueller team, a spokesman swiftly retorted that "BuzzFeed's description of specific statements to the special counsel's office, and characterization of documents and testimony obtained by this office...are not accurate" (Barrett, et al., para. 2, 2019). The BuzzFeed story was never corroborated.

When Mueller and his team released their findings to Attorney General Barr on March 22, Barr issued a public summary of their findings. Though the summary had been filtered through both Barr and Assistant Attorney General Rosenstein, if the summary is accurate, then it shows the results of a remarkably unbiased investigation. The report essentially said two things: the Special Counsel found no evidence of collusion between the Trump campaign and Russia and that there was no definitive conclusion on whether President Trump had engaged in obstruction of justice (Druke, 2019). Legal writer Amelia Thomson-DeVeaux commented on the summary, "That's a big deal, that's a pretty sort of conclusive clean bill of health for Trump and people close to him when it comes to election interference" (Druke, 2019, 2:20). In regards to the obstruction of justice findings, it seems like Mueller kicked the ball along to Barr and Rosenstein. Thomson-DeVeaux said, "He...laid out evidence on both sides--seemed like it was

sort of a tricky call--and left it up to Barr and Rosenstein to make the actual prosecutorial decision to say 'There's enough evidence here to warrant obstruction of justice charges or not.' So, that's sort of an interesting piece--what we're getting from Barr's summary" (Druke, 2019, 2:39).

These results seem to be very conservative for an investigation that had been labeled a witchhunt, and I want to argue that this shows a great effort of neutrality on Mueller's part. Though the investigation was shrouded in secrecy, the conduct of the Mueller team and of Mueller himself, particularly in light of his decision to hand off the more political prosecutorial call to the Attorney General, lends itself to a fair and neutral investigation.

That does not mean, however, that there is not a question of legitimacy here. As per official Department of Justice policy, the DOJ is discouraged from indicting a sitting President for a criminal offense, as it would "unconstitutionally undermine the capacity of the executive branch to perform its constitutionally assigned functions" (Moss, pp. 222, 2000). This issue caused major controversy during the course of the Mueller investigation, as many pundits and politicians alike worried that, if the Special Counsel were to find evidence enough to indict President Trump, they would not be able to. With the release of the Special Counsel's findings stating that there was no evidence of collusion and not enough evidence to indict the President for obstruction of justice, this point seems to be moot in regards to the scope of this thesis. However, the DOJ's inability to indict a sitting president is a major question of legitimacy, as it basically undermines any neutrality that the DOJ potentially possessed in favor of the executive.

The question of whether or not criminal charges can be brought against a sitting president is a tricky constitutional one, with valid arguments on both sides. But, the DOJ policy stating outright that it will not indict a sitting President, without that question first being tested in the Supreme Court, seems to favor stability over fairness and neutrality. Professor Laurence Tribe of Harvard Law School said on the topic, "It's crazy to assume that the framers of the impeachment power would have created a system in which even the most criminally corrupt president could permanently escape full accountability. Immunized from criminal trial while

serving in office (as the ostensible Justice Department policy would require), such a president could count on receiving a get-out-of-jail-free card upon his exit. For he would leave behind him a newly minted (albeit unelected) president wielding the power to pardon any and all “offenses against the United States” (Tribe, para. 7, 2018).

I agree with Prof. Tribe; this issue is one that could potentially cause a major legitimacy crisis, not just for the DOJ and the IC, but for the U.S. governmental system as a whole. As it stands, if Attorney General Barr decides that there is not enough evidence to indict President Trump on charges of obstruction of justice (which seems likely as Barr himself was appointed by President Trump), then the U.S. may not have to face this major legal quagmire in regards to Trump. However, this Department of Justice policy remains standing, and could potentially create a critical legitimacy crisis in the future.

Addressing the President’s Accusations

President Trump is not the first president to criticize the IC; President Obama criticized the intel agencies for not anticipating the rise of ISIS back in 2014 (Morell, 2019). But the nature of the criticism has changed. It is completely within a President’s rights to disagree with the IC or the IC’s assessments. The president gets information from many different sources--multiple IC agencies, his own staff, congressional opinions, the assessment of NGOs, think tanks, and contractors--thus the president’s view of the situation is quite comprehensive. The president is also not obligated to follow the IC’s assessment. The president’s job is to enact policy, and many things go into making a policy decision--public opinion, campaign promises, party platform, the budget--the IC’s assessment is only one factor in the president’s decision making process. During the Balkan War, the IC was skeptical that a peace deal would work, but President Bill Clinton went against their assessment. He introduced the Dayton Peace Accords regardless, and the move ended up being very successful (Morell, 2019).

Formerly, disagreements between the IC and the president were like the above, they were professional, with the president making a policy decision or delivering a criticism with respect. However, this has changed. President Trump's criticisms are personal and contain charged language, like when he notoriously implied that IC professionals were Nazis after the Steele Dossier was leaked to the press (Rascoe, 2017). He also delivers most of his criticisms through his personal Twitter account, which lacks a level of respect.

Much of the basis for the President's criticisms comes from instances of personal attacks against him by either former or current intelligence officials. Some, like James Comey's leaking of classified information as well as the actions of FBI Special Agent Peter Strzok are reprehensible, and likely should warrant further investigation. However, by-and-large, the personal criticisms that are aimed at the President are coming from retired intelligence officials. It is not a crime for a retired government official to voice their own political opinion. In 1939, Congress passed The Hatch Act, which sets out to ensure neutrality within the federal bureaucracy by placing limitations on what type of political activities federal employees may engage in. Employees of the intelligence community and federal law enforcement agencies are particularly limited on what they can do or say, especially when at work or in uniform (OSC, n.d.).

Under the Hatch Act, IC employees cannot run for a partisan political position or campaign for a partisan political position on behalf of another while employed by the IC. They cannot hold leadership roles in political clubs or organize political events like rallies or meetings. They cannot use their authority to interfere with or influence an election (OSC, n.d.). They also may not engage in "political activity"--i.e. "Wear or display partisan political buttons, T-shirts, signs, or other items; make political contributions to a partisan political party, candidate for partisan political office, or partisan political group; post a comment to a blog or a social media site that advocates for or against a partisan political party, candidate for partisan political office, or partisan political group; use any e-mail account or social media to distribute, send or forward

content that advocates for or against a partisan political party, candidate for partisan political office, or partisan political group"--while at work (OSC, n.d.). They are, however, free to engage in these political activities while not at work and while not using government property (as in work phones) to do so (OSC, n.d.).

The Hatch Act does not extend to retired federal employees, so it was completely within their rights for the 172 Republican former intel professionals to speak out against then-candidate Trump in the letters published during the campaign. It is also completely legal for former intel leaders, like John Brennan, Michael Hayden, and Michael Morell, who have become some of the most vocal of the former intel workforce, to speak out against the administration.

This is not to say either that the entire former federal workforce is against the President. Several of his largest critics were extremely supportive of President Trump's decision to nominate Gina Haspel for Director of the CIA. Both Morell and Hayden--both also former Directors of the CIA themselves--wrote op-eds praising Haspel upon her nomination, with Hayden referring to her as "the person America needs at the CIA (Hayden, 2018b)." In his op ed, Morell refers to his time working with Haspel, saying, "I worked closely with Haspel from 2006 until my retirement from the Agency in 2013. During that time, I found her to be simply exceptional. She provides advice based on facts and analysis of facts. She gets things done in a quiet, yet effective way, and she is calm under fire" (Morell, para. 7, 2017). These are glowing reviews of one of President Trump's more controversial nominations by some of his most ardent critics.

The President is particularly sensitive to criticism about his campaign's alleged connection to Russia, and he has been very vocal about it--calling the current FBI Special Counsel Investigation against his campaign and associates a "witch hunt" on many occasions. This is understandable, as Special Agent Strzok's presence on the investigation could have potentially tainted its neutrality, but the Intelligence Community Assessment released in January

2017 has no such issue. Though the timing of the document's release was unfortunate, coming just before Mr. Trump's inauguration, the ICA is a professional, unbiased assessment.

Though the ICA was written by only the relevant agencies--FBI, CIA, NSA, and ODNI--the document itself was reviewed and corroborated by all 17. A document cannot be called an Intelligence Community Assessment without consensus by the whole community on the assessment, thus an ICA has the ability to speak with authority on behalf of the entire enterprise (Hayden, 2018). This is a tightly controlled document with many authors from many perspectives, and the level of review of an ICA is just as strenuous. And, although the 2017 ICA assessed that Russia had intervened on behalf of the Trump campaign, it makes no judgements on how effective this intervention was. The ICA states, "We did not make an assessment of the impact that Russian activities had on the outcome of the 2016 election. The U.S. Intelligence Community is charged with monitoring and assessing the intentions, capabilities, and actions of foreign actors; it does not analyze U.S. political processes or U.S. public opinion (ICA, pp. i 2017)." The ICA did, however, conclude with high confidence that Russia did not engage in vote tampering, only in an influence campaign, which squashed some of the more scandalous rumors surrounding the election (ICA, 2017).

Other than in a few instances, with former FBI Director James Comey and former FBI Agent Peter Strzok being the most prominent, the IC has shown no unacceptable bias against the President. Yes, former officials have spoken out against him and his administration, but as are retired, it was completely within their rights to state their political opinion publicly. The IC itself continues to serve the country and provide the administration with actionable intelligence, regardless of the President's accusations.

Undermining the Intelligence Community

Regardless of his reasons for criticizing the IC, President Trump's very public attacks on the agencies is dangerous. Former Acting Director of the CIA, Michael Morell, states this very

clearly in an op-ed he wrote after President Trump's January criticisms. Morell said that because of the personal nature of the President's critiques, this is seriously undermining the moral of the IC workforce (Morell, 2019). This is not a hypothetical problem, as overall federal workforce moral has dropped since President Trump has taken office, likely due to high turnover in upper-level positions (Rein, 2018). Whether this lower moral is causing bureaucrats to leave earlier or if it is because many bureaucrats are leaving earlier for other reasons, is unknown. Regardless, this lowered retention is a serious issue in the IC, which relies heavily on the workforce staying in one place for several years and building an expertise in their area of work. Morell says, "To the extent someone leaves an intelligence agency earlier than planned, it sets back the community, as it takes seven to 10 years to develop fully functioning officers" (Morell, para. 11, 2019).

Morell also believes that the President's doubts about the IC could hinder the agencies' ability to recruit new agents as well as new sources. If someone felt that their expertise is not listened to, why would they want to join that agency or, in the case of a source, betray their country to to help the U.S. at the behest of that agency (Morell, 2019)?

As damaging as the inability to recruit foreign spies would be to the IC, the most immediate danger for the intel agencies would be the feeling that they cannot be frank with the President. As a source of expert knowledge in vitally important, niche topics, the IC has long enjoyed the ability to speak truth to power. Whether or not a president agrees with their assessment, the IC has long been confident in the respect the administration affords them. However, Morell says, some of the upper reaches of the IC bureaucracy have begun mincing words in order to not incur the President's wrath (Morell, 2019). This is unacceptable, as it flies in the face of the IC's function--to present the truth without any sugar or adornments. An agency tasked with presenting an objective reality cannot continue to hold legitimacy if it skews its assessments to fit its client's worldview.

The key question, then, is what is happening to the intelligence community's legitimacy because of this? Could this rocky relationship with President Trump cause another legitimacy crisis for the IC? The IC's transparency is already tenuous at best, and, as we have discussed early, its accountability is reactionary. What then should happen if its neutrality be permanently compromised?

I am willing to argue that apparent neutrality equates actual neutrality in the eyes of the public. The intelligence community has little to no transparency, which is necessitated by its spying role. However, this creates a massive obstacle for the public's understanding of the IC's operations and bureaucratic culture. With little ability to counter accusations of bias because the processes surrounding intelligence production are largely classified, the IC is often at the mercy of rumors. If a prominent personality like the President accuses the intelligence community of bias, then the IC cannot provide counter points and the American people are left with one-sided evidence. They cannot view the IC as an objective actor if they have no evidence to back that view up. And, if the American people do not view the intelligence community as an objective actor, then the IC cannot lay claim to that legitimacy.

In January 2017, shortly after the ICA was made public, 47% of likely U.S. voters believed that U.S. intelligence agencies have their own political agenda. That percentage is even higher with Republicans, with a majority (53%) believing the IC has its own political agenda (Rasmussen Reports, 2017). This is extremely problematic for the IC.

The President's criticisms of the IC are acting to politicize intelligence, which is very dangerous. National security author Joshua Rovner explains, "The greatest risk is long-term. Episodes of politicization have effects that linger for years or decades. Turmoil between policymakers and intelligence agencies reinforces negative stereotypes: As relations deteriorate, policymakers see intelligence officials as bureaucratic obstacles, and intelligence officials see policymakers as meddling bullies. It takes a long time to rehabilitate intelligence-policy relations after mutual mistrust and hostility sets in" (Rovner, para. 6, 2016).

Politicization of intelligence is incredibly dangerous, as the U.S. clearly saw during the Iraq War, when policy pressure from the Bush administration colored the IC's analysis (Rovner, 2016). Even though that was an instance where the IC and policy were too sympatico, the issue of politicization is still valid. Since Trump's election, a trend has been emerging; Democrats, long known for being more dovish than the generally hawkish Republican party, are disproportionately supporting the intelligence community on issues regarding President Trump (Rasmussen Reports, 2017). Intelligence is worryingly falling along party lines.

I am willing to contend that, yes, President Trump's repeated attack on the neutrality of the intelligence community is causing a legitimacy crisis. Supporters of the President are buying into the idea of a "deep state," and critics of the President are blindly supporting the IC, which is not blameless in this scenario, as evidenced by the FBI's issues. We have seen just how disruptive the President's criticisms have been by the high level of federal workforce turnover (Rein, 2018) as well as multiple top-level resignations by IC, national security, and foreign policy officials, such as former SecDef General James Mattis, former National Security Advisor General H.R. McMaster, former Secretary of State Rex Tillerson, and former Deputy Director of the FBI Andrew McCabe (who was fired by the Administration rather than resigned). Indeed, the turnover of the President's top officials has been unprecedented (Lu & Yourish, 2019).

We can only hope that this phenomenon is isolated to this president, and that it will pass with subsequent administrations. We must continue to be aware of the IC's politicization and see if this trend continues into the 2020 Presidential campaign and the next administration--be that Trump's or someone else's. If this does not end, the legitimacy of the intelligence community could be permanently tarnished.

CONCLUSION

The intelligence community's legitimacy is founded on three things: transparency, accountability, and neutrality. The very nature of the IC precludes it from being fully transparent. Very few people have access to full knowledge of everything that is going on at a single agency, with even less having full knowledge of what is going on with the IC as a whole. This is a necessary evil that exists to keep the country safe, though it does lend itself to an undemocratic bureaucracy. Thus, the IC must stand on the other two legs of this legitimacy trifecta. The accountability of the IC has been questionable in the past, and has led to several serious legitimacy crises. Though, as I showed in chapter 3, Congress has been reactive to these issues. Something the IC has not had any significant issue with in the past, though, had been neutrality. Neutrality has always been key for the IC, with the Hatch Act being an example of just how central this idea is. Analysts are taught never to recommend policy and only to give objective analysis. Taking a shot at the IC's neutrality is unprecedented.

Over time, Congress has made great strides towards keeping the intelligence community more accountable. FISA, IRTPA, and the USA FREEDOM Act each fixed a serious issue that had arisen when the IC was left unfettered. I will not go so far as to say that the IC is full accountable now, however. Case-in-point of the NSA's mass metadata collection, which was technically legal because of the government's interpretation of a section of the USA PATRIOT Act. The IC is a very large bureaucracy, and it is very possible something like that can slip again. It is also possible that the restraints of the IC could purposefully be loosened, as we saw after 9/11. I am not saying that the IC will remain forever accountable, but that Congress has continually strengthened the regulations of the IC and made it more accountable over time.

Currently, the accountability of the IC is on an upward trajectory, and that any future legitimacy crisis created by a lack of accountability will be fixed much like those in the past.

The question of the IC's neutrality, however, is an entirely different issue. I contend that these criticisms are causing a crisis where one does not need to exist. The evidence of an ingrained bias within the IC is flimsy, as most of the political criticism aimed at the president has been from retired officials, who are free to speak their mind. This does not mean that every member of the intelligence community is an objective actor--the case of FBI agent Peter Strzok made that very clear. However, there are safeguards in place to keep the men and women of the IC largely professionally unbiased. The Hatch Act ensures this but also an environment of bureaucratic stability, where members of the IC expect to continue working for the government through different administrations regardless of political lean.

President Trump's accusations have led to high turnover in the top-ranking echelon of IC leadership, leading to little direction for the bureaucracies and undermining the consistency of the workforce. The President has also made an enemy of many people within the world of national security, as evidenced by many of the top-ranking former officials who have spoken out against the President's attacks of the intel community. If there was not a neutrality issue in the past, there very well may be one now. The President's accusations are creating enemies where there was likely none before.

I contend that President Trump's accusations of the IC are hurting it, undermining the bureaucracy and causing unnecessary legitimacy issues. We cannot guess how long the effects of this will last--whether this will end with the Trump administration or if distrust of the intel agencies will carry over to future presidents. People--average citizens and politicians--are buying into the idea of a "deep state," and this is dangerous. How can a bureaucracy with little transparency continue to operate in a democratic society if the citizens believe it is affecting politics xxxx behind the scenes.

We can only hope that the anger toward the intelligence community is isolated to this administration and that the IC can recover in the future. It is vital to our national security that it does.

BIBLIOGRAPHY

CHAPTER 1

Caiden, G. (1996). The Concept of Neutrality. In H. Asmerom & E. Reis, *Democratization and Bureaucratic Neutrality* (1st ed., pp. 20-36). New York: St. Martin's Press, INC.

Diversity and Inclusion. (n.d.) Retrieved from <https://www.dni.gov/index.php/how-we-work/diversity>

Downs, A. (1994). *Inside Bureaucracy*. (1st. Ed.) Prospect Heights, IL: Waveland Press.

Evans, G., & Sahnoun, M. (2002). The Responsibility to Protect. *The Council On Foreign Relations*, (November/December 2002). Retrieved from: <https://www.foreignaffairs.com/articles/2002-11-01/responsibility-protect>

Executive Agencies. Retrieved from <https://www.justia.com/administrative-law/executive-agencies/>

Finnemore, M. (2009). Legitimacy, Hypocrisy, and the Social Structure of Unipolarity: Why Being a Unipole Isn't all It's Cracked Up to Be. *World Politics*, 61(1), 58-85.

Glennon, M.J. (2015). *National Security and Double Government*. (1st. Ed.). New York City: Oxford University Press.

Hoff, S. (2015). Locke and the Nature of Political Authority. *The Review of Politics*, 77(1), 1-22. doi:10.1017/S0034670514000813

Hayden, Michael (2018). *The Assault on Intelligence*. (1st ed.). New York City: Penguin Press.

Harold P. Ford. (2016). Retrieved from <https://www.cia.gov/library/center-for-the-study-of-intelligence/csi-publications/books-and-monographs/cia-and-the-vietnam-policymakers-three-episodes-1962-1968/harold-p-ford.html>

Locke, J. (1768). *The Works of John Locke, in Four Volumes* [Ebook] (7th ed.). London: Gale. Retrieved from http://find.galegroup.com.umiss.idm.oclc.org/ecco/infomark.do?action=interpret&docType=ECCOArticles&source=library&docLevel=TEXT_GRAPHICS&tabID=T001&prodId=ECCO&userGroupName=mag_u_u_m&bookId=0879600101&type=getFullCitation&contentSet=ECCOArticles&version=1.0&finalAuth=true

Office of Intelligence Community Equal Employment Opportunity and Diversity (IC EEOD). (2015). *Annual Demographic Report: Hiring and Retention of Minorities, Women, and Persons with Disabilities in the United States Intelligence Community Fiscal Year 2015*. Office of Director of National Intelligence.

Page, E. (1985). *Political Authority and Bureaucratic Power: A Comparative Analysis*(1st ed., pp. 7-13, 16-18, 26-34, 83-85, 150-153, 163-171). Knoxville, TN: The University of Tennessee Press.

Peters, G. (1995). *The Politics of Bureaucracy* (4th ed., pp. 75, 211-222, 289-299, 312). White Plains, NY: Longman Publishers USA.

Simmons, A. (1999). Political Consent. In: C. Morris, ed., *The Social Contract Theorists: Critical Essays on Hobbes, Locke, and Rousseau*, 1st ed. Lanham, MD: Rowman & Littlefield, pp.84-98.

In text: (Simmons, 1999)

Thomas, S. (1999) The CIA's Bureaucratic Dimensions, *International Journal of Intelligence and CounterIntelligence*, 12:4, 399-413, DOI: 10.1080/088506099304972

CHAPTER 2

CIA. (2018, November 01). What We Do. *Central Intelligence Agency*. Retrieved From: <https://www.cia.gov/about-cia/todays-cia/what-we-do>

DEA. (n.d.) Intelligence. *Drug Enforcement Administration*. Retrieved From: <https://www.dea.gov/intelligence>

DIA. (n.d.) Frequently Asked Questions. *Defense Intelligence Agency*. Retrieved From: <http://www.dia.mil/About/FAQs/>

FBI. (n.d.) Brief History. *Federal Bureau of Investigation*. Retrieved From: <https://www.fbi.gov/history/brief-history>

Kaplan, F. (2016). *Dark Territory: The Secret History of Cyber War*. New York: Simon and Schuster.

Lowenthal, M. M. (2017). *Intelligence: From Secrets to Policy* (7th ed.). Los Angeles: CQ Press.

NGA. (n.d.). History. *National Geospatial-Intelligence Agency*. Retrieved From: <https://www.nga.mil/About/History/Pages/default.aspx>

NRO. (2017, May 04). Who We Are. *National Reconnaissance Office*. Retrieved From: <http://www.nro.gov/About-the-NRO/The-National-Reconnaissance-Office/Who-We-Are/>

NSA. (n.d.). Central Security Service (CSS). *National Security Agency*. Retrieved From:

Office of the Director of National Intelligence (ODNI). (n.d.) Central Intelligence Agency. *How the IC Works*. Retrieved From: <https://www.intelligence.gov/index.php/how-the-ic-works/our-organizations/411-cia>

Office of the Director of National Intelligence (ODNI). (n.d.). Defense Intelligence Agency. *How the IC Works*. Retrieved From: <https://www.intelligence.gov/index.php/how-the-ic-works/our-organizations/412-dia>

Office of the Director of National Intelligence (ODNI). (n.d.). Dept. of Homeland Security Office of Intelligence and Analysis. *How the IC Works*. Retrieved From: <https://www.intelligence.gov/index.php/how-the-ic-works/our-organizations/420-dhs-office-of-intelligence-and-analysis>

Office of Director of National Intelligence (ODNI). (n.d.) National Geospatial-Intelligence Agency. *How the IC Works*. Retrieved From: <https://www.intelligence.gov/index.php/how-the-ic-works/our-organizations/414-nga>

Office of the Director of National Intelligence (ODNI). (n.d.). Department of Energy Office of Intelligence and Counterintelligence. *How the IC Works*. Retrieved From: <https://www.intelligence.gov/index.php/how-the-ic-works/our-organizations/419-doe-office-of-intelligence-and-counterintelligence>

Office of the Director of National Intelligence (ODNI). (n.d.). Department of Treasury Office of Intelligence and Analysis. *How the IC Works*. Retrieved From: <https://www.intelligence.gov/index.php/how-the-ic-works/our-organizations/425-treasury-office-of-intelligence-and-analysis>

Office of the Director of National Intelligence (ODNI). (n.d.). Our Organizations. *How the IC Works*. Retrieved From: <https://www.intelligence.gov/how-the-ic-works#our-organizations>

Office of the Director of National Intelligence (ODNI). (n.d.). Organization. *Office of the Director of National Intelligence*. Retrieved From: <https://www.dni.gov/index.php/who-we-are/organizations>

Rose, Alexander. (2006). *Washington's Spies: The Story of America's First Spy Ring*. New York: Bantham Books.

State Department. (n.d.) Bureau of Intelligence and Research. *U.S. Department of State*. Retrieved From: <https://www.state.gov/s/inr/>

CHAPTER 3

107 Cong. Rec. s10990-s11060 (2001) (Statement of Sen. Joe Biden).

Abramson, L. & Godoy, M. (2006, February 14). The Patriot Act: Key Controversies. *National Public Radio*. Retrieved From: <https://www.npr.org/news/specials/patriotact/patriotactprovisions.html>

Dept. of Justice. (n.d.). Highlights of the USA PATRIOT Act. *Department of Justice Archive*. Retrieved from: <https://www.justice.gov/archive/ll/highlights.htm>

DHS/Office for Civil Rights and Civil Liberties, DHS/Privacy Office, DOJ Office of Justice Programs, Bureau of Justice Assistance. (2013, November 19). The Foreign Intelligence Surveillance Act of 1978 (FISA). *Justice Information Sharing*. Retrieved From: <https://it.ojp.gov/PrivacyLiberty/authorities/statutes/1286>

DHS/Office for Civil Rights and Civil Liberties, DHS/Privacy Office, DOJ Office of Justice Programs, Bureau of Justice Assistance. (2013, September 18). The Intelligence Reform and Terrorism Prevention Act (IRTPA). *Justice Information Sharing*. Retrieved From: <https://it.ojp.gov/PrivacyLiberty/authorities/statutes/1282>

DHS/Office for Civil Rights and Civil Liberties, DHS/Privacy Office, DOJ Office of Justice Programs, Bureau of Justice Assistance. (2013, September 18). The Implementing the Recommendations of the 9/11 Commission Act (9/11 Commission Act). *Justice Information Sharing*. Retrieved From: <https://it.ojp.gov/PrivacyLiberty/authorities/statutes/1283>

Etzioni, Amitai. (2004). *How Patriotic is the PATRIOT Act? Freedom Versus Security in the Age of Terrorism*. (1st ed.). New York: Routledge.

Executive Agencies. Retrieved from <https://www.justia.com/administrative-law/executive-agencies/> ("Executive Agencies," n.d.)

Exec. Order No. 12333, 3 C.F.R., pp. 200 (1981)

Foreign Intelligence Surveillance Act "FISA," Pub. L. No. 95-511, 92 Stat. 1783. (1978).

Intelligence Oversight Act, S. 2284, 96 (1980)

Kaplan, F. (2016). *Dark Territory: The Secret History of Cyber War*. (1st ed.). New York: Simon and Schuster.

Liu, J. (2015, June 3). So What Does the USA FREEDOM Act Do Anyway? *Lawfare Institute*. Retrieved From: <https://www.lawfareblog.com/so-what-does-usa-freedom-act-do-anyway>

Lowenthal, M. M. (2017). *Intelligence: From Secrets to Policy* (7th ed.). Los Angeles: CQ Press.

Mann, S. F. (2014, February 27). Fact Sheet: Section 215 of the USA PATRIOT Act. *Center for Strategic and International Studies*. Retrieved From: <https://www.csis.org/analysis/fact-sheet-section-215-usa-patriot-act>

Mooney, C. (2001, December 19). Back to Church. *The American Prospect*. Retrieved from: <https://prospect.org/article/back-church>

Nakashima, E. (2015, November 27). NSA Bulk Collection of Americans' Phone Records' Ends Sunday. *The Washington Post*. Retrieved From: https://www.washingtonpost.com/world/national-security/nsas-bulk-collection-of-americans-phone-records-ends-sunday/2015/11/27/75dc62e2-9546-11e5-a2d6-f57908580b1f_story.html?utm_term=.e19c8df65777

The National Security Act of 1947, Pub. L. No. 253. (1947)

Sales, N. A. (2010). Mending Walls: Information Sharing After the USA PATRIOT Act. *Texas Law Review*, 88, 1795-1854.

Schwarz, Jr., F.A.O (2008). The Church Committee, Then and Now. R.A. Miller (Ed.). *US National Security, Intelligence and Democracy: From the Church Committee to the War on Terror* (1st ed., pp. 22-36). New York: Routledge

Smith, M. and Bergman, L. (Writers), & O'Connor, K. (Director). (2001). Looking for Answers [Television Series Episode]. In Fanning, D. (Executive Producer). *Frontline*. Boston, MA: WGBH Educational Foundation. <https://www.pbs.org/wgbh/pages/frontline/shows/terrorism/interviews/smith.html>

Seamon, R. H. & Gardner, W. D. (2005). The Patriot Act and the Wall Between Foreign Intelligence and Law Enforcement. *Harvard Journal of Law and Public Policy*, 28, 319-463.

U.S. Const., Art. I, Sec. 9

U.S. Const., Art. II, Sec. 1

U.S. Const., Art. II, Sec 2

U.S. Const., Art. II, Sec. 3

Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA PATRIOT Act), Pub. L. No. 107-56, 115 Stat. 272. (2001)

Uniting and Strengthening America by Fulfilling Rights and Ensuring Effective Discipline Over Monitoring Act (USA FREEDOM Act), Pub. L. No. 114-23, 129 Stat. 268. (2015).

CHAPTER 4

Ayer, et al. (2016, August 8). "A Letter from GOP National Security Officials Opposing Donald Trump." *New York Times*. Retrieved from:

<https://www.nytimes.com/interactive/2016/08/08/us/politics/national-security-letter-trump.html?module=inline>

Axios. (2019, March 24). Timeline: Every Big Move in the Mueller Investigation. *Axios*. Retrieved from: <https://www.axios.com/mueller-russia-investigation-timeline-indictments-70433acd-9ef7-424d-aa01-b962ae5c9647.html>

Barrett, D., Zapotosky, M., Demirjian, K. (2019, January 18). "In a rare move, Mueller's office denies BuzzFeed report that Trump told Cohen to lie about Moscow project." *Washington Post*. Retrieved from: https://www.washingtonpost.com/world/national-security/2019/01/18/b9c40d34-1b85-11e9-8813-cb9dec761e73_story.html?utm_term=.017ffd79cf74

BBC. (2018, August 13). "FBI Agent Peter Strzok 'Fired Over Anti-Trump Texts.'" *BBC*. Retrieved From: <https://www.bbc.com/news/world-us-canada-45173015>

Cohen, E. A. & McGrath, B. (2016, March 2). "Open Letter on Donald Trump From GOP National Security Leaders." *War on the Rocks*. Retrieved From: <https://warontherocks.com/2016/03/open-letter-on-donald-trump-from-gop-national-security-leaders/>

Comey, J. (2018). *A Higher Loyalty: Truth, Lies, and Leadership*. (1st ed.). New York: Flatiron Books.

Confessore, N., Rosenberg, M., and Hakim, D. (2017, June 18). "How Michael Flynn's Disdain for Limits Led to a Legal Quagmire." *The New York Times*. Retrieved from: <https://www.nytimes.com/2017/06/18/us/politics/michael-flynn-intel-group-trump.html>

Druke, G. (Producer). (2019, March 25). *Politics Podcast: What Comes Next for the Mueller Report?* [Audio Podcast]. Retrieved from: <https://fivethirtyeight.com/features/politics-podcast-what-comes-next-for-the-mueller-report/>

Elving, R. (2018, November 24). "President Trump Statement Disputes CIA Assessment on Killing of Khashoggi." *NPR*. Retrieved from:

<https://www.npr.org/2018/11/24/670513573/president-trump-statement-disputes-cia-assessment-on-killing-of-khashoggi>

Feldscher, K. (2017, May 8). "Trump 'Screamed' at National Security Advisor H.R. McMaster Over Comments to South Korea: Report." *The Washington Examiner*. Retrieved from: <https://www.washingtonexaminer.com/trump-screamed-at-national-security-adviser-hr-mcmaster-over-comments-to-south-korea-report>

Fleitz, F. & Lopez, C. (2014, January 27). "A Critique of President Obama's Reforms of U.S. Intelligence." Center for Security Policy. Retrieved from: <https://www.centerforsecuritypolicy.org/wp-content/uploads/2014/01/Critique-of-Obamas-Intel-Reforms.pdf>

Frieden, J. A., Lake, D. A., & Schultz, K. A. (Ed. Shin, A.). (2016). *World Politics: Interests, Interactions, Institutions* (3rd Ed.) New York: W.W. Norton and Company.

Glennon, M. J. (2015). *National Security and Double Government*. (1st ed.). New York: Oxford University Press.

Government Executive. (2015, August 14). "There are More Republicans in Federal Government than you Might Think." *Government Executive*. Retrieved from: <https://www.govexec.com/oversight/2015/08/there-are-more-republicans-federal-government-you-might-think/119138/>

Gonyea, D. (2016, December 13). "What Exactly is the 'President's Daily Brief' and Why is it Important?" *NPR*. Retrieved from: <https://www.npr.org/2016/12/13/505348507/what-exactly-is-the-presidents-daily-brief-and-why-is-it-important>

The Guardian. (2018, December 28). "Trump-Russia: Republican Probe of Alleged FBI Bias Ends 'With a Whimper.'" *The Guardian*. Retrieved from: <https://www.theguardian.com/us-news/2018/dec/29/trump-russia-republican-probe-of-alleged-fbi-bias-ends-with-a-whimper>

Hannity, S. (2017, June 17). "Hannity: Deep State's Massive Effort to Destroy Trump." *Fox News*. Retrieved from: <https://www.foxnews.com/politics/hannity-deep-states-massive-effort-to-destroy-trump>

Hayden, M. V. (2018). *The Assault on Intelligence: American National Security in an Age of Lies* (1st ed.). New York: Penguin Press.

Hayden, M. (2018, March 14). "Michael Hayden: Why Gina Haspel is the Person America Needs at the CIA." *The Hill*. Retrieved from: <https://thehill.com/opinion/national-security/378378-we-need-gina-haspel-at-the-cia>

Intelligence Community Assessment. (2017, January 6). "Assessing Russian Activities and Intentions in Recent U.S. Elections." [PDF File]. Retrieved from: https://www.dni.gov/files/documents/ICA_2017_01.pdf

In Re: Grand Jury Investigation, No. 1:18-gj-00034. (2019, February 26).

Lu, D. & Yourish, K. (2019, March 8). "The Turnover at the Top of the Trump Administration is Unprecedented." *The New York Times*. Retrieved from: <https://www.nytimes.com/interactive/2018/03/16/us/politics/all-the-major-firings-and-resignations-in-trump-administration.html>

Mason, J. & Pinchuck, D. (2018, July 15). "Trump Backs Putin on Election Meddling at Summit, Stirs Fierce Criticism." *Reuters*. Retrieved from: <https://www.reuters.com/article/us-usa-russia-summit/trump-backs-putin-on-election-meddling-at-summit-stirs-fierce-criticism-idUSKBN1K601D>

Michaels, J.D. (2017, September/October). "Trump and the 'Deep State.'" *Foreign Affairs*, Volume 96, Issue 5. Retrieved from: <https://www.foreignaffairs.com/articles/2017-08-15/trump-and-deep-state>

Morell, M. (2017, February 2). "Haspel Hailed by CIA Vets." *The Cypher Brief*. Retrieved from: https://www.thecypherbrief.com/column_article/why-haspel-makes-sense-as-the-deputy-cia-director

Morell, M. (2019, February 1). "Trump Plays with Fire when He Insults His Intelligence Officers." *The Washington Post*. Retrieved from: https://www.washingtonpost.com/opinions/2019/02/01/trump-plays-with-fire-when-he-insults-his-intelligence-officers/?utm_term=.4a1c01d633d7

Nicholas, P. & Strobel, W. P. (2019, January 30). "Trump's Attacks on Spy Agencies are Called a National Security Risk." *The Wall Street Journal*. Retrieved from: <https://www.wsj.com/articles/trump-criticizes-u-s-intelligence-community-over-assessment-of-iran-nuclear-threat-11548862307>

Office of Special Council. (n.d.) "Hatch Act." *U.S. Office of Special Council*. Retrieved from: <https://osc.gov/pages/hatchact-affectsme.aspx>

Priess, D. (2016, December 15). "Richard Nixon Hated the Presidential Daily Intel Brief, Too." *Foreign Policy*. Retrieved from: <https://foreignpolicy.com/2016/12/15/all-the-presidents-spies-donald-trump-intelligence-community/>

Priess, D. (2019, January 31). "Why Intelligence Leadership Won't Resign in Response to Trump's Criticisms." *Lawfare*. Retrieved from: <https://www.lawfareblog.com/why-intelligence-leadership-wont-resign-response-trumps-criticisms>

Rascoe, A. (2017, January 11). "Trump accuses U.S. spy agencies of Nazi practices over 'phony' Russia dossier." *Reuters*. Retrieved from: <https://www.reuters.com/article/us-usa-trump/trump-accuses-u-s-spy-agencies-of-nazi-practices-over-phony-russia-dossier-idUSKBN14V18L>

Rasmussen Reports. (2017). *Voters Think U.S. Intelligence Agencies Play Politics* [Data Set]. Pulse Opinion Research, LLC. [Distributor]. Retrieved from: http://www.rasmussenreports.com/public_content/politics/general_politics/january_2017/voters_think_u_s_intelligence_agencies_play_politics

realDonaldTrump. (2018, May 26). "This whole Russia Probe is Rigged. Just an excuse as to why the Dems and Crooked Hillary lost the Election and States that haven't been lost in decades. 13 Angry Democrats, and all Dems if you include the people who worked for Obama for 8 years. #SPYGATE & CONFLICTS OF INTEREST!" [Twitter Post]. Retrieved From: <https://twitter.com/realDonaldTrump/status/1000462031500099584>

realDonaldTrump. (2019, January 30). "The Intelligence people seem to be extremely passive and naive when it comes to the dangers of Iran. They are wrong! When I became President Iran was making trouble all over the Middle East, and beyond. Since ending the terrible Iran Nuclear Deal, they are MUCH different, but...." [Twitter Post]. Retrieved From:

https://twitter.com/realDonaldTrump/status/1090608298343190528?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1090608298343190528&ref_url=https%3A%2F%2Fwww.wsj.com%2Farticles%2Ftrump-criticizes-u-s-intelligence-community-over-assessment-of-iran-nuclear-threat-11548862307

realDonaldTrump. (2019, January 30). "...a source of potential danger and conflict. They are testing Rockets (last week) and more, and are coming very close to the edge. There economy is now crashing, which is the only thing holding them back. Be careful of Iran. Perhaps Intelligence should go back to school!" [Twitter Post]. Retrieved From: https://twitter.com/realDonaldTrump/status/1090609577006112769?ref_src=twsrc%5Etfw%7Ctwcamp%5Etweetembed%7Ctwterm%5E1090609577006112769&ref_url=https%3A%2F%2Fwww.wsj.com%2Farticles%2Ftrump-criticizes-u-s-intelligence-community-over-assessment-of-iran-nuclear-threat-11548862307

Rein, L. (2018, December 12). "In the Trump era, job satisfaction declines in the federal workforce." *The Washington Post*. Retrieved from: https://www.washingtonpost.com/politics/job-satisfaction-down-at-60-percent-of-federal-agencies-new-survey-says/2018/12/11/b07ed7d2-fd57-11e8-83c0-b06139e540e5_story.html?utm_term=.863d9e80fb2d

Rovner, J. (2016, December 15). "Will Team Trump Politicize Intelligence?" *War on the Rocks*. Retrieved from: <https://warontherocks.com/2016/12/will-team-trump-politicize-intelligence/>

Schwartz, M. (2018, November 8). Robert Mueller, Master of Silence. *GQ*. Retrieved from: <https://www.gq.com/story/robert-mueller-master-of-silence>

Senate Select Committee on Intelligence (2018, July 3). "Committee Findings on the 2017 Intelligence Community Assessment." Retrieved from: <https://www.intelligence.senate.gov/publications/committee-findings-2017-intelligence-community-assessment>

Tribe, L.H. (2018, December 10). "Constitution Rules Out Immunity for Sitting President." *The Boston Globe*. Retrieved from: <https://www.bostonglobe.com/opinion/2018/12/10/constitution-rules-out-sitting-president-immunity-from-criminal-prosecution/6Byq7Qw6TeJIPVUhgABPM/story.html>

Turley, J. (2018, April 21). "'Ethical' James Comey Under Investigation for Unethical Acts." *The Hill*. Retrieved from: <https://thehill.com/opinion/judiciary/384257-ethical-james-comey-under-investigation-for-unethical-acts>

U.S. Department of Justice. *A Sitting President's Amenability to Indictment and Criminal Prosecution: Memorandum Opinion for the Attorney General*. [PDF]. (2000, October 16). By Moss, R. D. Retrieved from: https://www.justice.gov/sites/default/files/olc/opinions/2000/10/31/op-olc-v024-p0222_0.pdf

Volz, D. & Strobel, W. P. (2019, January 29). "China and Russia, Aligned More Closely, Seen as Chief Security Threat to U.S." *The Wall Street Journal*. Retrieved from: https://www.wsj.com/articles/allies-seeking-more-independence-from-u-s-intelligence-leaders-warn-11548773031?mod=article_inline&mod=article_inline

Von Spakovsky, H. A. (2018, July 16). "We Need to Hear More About the Anti-Trump Bias by the FBI and Mueller's Team--House Hearing Must Not be the End." *The Heritage Foundation*. Retrieved