Working Paper

Enhancing Congressional Intelligence Committee Effectiveness

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INTRODUCTION

In fall 2018, the Center for a New American Security (CNAS) initiated a foundation-funded project focused on bolstering bipartisan national security decision-making in Congress. As part of that effort, CNAS is focusing on challenges in conducting intelligence oversight. The project includes written reports, roundtables, engagement with congressional members and staff, and additional outreach bringing attention to the importance of bolstering meaningful and effective congressional intelligence oversight. The first paper in this series, *Intelligence Oversight Priorities for the 116th Congress,* was published in April 2019.

This is the second paper in the series and intends to reboot the policy dialogue regarding steps the Senate Select Committee on Intelligence (SSCI) and House Permanent Select Committee on Intelligence (HPSCI) can take to enhance their effectiveness at overseeing the intelligence community's activities and bolster public confidence in both their own activities and those of the intelligence community.[1] The goal of this working paper is to provide a fresh assessment regarding whether the committees need significant structural reforms, assess which proposals previously generated are politically feasible, and identify areas for future research.

This review considered proposed reforms from the perspective of whether they would address perceived deficiencies such as some years' failure to pass a dedicated intelligence authorization act[2] or criticisms that intelligence activities have not adequately been conducted according to law or policy. This review also considered as equally important whether particular changes are politically feasible. That is, this review is not a "blue sky" exercise, but instead a consideration of politically feasible proposals to facilitate effective congressional intelligence oversight.

The review concludes that, for the foreseeable future, some previously proposed formal structural changes to the committees are not likely and have questionable likelihood of correcting perceived deficiencies, anyway. Instead, changes that are both achievable *and* have the potential to improve public confidence in the committees and the intelligence community mostly involve a relatively modest set of rules adjustments and informal processes. The paper recommends two structural changes regarding the HPSCI, neither of which requires legislation. The first is to re-designate the ranking member of HPSCI as the vice chairman. The second is to condense the size of HPSCI to a one-member majority. Both changes can be achieved through rules changes. Although adoption in the near term of these changes is unlikely due to a heightened political atmosphere, the benefit to bipartisanship that these two changes would likely have outweighs a calculus in not recommending them solely because they are unlikely to be implemented in the

current, 116th Congress. The paper also encourages greater consideration of legislation that would provide more transparency about the intelligence budget.

BACKGROUND ON THE INTELLIGENCE COMMITTEES AND REFORM PROPOSALS

The Senate Select Committee on Intelligence and House Permanent Select Committee on Intelligence were created in 1976 and 1977, respectively. The committees were created as a result of substantial exposure of intelligence community abuses after the Watergate era. Comprehensive congressional investigations documented the abuses, and Congress acted on recommendations to establish these specific committees of oversight.[3] With limited modifications over time, the intelligence committees have been more or less operating under their original design for the past four decades.[4] That is, the committees have served as a proxy for the two chambers of Congress: conducting oversight primarily in a classified setting, in a way that facilitates legislative branch oversight and accountability over the executive branch but protects national intelligence information. This proxy system has come under strain in recent years as the increased volume and breadth of unauthorized disclosures have brought heightened public scrutiny over intelligence activities, and of the adequacy of the corresponding congressional oversight.

Calls to change the structure of the committees have typically arisen after a significant intelligence failure or other exposure about intelligence community operations. Indeed, the SSCI and HPSCI were created as a result of congressional investigations into intelligence community abuses involving domestic surveillance and politically motivated investigations.[5] More recently, the 9/11 Commission reported in 2004 that "Congressional oversight for intelligence – and counterterrorism – is now dysfunctional."[6] The 9/11 Commission discovered through its interviews with intelligence community stakeholders that there was dissatisfaction with the effectiveness of Congress' ability to conduct oversight of counterterrorism activities, in particular; part of which involved the work of SSCI and HPSCI. In that circumstance, the reasoning was that Congress could have done more to determine whether the intelligence community was operating effectively to provide warning about the coming threat of an attack on the United States. Accordingly, the 9/11 Commission made several recommendations, most significantly the creation of a "joint committee for intelligence" comprising members of both the House and Senate,[7] an idea that dates back to the original creation of the committees in the late 1970s. That recommendation was not adopted. The 9/11 Commission made several additional recommendations for changes to the structure of the intelligence committees. The SSCI adopted certain

reforms proposed by the 9/11 Commission, regarding its number of members, designation of staff to assist members, and elimination of term limits.[8]

Generally, reviews of the intelligence committees have resulted in proposals to provide the committees with *more*: more budget authority, more staff, and more (staff) access to classified information. The Congressional Research Service (CRS) frames the question of how to evaluate proposals for intelligence committee reform as:

> "Could additional changes to the rules governing congressional oversight of intelligence enable Congress to more effectively fund programs, influence policy, and legislate improvements in intelligence standards, organization and process that would make the country safer?"[9]

Going forward, recommendations to modernize intelligence committee rules, structures, processes, or practices should correlate to specific objectives. The goal in considering reforms should be to determine whether they would improve the committees' effectiveness at conducting oversight and/or the committees' companion "informing" function, which directs that the committees facilitate other committees' staying informed about intelligence matters that affect their jurisdictions.

Since the *9/11 Commission Report* recommendations issued in 2004, if ever there was a time ripe for major overhaul of intelligence committee structure, it would have been shortly after the 2013 unauthorized disclosures begun by Edward Snowden, but for very different reasons than the thinking undergirding the 9/11 Commission recommendations. Snowden facilitated—among much other classified information—public exposure of a program involving the bulk collection of Americans' phone records for foreign intelligence purposes. Unlike exposures of intelligence community abuses in the 1960s and 1970s, the use of Section 215 of the USA Patriot Act (which amended the Foreign Intelligence Surveillance Act (FISA)) to authorize the phone records collection was formally briefed and reported on numerous occasions to the two other branches of government. The phone records collection activity was approved repeatedly by multiple judges of the Foreign Intelligence Surveillance Court (FISC), an independent, neutral judicial body, and briefed and reported in detail to the congressional intelligence committees over a period of years.

As a result, for intelligence community insiders, there was some initial surprise at the public reaction because from their perspective the intelligence oversight process had operated as designed. In hindsight, however, the behind-closed-doors oversight did not provide adequate public confidence that the activities were lawful and appropriate.

This hurt the credibility of the oversight committees themselves. Notably, this was a different scenario than the 9/11 example: Here, the allegation is not that the committees or the intelligence community should have known about an issue; instead, the observation is that the community had fully briefed the committees, the issue was kept confidential to protect the integrity of the collection method, and yet the public ended up unsatisfied that closed-door intelligence oversight adequately addressed a perceived privacy and civil liberties infringement. The criticism went to the heart of whether the framework governing congressional intelligence oversight since the late 1970s was adequate.

More recently, the failure to adequately address Russian interference in the 2016 election has been characterized by some as an intelligence failure. As highlighted in the first paper in this series, in a speech on cyber doctrine held at CNAS on December 7, 2018, SSCI Vice Chairman Mark Warner characterized the failure to detect the interference efforts sooner as an intelligence failure.[10] Relatedly, the first paper in this series recommended that the intelligence committees conduct further review of whether the intelligence community missed signs over a period of years revealing the Russian influence operations.[11] While there have not been widespread calls for modernization of the intelligence committees as a result of the Russian election interference issue, the related investigations have caused friction that has been in the public view (at least on HPSCI), and are part of what has motivated the recommendations contained herein that focus on the importance of bipartisanship in intelligence oversight.[12]

Challenges in Oversight

Areas where the intelligence committees could enhance their effectiveness involve both their oversight functions and their informing functions. First, Congress is not conducting as effective oversight as it could of the intelligence community because it may not be adequately correlating the development of the Intelligence Authorization Act (IAA) with its oversight functions. One of the most significant tools of influence Congress has is its influence over the authorization and appropriations process. Moreover, with respect to intelligence community operations specifically, Congress has the authority to specifically authorize activities, which enhances its ability to connect oversight activities with budget authorities.

Second, over the years, the committees' informing function has atrophied. The SSCI's original charter provides that the SSCI:

> [f]or the purposes of accountability to the Senate, shall make regular and periodic reports to the Senate on the nature and extent of the intelligence activities of the various departments and agencies of the United States. Such committee shall promptly call to the attention of the Senate or to any other appropriate committee or committees of the Senate any matters deemed by the [committee] to require the immediate attention of the Senate or such other committee or committees.[13]

The House charter resolution includes a nearly identical provision, highlighting that both chambers anticipated that the intelligence committees' would serve the important function of identifying intelligence issues and activities that would be of interest to the members of the full chamber(s).[14] The charter resolution calls for reports to be made in a manner that protects classified information. The original resolution also requires an annual public report from the intelligence chiefs that reviews "the intelligence activities of the agency or department concerned and the intelligence activities of foreign countries directed at the United States and its interests,"[15] a requirement that likely is satisfied by the annual worldwide threat briefing.[16]

A renewal of attention to the informing function should be a priority to improving public confidence in the intelligence committees' and community's work. The informing function of the committees should be taking on greater importance, for at least two reasons. First, since the passage of the USA Patriot Act, sunset provisions are more frequently added to national security, in particular, surveillance legislation. As a result, Congress is called to debate and vote on intelligence community-related legislation every few years, depending on the length of the particular sunset. This relatively modern use of sunsets in intelligence-related legislation means that Congress members who are not on the intelligence committees need to more regularly have a baseline understanding of intelligence community operations and related laws.

Second, the increase in the number and breadth of unauthorized disclosures means that sensitive intelligence programs are likely to be exposed at a higher rate than in the past. As a result, there is an incentive for Congress members to have a more sophisticated understanding of the laws and policies governing the intelligence community, if not precise knowledge of classified intelligence activities.

PROPOSED REFORMS

Proposals for reform of the intelligence committees can be generally grouped into three categories:

- Reforms to improve public confidence in the committees' work and the intelligence community's activities.
- Reforms to the intelligence budget process.
- Reforms to modernize committee composition and staff.

Reforms to Improve Public Confidence

Proposed Change to HPSCI Leadership Structure

Rebuilding trust that intelligence activities are being conducted lawfully and appropriately has always been at the core of the committees' purpose; indeed, the committees were created for the purpose of bolstering public confidence.[17] As the original resolution creating the SSCI stated:

> A new intelligence committee can mark a new start. It can provide a forum to begin restoring the trust and confidence the intelligence agencies must have to operate effectively. It can formalize in an open and definitive manner the Senate's intention to exercise close oversight over a very important part of the Government's activities. Oversight by Congress is essential under our constitutional system. By its actions it can help assure the public that the abuses of the past will not be repeated in the future. Until full trust and confidence in our intelligence agencies is restored, the country will be unable to conduct a fully effective intelligence program.[18]

As Senate Resolution 400—SSCI's original charter—states, "trust and confidence will only be achieved if the committee does act in a fully bipartisan manner."[19] The importance of bipartisanship was similarly contemplated for HPSCI; as stated by Illinois Congressman Robert McClory in 1977, "it is crucial that the new Intelligence Committee exhibit to the intelligence community and to the American people a serious desire to exercise fair and nonpartisan oversight."[20] To that end, the HPSCI should adopt a structural characteristic of the SSCI: Leadership in the House of Representatives in the 117th Congress should seriously consider whether it would improve the bipartisan operation of the committee to refashion the ranking member of the HPSCI as the vice chairman.[21] This is the model of the SSCI and was intended to be "consistent with the bipartisan nature of the committee." As a practical matter, the practice of the

vice chair presiding over hearings in place of the chairman would necessitate an enhanced level of coordination, to ensure continuity of the committee's operations.

Given the likely political concerns about such a move, this change should be made in tandem with an additional recommendation: that the selection of the HPSCI chair and ranking member (or future vice chairman, if that reform is adopted) be made with the concurrence of the speaker and minority leader in the House regarding who would serve in the roles. Due to the importance of bipartisan oversight in intelligence matters, the rules should be amended so that the speaker must concur in the selection of the minority's choice for vice chair, and the minority leader must concur in the majority's selection for chairman. These changes would foster the selection of committee leaders who are dedicated to working in a bipartisan manner and eliminate from consideration the most partisan of House members for leadership of this particular committee.

Revitalizing the Informing Function

Given today's realities of mass unauthorized disclosures, 24-hour news cycles, digitally available information and a public increasingly demanding more transparency, the time has come for greater informed understanding of intelligence issues by Congress members beyond the intelligence committees. In short, all of Congress needs to be better informed about intelligence issues.[22] The informing function, discussed above, is part of the original function of the intelligence committees; however, it has arguably atrophied over time in comparison to the oversight function. This is not to suggest that all members of Congress should have equal access to intelligence operations and classified information; that level of exposure would be counterproductive. It would likely result in the executive branch severely cutting back on the amount and value of information provided to Congress, including the intelligence committees. But meaningful reform demands evaluating how to better inform members in Congress regarding intelligence and national security who are not on the intelligence committees or related committees of expertise.

The intelligence committees should serve as a useful gateway to the rest of Congress regarding intelligence matters. The committees need better mechanisms for doing so. Examples of enhanced performance of this function include but are not limited to facilitating regularized, periodic briefings in each chamber on issues of intelligence significance and increasing clearances for more staff in Congress so they can access classified information.[23] Not only should the committee chairs each consider specific mechanisms to make clear the manner in which members not on the committees can access intelligence information, but the committee leadership should reaffirm a commitment to affirmatively seeking out more effective ways to proactively inform

members not on the committees of expertise. Since action to change committee structure has not taken place in the last six years after the Snowden disclosures, an alternative corrective has been to increase transparency about intelligence community activities and the legal basis for them.[24] These transparency efforts can go further, by focusing on elevating the baseline level of understanding of intelligence activities beyond those members on the committees of expertise. Senate Resolution 400 required that the SSCI make "regular and periodic reports to the Senate on the nature and extent of the Government's intelligence activities." The original intent was that these reports would be issued at least annually. The requirement also appears to be different from annual reports that the committees do complete, which are summaries of the panels' oversight work.[25]

Intelligence Community Budget Process Reforms

The intelligence authorization is important because it is a key mechanism through which Congress can effectuate its oversight. There have been significant periods (for example, 2005 through 2009) when the IAA was not enacted.[26] Although funds end up appropriated through another legislative vehicle, the uncertainty creates instability for intelligence community operations and strategic planning. In addition, the oversight expertise of the intelligence committee members gets minimized.[27] As the original SSCI charter stated,

> "An essential part of the new committee's jurisdiction will be authorization authority over the intelligence activities of the Department of Defense, the Department of State, the Federal Bureau of Investigation, and the Central Intelligence Agency. Without this authority the new committee would not be assured the practical ability to monitor the activities of these agencies, to obtain full access to information which the committees must have, to exercise control over the budgets of the agencies in order to reduce waste and inefficiency, and to impose changes in agency practices."[28]

Given that the budget approval process is one of the most effective tools available to Congress to influence the activities of the executive branch, some past reform proposals were geared toward enhancing the committees' role in the budget process.[29] The IAA receives little debate due to its size as compared with the overall defense authorization. The appropriations process is structurally disconnected from the authorization process. As a result, the intelligence community's budget is not subject to definitive influence from the committees conducting oversight of the community.

Under the current process, the budget does not get substantially debated openly in Congress. The director of national intelligence (DNI) prepares the National Intelligence Program (NIP), and the secretary of defense prepares the Military Intelligence Program (MIP); both are sent on to the president, who then submits them along with the overall annual budget to Congress.[30] With respect to the budget, the current top-line intelligence budget request for 2020 is $62.8 billion for the NIP.[31] The NIP and MIP combined—which makes up most[32] of the intelligence community budget—comprises approximately 11 percent of the annual national defense budget.[33] The intelligence committees of Congress mark up the IAA. In the House, the intelligence authorization act produced by that chamber covers both the NIP and MIP. In the Senate, the SSCI intelligence authorization act covers the NIP, and the Senate Armed Services Committee (SASC) produces the MIP. Meanwhile, the appropriation is made from the appropriations committees in each chamber. In years when the IAA is not passed, the budget for the intelligence community is appropriated anyway through another legislative vehicle.

Proposals to revise the budget process could include structural changes, such as:

- Separating the NIP from the defense appropriation.
- Creating intelligence subcommittees on the appropriations committees instead of handling the intelligence budget on defense subcommittees in both chambers.
- Moving the appropriations authorities to SSCI and HPSCI.
- Transferring the MIP authorization to SSCI from SASC.[34]

In 2007, the Senate experimented with one of these ideas. The House established the Select Intelligence Oversight Panel (SIOP) on the House Appropriations Committee (HAC). The SIOP was abolished in 2011, likely due to insufficient support from committee and chamber leadership. In its place, an agreement was reached between HPSCI and HAC for three HAC members to participate in HPSCI hearings. Because most of the intelligence community elements reside under the Defense Department, the likelihood of removing their budget appropriation from the armed services committees is not practicable.

There are less dramatic options, however, to improve the process. In the absence of a demonstration that the structural changes outlined above would be effective, and the likelihood that they are politically not feasible, there are less formal processes that have been effective in the past that should be renewed. For example, informal coordination among intelligence committee leadership and appropriations committee leadership can be an effective way of raising issues of importance to the intelligence committee so they do not get minimized in the appropriations process. The leadership of these committees

should commit to meeting semiannually to substantively discuss the most important aspects of the IAA. These committee leadership meetings will provide a forcing function for the staffs to coordinate more closely as well, in preparation for the member discussions. These meetings could occur as a result of an informal commitment on the part of the committee leadership. A better alternative would be for the leadership of each chamber to place such a requirement in the rules of each chamber.

An additional mechanism that has been effective in other contexts that does not require structural changes to the committees is for Congress to pass legislation requiring greater transparency about the intelligence budget.[35] More information about the intelligence budget by more members and staff in Congress will have the effect of facilitating questions and encouraging more debate. In 2015, in the surveillance context, Congress passed a law requiring more transparency about legal decisions.[36] That change was made to enhance public understanding and confidence in the activities authorized by those opinions. In this context, greater transparency about the budget would bring greater awareness to how Congress can exercise its budget authority in order to reflect the oversight it exercises over the intelligence community. Congress should conduct further oversight to determine whether the historical reasons for keeping the intelligence budget, aside from the top-line number which is now declassified, classified. Committee leadership should explore with the intelligence community whether there are specific categories of the intelligence budget that can be further published, and work toward legislation that mandates disclosure. This would enable members of the committees, but also more broadly appropriators and other members of Congress, to more accurately assess the intelligence community budget and thereby exercise the most significant oversight mechanism available to the legislative branch: the budgetary authority.

Reforms to Committee Composition and Staff

Past structural recommendations have concerned increasing or realigning the use of committee staff. For example, prior reviews have suggested that HPSCI would benefit from the addition of staff "designees" similar to the structure of SSCI.[37] Although the proposal might not make committee operations worse, the model used by SSCI may not be as easily transferrable with comparable success to the HPSCI. First, the shorter term of elected representatives would make it a more difficult process to manage and would not necessarily enable productive member-staff relationships to develop. Second, the size of the committee and accompanying staff might be harder to manage than on the Senate side. Third, there is not much support for this change from within the House itself.

As described above, the importance of bipartisanship in intelligence oversight has been a significant principle since the creation of the committees. The SSCI's structure of having only a one-member difference between the majority and minority aids in lessening—though not eliminating, of course—the likelihood of party-line bloc votes and decisionmaking on intelligence matters.[38] The SSCI currently has 15 members, with eight majority and seven minority members.[39] The HPSCI meanwhile, has 22 members, with 13 majority and nine minority members, a proportionality that reflects the chamber's partisan composition overall.[40] The debate over the 1977 House resolution creating the HPSCI specifically contemplated the significance of the Senate's decision to use only the one-member majority on the committee. As noted by Arizona Congressman John Jacob Rhodes at the time:

> The other body in creating its Select Committee on Intelligence has recognized the need for bipartisanship and has established a ratio of 9 to 8. I do not see how the House can really do anything less, otherwise I feel the result will be to blatantly politicize the committee that attaches to it the responsibility for some of the most sensitive and critical information on activities affecting the national security.[41]

There are logistical and administrative downsides to recalibrating the HPSCI with a one-member balance. For example, a one-member difference on the HPSCI might create inconveniences due to the need to have all members present for votes; that maybe more difficult with the House than the Senate due to the shorter terms and travel schedules required for district responsiveness. And if the members of one party consistently vote in a bloc then the one-member difference would not have a practical effect. But in the long term, the arguments favoring bipartisanship are more persuasive, and the House should, in the next Congress, recalibrate its number of members to a one-vote difference to promote greater bipartisanship in intelligence oversight.[42] As stated by McClory, the Illinois congressman, in the 1977 House debate, "The security of this Nation and the lives and safety of Americans around the world is far more important than partisan politics of the House of Representatives."[43]

POTENTIAL AREAS FOR FUTURE RESEARCH

In addition to issues identified above that could form the basis of reforms, areas of future study regarding how to improve the intelligence committees' effectiveness might consist of:

- Conducting a case study of how a particular aspect or topic of intelligence oversight is conducted over the course of a year, to determine whether specific structural changes to the committees would improve the effective of that oversight activity.
- Reviewing the role of the Gang of Eight and whether greater structure and process can be added to the use of that group to ensure that its use does not lessen accountability.
- Developing specific proposals to revitalize the committees' exercise of the informing function.
- Surveying and analyzing what intelligence oversight looks like from the perspective of the intelligence community personnel, both at the leadership and the working staff level.
- Reviewing the classification of the full intelligence budget and identifying additional areas where portions or lines of the budget can be declassified, thus providing greater transparency and more debate regarding intelligence authorizations and appropriations.
- Developing a road map that outlines what laws, policies, or procedures need to be amended, changed, or developed to facilitate increasing the number of cleared congressional staff.

CONCLUSION

There is little political appetite for major reforms of the intelligence committees in Congress currently, particularly reforms that would affect the budget process. However, modest informal process improvements could have a positive impact on the development of the intelligence budget, which is important to ensure that congressional oversight is accompanied by correlating accountability. Meanwhile, improvements to the bipartisan operating of the committees are particularly important. Certain structural changes on the HPSCI to improve bipartisanship, coupled with greater attention to refreshing the committees' role in informing Congress about intelligence matters, likely would improve public confidence in both the committees and the agencies they oversee.

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Disclaimer: The thoughts, positions, and assertions within this paper are the author's alone and do not necessarily reflect those of the intelligence community or the U.S. government.

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[1] For a recent survey on public confidence, see Steven Slick, Joshua Busby and Kingsley Burns, "Public Attitudes on US Intelligence: Annual Poll Reflects Bipartisan Confidence Despite Presidential Antagonism," The Chicago Council on Global Affairs and the Texas National Security Network, July 2019, https://www.thechicagocouncil.org/publication/public-attitudes-us-intelligence.

[2] Notably, in July 2019, the House passed a new intelligence authorization act. Julian E. Barnes, "House Passes Intelligence Bill That Would Expand Secrecy Around Operatives," New York Times, July 17, 2019, https://www.nytimes.com/2019/07/17/us/politics/house-intelligence-authorization-act.html?searchResultPosition=3. The Senate passed its version in May 2019. "Senate Intel Committee Unanimously Passes Intelligence Authorization Act," Senate Select Committee on Intelligence, press release, May 14, 2019, https://www.intelligence.senate.gov/press/senate-intel-committee-unanimously-passes-intelligence-authorization-act.

[3] Carrie Cordero, "Intelligence Oversight Priorities for the 116th Congress" (Center for a New American Security, April 2, 2019), https://www.cnas.org/publications/reports/intelligence-oversight-priorities-for-the-116th-congress.

[4] The SSCI and HPSCI were created in 1976 and 1977, respectively, following revelations of intelligence community unlawful domestic activities. Exhaustive reviews by a Senate select committee chaired by Senator Frank Church and a House select committee chaired by Representative Otis Pike laid the foundation for what became the SSCI and HPSCI. Michael E. DeVine, "Congressional Oversight of Intelligence: Background and Selected Options for Further Reform," R45421 (Congressional Research Service, December 4, 2018), 3, https://fas.org/sgp/crs/intel/R45421.pdf.

[5] DeVine, "Congressional Oversight of Intelligence: Background and Selected Options for Further Reform," 4.

[6] *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States* (New York: W.W. Norton & Co., 2004), 420.

[7] *The 9/11 Commission Report: Final Report of the National Commission on Terrorist Attacks Upon the United States,* 42-421.

[8] U.S. Senate Resolution 445, 108th Congress, 2004; and DeVine, "Congressional Oversight of Intelligence: Background and Selected Options for Further Reform," 6-7.

[9] DeVine, "Congressional Oversight of Intelligence: Background and Selected Options for Further Reform." A previous review by the Congressional Research Service, done in 2011, concluded that "none of these proposals has overwhelming support." Richard A. Best Jr., "The Intelligence Appropriations Process: Issues for Congress," R42061 (Congressional Research Service, December 16, 2011), https://www.hsdl.org/?view&did=696716.

[10] "Senate Intelligence Co-Chair Warner on Cyber Threats," C-SPAN, December 7, 2018, https://www.c-span.org/video/?455583-1/senate-intel-committee-chair-mark-warner-discusses-cyber-threats.

[11] Cordero, "Intelligence Oversight Priorities for the 116th Congress."

[12] On July 25, 2019, the SSCI released its first volume of its report on Russian interference in the 2016 election. Report of the Select Committee on Intelligence United States Senate on Russian Active Measures Campaigns and Interference in the 2016 U.S. Election Volume I: Russian Efforts Against Election Infrastructure (with additional views), 116th Congress, 1st Session, July 2019, https://www.intelligence.senate.gov/sites/default/files/documents/Report_Volume1.pdf.

[13] U.S. Senate Resolution 400 Section 4(a), 94th Congress, 2nd Session (1976).

[14] U.S. House Resolution 658 Section 3, 95th Congress, July 14, 1977.

[15] U.S. Senate Resolution 400 Section 4(b), 94th Congress, 2nd Session (1976).

[16] Daniel R. Coats, Director of National Intelligence, "Worldwide Threat Assessment of the US Intelligence Community," Statement for the Record to the Select Committee on Intelligence, U.S. Senate, January 29, 2019, https://www.dni.gov/files/ODNI/documents/2019-ATA-SFR---SSCI.pdf.

[17] According to a survey conducted by Lawfare in February 2019, confidence in Congress' protection of national security is lower than other government institutions. Mieke Eoyang, Ben Freeman, Ryan Pougiales, and Benjamin Wittes, "Confidence in Government on National Security Matters: February 2019," Lawfare blog on

lawfareblog.com, March 20, 2019, https://www.lawfareblog.com/confidence-government-national-security-matters-february-2019.
[18] U.S. Senate Resolution 400, 6.
[19] U.S. Senate Resolution 400, 12.
[20] U.S. Government Publishing Office, *Congressional Record – House* (July 14, 1977), 22940.
[21] Theoretically, there is nothing preventing the House from changing this rule sooner but it seems unlikely.
[22] In the opposite direction, the use of the Gang of Eight (consisting of the leadership of each of the two intelligence committees and the leadership of each chamber) for highly sensitive matters has the potential to limit the effectiveness of the committees themselves, and offers less accountability than committee mechanisms.
[23] There is no evidence-based credible argument that granting additional security clearances for staff, perhaps in the dozens, would cause undue harm to national security as long as those staff members were subject to comparable security clearance background investigations as similarly situated executive branch officials.
[24] Public Law 114-23.
[25] U.S. Government Publishing Office, *Report of the Select Committee on Intelligence, United States Senate, Covering the Period January 6, 2015 to January 2, 2017,* Report 115-13 (March 29, 2017), https://www.congress.gov/115/crpt/srpt13/CRPT-115srpt13.pdf.
[26] Best, "The Intelligence Appropriations Process: Issues for Congress," 6. (See for a complete review of actions taken by the House and Senate in response to 9/11 Commission recommendations at Appendix A.)
[27] Section 504 of the National Security Act requires that intelligence activities be *specifically* authorized.
[28] U.S. Senate Resolution 400, 94th Congress, 2nd Session (1976), 8.
[29] U.S. Senate Resolution 400 (1976), 8.
[30] Best, "The Intelligence Appropriations Process: Issues for Congress," 2.
[31] U.S. Intelligence Community Budget, https://www.dni.gov/index.php/what-we-do/ic-budget.
[32] Additional departments, such as the Department of Homeland Security, have intelligence components not funded through the NIP (or MIP). Michael E. DeVine, "Intelligence Community Spending: Trends and Issues," R44381 (Congressional Research Service, June 18, 2018), https://fas.org/sgp/crs/intel/R44381.pdf.
[33] DeVine, "Congressional Oversight of Intelligence: Background and Selected Options for Further Reform," 11.
[34] The current SSCI chairman, Senator Richard Burr, had previously co-sponsored a resolution to shift the appropriations authority to the SSCI. DeVine, "Congressional Oversight of Intelligence: Background and Selected Options for Further Reform," 12.
[35] In the 115th Congress, a bill was introduced to provide greater transparency. The bill was not referred out of the budget committees. DeVine, "Intelligence Community Spending: Trends and Issues," 12.
[36] Public Law 114-23, *Uniting and Strengthening America by Fulfilling Rights and Ensuring Effective Discipline Over Monitoring Act of 2015 (USA Freedom Act)*, June 2, 2015, https://www.congress.gov/114/plaws/publ23/PLAW-114publ23.pdf.
[37] Phillip Lohaus, Daniel Schuman, and Mandy Smithberger, "Improving Congress's oversight of the intelligence community," Congress blog on TheHill.com, January 24, 2017, http://origin-nyi.thehill.com/blogs/congress-blog/politics/315956-improving-congress-oversight-of-the-intelligence-community.
[38] U.S. Senate Resolution 445 amended U.S. Senate Resolution 400 to reduce the SSCI membership from 17 to 15, with eight members in majority and seven in minority. For additional changes made by U.S. Senate Resolution 445, see DeVine, "Congressional Oversight of Intelligence: Background and Selected Options for Further Reform," 6-7.
[39] The home page of the SSCI features the chairman and vice chairman side by side, with links to both of their biographies, and lists all the members of the committee. The "about" page is an informational overview of the committee. U.S. Senate Select Committee on Intelligence, https://www.intelligence.senate.gov.
[40] Consistent with many other House of Representatives home pages, the home page of the HPSCI features photos of the chairman and summaries and links to committee news; the "about" committee page is the chairman's biography. The listings of majority and minority members are contained on separate pages of the site. U.S. House of Representatives Permanent Select Committee on Intelligence, https://intelligence.house.gov.
[41] U.S. Government Publishing Office, *Congressional Record – House* (July 14, 1977), 22937.
[42] U.S. Government Publishing Office, *Congressional Record – House* (July 14, 1977), 22940.
[43] U.S. Government Publishing Office, *Congressional Record – House* (July 14, 1977), 22940.