

COMMITTEE TURNOVER AND THE CONGRESSIONAL OVERSIGHT OF  
INTELLIGENCE: THE CASE OF THE SENATE SELECT COMMITTEE ON  
INTELLIGENCE

by

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(Under the Direction of Loch K. Johnson)

ABSTRACT

The accountability or oversight of intelligence has always been a critical activity in a democracy. Congress and more particularly, committees are in charge of this very sensitive task of controlling the activities of America's intelligence agencies. Prior research indicates that the quality and efficiency of congressional oversight have varied considerably with respect to intelligence matters. This analysis will look at the possible explanations for these variations. Specifically, this thesis seeks to answer the following question: what are the consequences of membership turnover in legislative committees on their ability to perform oversight effectively? The analysis examines the case of the Senate Select Committee on Intelligence (1977-2003).

INDEX WORDS: SSCI, OVERSIGHT, TURNOVER, HEARINGS, CIA, INTELLIGENCE  
COMMUNITY, COMMITTEE MEMBERS, CONGRESS

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## DEDICATION

I would like to dedicate this thesis to my grand-parents. I am grateful to the four of them, Gisele and Philippe Tollu, Marylyn and Francis Milward who always supported and encouraged me in my life.

I think I inherited the love of politics from my maternal grand-father but all of them have always been here to listen and argue with me and therefore helped me to develop the critical thinking ability so critical in our field.

They taught me that nothing was to be taken for granted but that everything could be reached with hard work. Determination is the key of all enterprises whether they are small and easy or last a life time.

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## LIST OF ACRONYMS

IC Intelligence Community

CIA Central Intelligence Agency

NSC National Security Council

NSA National Security Agency

DCI Director of Central Intelligence

CHAOS CIA spying operation on US Citizens

COINTELPRO FBI equivalent of CHAOS

FBI Federal Bureau of Investigation

PFIAB President's Foreign Intelligence Advisory Board

IOB Intelligence Oversight Board

SSCI Senate Select Committee on Intelligence

HPSCI House Permanent Select Committee on Intelligence

## Chapter 1

### Introduction

#### Opening remarks

Constitutionally, Congress has three main powers. This institution is responsible for the representation of the American people, for the enactment of legislation, and finally for oversight of the other branches, as prescribed by the Founders' theory of checks and balances.

In Congress, very few debates have been as contested as the one over executive versus legislative powers. The oversight power is definitely part of this debate. According to Lowenthal, oversight can have two different and opposite meanings<sup>1</sup>. We can first understand oversight as failure to notice. Second, we can also understand oversight as a supervision or watchful care. This paper will focus, in particular, on the Congressional oversight of the Intelligence Community when Congressional committees try to practice the second definition and avoid the first.

The *9/11 Commission Report* states that the oversight function of Congress has diminished over time and in recent years. The traditional review of the Intelligence Community (IC) has been replaced by "a focus on personal investigation, possible scandals, and issues designated to generate media attention."<sup>2</sup>

According to Lee Hamilton, co-chair of the Kean Commission, "the great task is to strike a balance between the need to ensure accountability and the intelligence community's need to

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<sup>1</sup> Lowenthal, 2003: 154

<sup>2</sup> 09/11 Commission (Kean Commission), 2004:104

gather and protect information. It is the balance between oversight and secrecy"<sup>3</sup>. This topic has been the subject of numerous works in the political science literature, but the purpose of this thesis is to explore in more detail the oversight side of the balance in an effort to explain why the oversight activities of the Congress have varied so much over time.

### **Historical Background**

Although the U.S. oversight system of intelligence is unusual in giving extensive responsibilities to the legislative branch, this state of affairs evolved slowly. The importance of oversight was spelled out by James Madison, an author of the *Federalist Papers*. In *Federalist Paper # 51*, he wrote that each of the branches of government has "the necessary constitutional means and personal motives to resist encroachments of the others." Advocated by the Founders, the principle of checks and balances is the most important justification for a strong legislative oversight of intelligence.

From the American Revolution to World War II, the U.S. intelligence was largely war-oriented. Intelligence activities were increased and better organized in times of war, but reduced in times of peace. This structure of intelligence collection is held responsible for the major intelligence failure that failed to warn of the Japanese attack against Pearl Harbor in 1941. This incident gave an important lever to policymakers in their effort to structure a modern Intelligence Community (IC). In 1947, the Congress passed the National Security Act that created a Central Intelligence Agency (CIA) as well as a National Security Council (NSC).

These events opened the "Era of Trust."<sup>4</sup> Following the disaster of Pearl Harbor, many people thought that "if Americans were to be secure in a hostile world, the intelligence

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<sup>3</sup> Johnson, 2004:834.

<sup>4</sup> Johnson, 2004:829.

community would have to be free to move quickly and in secret, with minimal oversight"<sup>5</sup>. The rationale until the mid-1970 was a "laissez-faire" state of mind or a period of so-called "Triumphant Institutional oversight"<sup>6</sup>. Intelligence subcommittees of both the House and the Senate Armed Services and the Appropriation committees in both chambers were responsible for overseeing the IC. The problem with these panels was that they tended to behave more as advocates and supporters of the agencies than rigorous overseers. In 1953, Senator Mike Mansfield (D, Montana) pushed for the creation of a Joint House-Senate Committee on the CIA to oversee intelligence but the proposal was defeated. He would try many times, without success. A decade later, in 1963, Senator J. William Fulbright (D, Arkansas) presented Senate Resolution 283 that would have created a Senate Committee on Intelligence Operations but he also lost his fight. Despite these setbacks for reformers, such proposals would soon be proven prescient and a valuable missing tool for committees to fulfill their constitutional oversight obligations. Indeed, according to Smist, "the advocacy oversight practiced by these committees was to hurt the IC. The lack of vigorous and critical oversight gave the intelligence professionals a freedom of action that they freely used to their advantage."<sup>7</sup> But that would lead to excesses and trouble for the IC.

On December 22, 1974, Seymour Hersh published a front-page article in the *New York Times*, charging the CIA with violating its charter. The journalist accused the intelligence agencies of having conducted illegal domestic intelligence operations during the Nixon Administration. The Agency (as the CIA is called by insiders) allegedly "conducted a massive, illegal domestic intelligence operation during the Nixon Administration against the antiwar

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<sup>5</sup> Ibid

<sup>6</sup> Smist, 1994:9.

<sup>7</sup> Ibid.

movement and other dissident groups in the United States."<sup>8</sup> According to Hersh, the CIA had maintained up to 10,000 files on U.S. citizens. Moreover, the Agency engaged in break-ins, wiretapping, mail opening, and illegal inspections. Hersh based his story on Director of Central Intelligence (DCI) William Colby's "Family Jewels". DCI James Schlesinger asked Colby to compile a list of possible violations of the law or questionable activities the CIA was engaged in. When Colby became DCI, he gave Hersh access to this list which contained an enumeration of illegal operations such as operation CHAOS, a CIA operation directed against the anti Vietnam war groups; operation COINTELPRO, a similar operation conducted by the FBI; surveillance and bugging of American journalists on the basis of tracing security leaks; CIA connections with the Watergate conspirators; the CIA's mail interception operation and opening program; experiments with mind-control drugs; CIA cooperation with police departments and other government agencies; and last, but not least, assassination attempts aimed at foreign leaders.

An "Era of Uneasy Partnership"<sup>9</sup> started with these discoveries and the subsequent creation of several congressional investigative committees. Responding to these events, the Congress and the executive branch decided to "establish close supervision over the CIA"<sup>10</sup>. Starting on January 4, 1975, President Ford appointed an executive branch commission headed by Vice President Nelson Rockefeller. This structure was responsible for the investigation of Hersh's charges, with a strong focus on illegal domestic CIA activities. Although Congress disregarded this executive committee after the creation of congressional entities, the Rockefeller commission continued its work. On June 6, 1975, it released a report which recommended the creation of a Joint House-Senate Intelligence Committee, to amend the National Security Act of 1947, and to strengthen the general counsels and Inspector General within the Intelligence

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<sup>8</sup> Hersh, 1974

<sup>9</sup> Johnson, 2004:829.

<sup>10</sup> Ibid.

Community. Lastly, the report strongly advised that the President's Foreign Intelligence Advisory Board (PFIAB) be expanded to include oversight of the CIA. Following some of these recommendations, President Ford issued Executive Order 11905 (February, 18, 1976) reconstructing the Intelligence Community and creating the Intelligence Oversight Board (IOB) within the White House. Instead of limiting the involvement of Congress in the oversight of Intelligence -as it was meant to-, this episode would eventually produce the opposite effect as the Congress started to get more and more involved in the oversight of intelligence.

The House of Representatives started its investigation of the Intelligence Community with the creation of a select committee. On February 19, 1975, the House of Representatives appointed members of the new select committee under the chairmanship of Lucien Nedzi (D-Michigan). This committee never took off with its investigations mostly because the members were unable to agree on a staff director. Moreover, the Democratic members started to question the professionalism of the committee Chair when they discovered that Nedzi, then Chair of the subcommittee on intelligence of the House Armed Services Committee, had been briefed on the intelligence abuses but failed to take action. Consequently, the Nedzi committee self-destructed very quickly leaving the House Leadership with the task of appointing a new committee to take over the investigation. On July 17, 1975, a second investigative committee was created under the leadership of Otis Pike (D-New York). This committee inherited the same mandate as the Nedzi committee. It was to investigate abuses and make recommendations on how to improve the situation. But very soon, as its predecessor, this committee was racked with controversies and dissension. Indeed, on January 29, 1976, the House repudiated the Pike Committee when representatives voted 246-124 against the release of the final report of the Committee. Parts of this report had already been published in the *New York Times*, and widespread doubts on the

credibility of this work started to mount. Later, the leak of the full report in *The Village Voice* led to an important investigation inside the Pike Committee activities which finished discrediting the work of this committee. Nevertheless, in the unpublished report, the committee recommended the creation, in the House of Representatives, of a permanent select committee on intelligence.

On the Senate side, the Democratic caucus voted, on January 20 1975, to set up a bipartisan select committee to examine the U.S. Intelligence Community. The next day, January 21, Senator John Pastore introduced S. Res. 21. This resolution called for the formation of a Select Committee to investigate any illegal or unethical activities on the part of intelligence agencies. On January 27 1975, the Senate agreed 82-4 for the creation of such a committee. This new entity had to perform two tasks: first, it had to investigate the charges and abuses of the CIA, and second it had to propose legislative remedies to correct any abuses or deficiencies it might discover<sup>11</sup>.

Under the leadership of Frank Church (D-Idaho), the committee ran a sixteen-month investigation that concluded with the publication of two final reports which made some 183 recommendations to the Senate, along with a tall stock of supplementary reports.<sup>12</sup> The first report, entitled "Foreign and Military Intelligence", focused on foreign intelligence activities. According to Senator Church: "A major conclusion of this inquiry is that congressional oversight is necessary to assure that in the future our intelligence community functions effectively, within the framework of the Constitution."<sup>13</sup> Consequently, the main recommendation they came up with was the creation of a permanent oversight committee in the Senate. This report also proposed a new legislation to replace the National Security Act of 1947 in order to clearly delineate the responsibilities of the President, the NSC and the DCI. Finally the committee

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<sup>11</sup> Smist, 1994: 27

<sup>12</sup> See also Season of Inquiry, Johnson, 1988.

<sup>13</sup> Ibid: 76

strongly advised to ban entirely some controversial activities carried out by the Intelligence Community. For example, they recommended that all political assassinations, efforts to subvert democratic governments, support to the police or internal security forces of any country that violated human rights, the use of American clergy or journalist for intelligence purposes, and drug testing without the informed consent of the participants be entirely prohibited. In its second final report, "Intelligence and the Rights of Americans", committee members strongly focused on domestic intelligence activities. The Committee again pleaded for strong oversight, and the intelligence agencies were reminded that they had to obey the law. Unlike the House committees, the Church committee successfully accomplished the two tasks the Senate had given it. The determination, dedication, and hard work of the chairman, the members and the staff were in large part responsible for the success of the investigation.

The success of the Church committee can also be measured by its effects on the public and the press. After the failure of both House Committees, the Senate investigation helped increase and restore the legitimacy and credibility of the intelligence agencies. The episode also had a tremendous effect on the executive branch of government. Indeed, the recommendations released by the committees helped to frame a new environment where accountability was to take a critical place. These investigations marked the start of the implementation of principles that were going to guide congressional oversight of intelligence for years to come. For example, they established the tradition of bipartisanship, the creation of permanent files, the development of knowledge and expertise, and most importantly they helped develop a professional relationship with the members of the Intelligence Community. Finally, after many tries, the principle of systematic congressional oversight of intelligence was born and Congress had shown that a congressional committee was completely capable of overseeing the Intelligence Community.

The many reports released by the different Committees would eventually lead to a dramatic reshaping of the oversight of intelligence as we know it today. Indeed, on May 19, 1976, following a recommendation of the Church Committee, the Senate voted 72-22 to establish a permanent Senate Select Committee on Intelligence (SSCI). A year later, in July, the House of Representatives created its own committee: the House Permanent Select Committee on Intelligence (HPSCI). Both committees were invested with the authority to fulfill the role of intelligence overseers. For example, the jurisdiction of the SSCI is:

To oversee and make continuing studies of the Intelligence activities and programs of the United States Government, and to submit to the Senate appropriate proposals for legislation and report to the Senate concerning such intelligence activities and programs. In carrying out this purpose, the Select Committee on Intelligence shall make every effort to assure that the appropriate departments and agencies of the United States provide informed and timely intelligence necessary for the executive and legislative branches to make sound decisions affecting the security and vital interests of the Nation. It is further the purpose of this resolution to provide vigilant legislative oversight over the intelligence activities of the United States to assure that such activities are in conformity with the Constitution and laws of the United States.<sup>14</sup>

The next episode, the Iran-*contra* Affair, symbolizes the turn toward the "Era of Distrust"<sup>15</sup>. On November 12, 1986, Congressional leaders were received in the White House to be told that the United States government had secretly sent weapons to Iran. At the time, officials denied any trade of arms against hostages. On November 25, 1986, Attorney General Meese said

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<sup>14</sup> S. Res. 400 from the 94<sup>th</sup> Congress. Sec 1.

<sup>15</sup> Johnson, 2004: 830.

that "profits from the sale of arms to Iran were used by the U.S.-backed forces opposing the Sandinista government in Nicaragua."<sup>16</sup>

All these revelations were contrary to the legislation sponsored a few years earlier by the House Permanent Select Committee on Intelligence, under the Leadership of Rep. Edward P. Boland (D-Massachusetts). Indeed, it was the first committee to publicly oppose a covert action wanted by the executive branch and strongly encouraged by the President. The "Boland Committee" strongly opposed the American involvement in Nicaragua and acted to terminate aid to the Nicaraguan opposition. In order to do so, the House passed, in the Classified Intelligence authorization annex, a clause that prohibited the executive branch from using any funds to overthrow the Nicaraguan Government by any way of action. Rep. Boland, wanting such clause to be public, asked the House to pass the Harkin amendment -or as we commonly know it the "Boland Amendment". Therefore, the House passed publicly what they already did in a more secret fashion. Later, Boland introduced another amendment proposing to prohibit all covert funds to the Nicaraguan opposition. This amendment was similar to the Harkin amendment but was also more straightforward in its language. The House passed the new Boland amendment 228-195 on July 28, 1983.

On December 1, 1986, President Reagan signed the Executive Order 12575 creating the President's Special Review Board or Tower Commission (after its Chair, Senator John Tower, R, Texas) to look at the Iran affair. Later, on January 6-7 1987, both Chambers of Congress decided to create select investigative committees to look at the Iran-*contra* scandal. Senator Daniel Inouye (D, Hawaii) and Representative Lee Hamilton (D, Indiana), chairs of each committee agreed to run a joint investigation, and on November 18, 1987, they released a joint report. Their main conclusion was that the Reagan administration ignored the oversight structures. The

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<sup>16</sup> Smist, 1994: 258

executive branch intended both to undermine and destroy the accountability standards built up so carefully by congressional overseers since 1976. From 1988 to 1992, a major portion of the work of both intelligence committees was devoted to correcting the deficiencies that the Iran-Contra committees had uncovered.

A new "Era of Ambivalence" started after 09/11. The multiple investigations and committee reports have shown that "the intelligence agencies have failed to protect the nation and, by implication, so had lawmakers on the oversight panels"<sup>17</sup>. The aftermath of 9/11 is marked with a new attitude of the executive and legislative branch toward intelligence accountability. Indeed, both appeared to be very reluctant to cooperate and eventually to move toward major reform in the Intelligence Community. After much pressure, the President decided to appoint an independent investigative commission, the 9/11 Commission, under the leadership of former governor Thomas Kean (R-Kansas). Later, in December 2004, after many floor and committee debates, the Congress passed a major reform of the Intelligence community, based on the major recommendations of the Kean Commission.

After learning about the evolution of the legislative oversight of intelligence, one can say that the quality of oversight has been everything but constant over the years. Indeed, there is a recurrent dilemma very specific to the policy area of Intelligence:

On the one hand, if Congress conducts oversight that is too public then the dangers exist that the oversight process itself could harm national security. On the other hand, if the inherent secrecy of the policy area, the lack of input from the public and the press, and excessive congressional concerns about maintaining

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<sup>17</sup> Ibid

security leads to an oversight that is truncated and ineffective, then the necessary and required oversight will not occur.<sup>18</sup>

Consequently, the oversight committees are like rope walkers, constantly looking for the right balance in order to keep the fine line between oversight and security and avoid the disastrous consequences of falling on one side or the other.

### **Purpose to the Study**

An extensive literature focuses on the topic of oversight quality and tries to find an answer to the question of why does this quality of oversight vary so much? Although many works look at historical and external factors, this paper proposes to look more at structural reasons, such as committee turnover, explaining the variation.

In this research, the Congressional Committee is the unit of analysis, more precisely, the Senate Intelligence Committee on Intelligence. Ott notes that "the Senate and the House Intelligence Committees, while engaging in the same generic enterprise, have brought their own distinct approaches to aspects of oversight."<sup>19</sup> This work will focus on the Senate as the first of the panels created. A comparison with the House will be left to another story.

The main purpose of this analysis is to measure the degree of stability in committee membership and, to look at the effect of turnover on oversight. The specific research question this paper will explore is: what are the consequences of membership turnover of legislative committees on their ability to perform efficiently their oversight functions?

At this point, we need to explain what we mean by efficient oversight. The efficiency of oversight can be measured in various ways. One method is to look at the transcript of the committee hearings and look at the quality of the questions. Such content analysis will enable us

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<sup>18</sup> Smist, 1994: 13.

<sup>19</sup> Ott, 2003: 73.

to see that the best oversight is done when the overseers are asking hardball questions.<sup>20</sup> Another method is to look at the number of hearings held by the committee. Indeed, to the question "how much oversight is enough?"<sup>21</sup> Johnson answers that a frequent assumption is that, *ceteris paribus*, more is better. In this thesis, we will rely on this idea and assume that the number of oversight activities is a relevant measure of the efficiency of oversight.

### **The importance of the topic**

Oversight is a critical activity of democratic government; and, if exercised properly, it is an important tool to safeguard the integrity of the Constitution. The significance of oversight to intelligence, according to Ott, is:

What is not appreciated is that congressional oversight of intelligence is a key element in the effective functioning of the intelligence community. When oversight has been capable and constructive, it has been a major asset to the IC. When degraded, or misused, it has been an albatross around the neck of the intelligence agencies.<sup>22</sup>

The fact of the matter is that the oversight authorities have not always done a good job keeping the intelligence agencies accountable to the American people or their representatives. Therefore it is very important to look at the reasons why this happened and what can be done to develop a better quality of oversight.

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<sup>20</sup> Johnson, 1980.

<sup>21</sup> Ibid

<sup>22</sup> Ott, 2003: 70.

## Literature Review

In this research, it is useful to have a close look at the literature on congressional committees, oversight, and membership turnover. These are the three elements composing the research framework.

### *Committees*

In *Congressmen in Committees*, political scientist Richard Fenno argues that Congressional Committees do matter. The major theme in his work is that Congressional committees differ from one another. When this study was written, assumptions about committees in Congress were articulated as if they were applicable to all committees, therefore conveying the image that committees were similar. Fenno claimed that it was not always true and that committees were actually different from one another. Indeed, he shows that committees differ in "their influence in Congressional decision making; their autonomy; their success on the Chamber floor; their expertise; the control exercised by their chairmen; and their domination by the executive branch."<sup>23</sup> This book was a successful attempt to provide a middle range explanation that would take into account the two sets of assumptions: committee uniformity and committee uniqueness. Fenno used five different variables to create an explanatory framework of congressional committees. He looked at member goals, environmental constraints, strategic premises, decision making processes and decisions. He applied these variables on six House committees from 1955 to 1966. He reached the conclusion that Congressional committees differ from one another. The author also acknowledges that in order for his theory to gain more explanatory power, his model need to be applied to every committee. At the end of his research, Fenno also made a comparison between House and Senate committees. He found out what was true in the House was also true in the upper chamber: Senate committees also differ from one

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<sup>23</sup> Fenno, 1974: xiv

another. Further, he also discovered that Senate Committees differ from House committees. Indeed, he explained that "Senate Committees are less important as a source of chamber influence, less preoccupied with success on the chamber floor, less autonomous within the Chamber, less personally expert, less strongly led, more individualistic in the decision making than are House Committees."<sup>24</sup> Fenno's work is one of the most important on Congressional committees and gives us great insight into their complex functioning.

In a more recent work, Deering and Smith explore in more detail the committee institution in Congress. They look at the role and power of committees in Congress. They point out that congressional Committee are the central structural element of Congress. The literature on committee in Congress has expended a lot in the last decade and Deering and Smith explore the debates which took place in the field at this time. There are mainly three theoretical perspectives in the literature on Congressional Committees. Each of them is a view of Congressional decision-making. The first is the "distributive committee perspective (...) [where] members of Congress self-select the various panels because of a keen interest in the legislation they produce"<sup>25</sup>. Tenants of this perspective maintain that this type of committee is autonomous and has monopoly over setting the agenda within the topics in their jurisdiction. The second perspective is the "party-dominated committee perspective". This theory gives a vital role to political parties: "committee members are viewed as agents or instruments of their own party."<sup>26</sup> The final perspective looks at committees using a "chamber-dominated" framework where committees are subordinated to their parent chambers: "committees are created to meet the needs of the chamber in its search for an effective division of labor in the development of expertise, the

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<sup>24</sup> Fenno, 190

<sup>25</sup> Deering, 1997: 2

<sup>26</sup> Ibid, 3

acquisition of information and the organization of support staff"<sup>27</sup>. According to the authors, none of these perspectives have a good grasp of the committee system theory. On the contrary, Deering and Smith think that "policy making through committees represents an admixture of these alternate models"<sup>28</sup>.

Modern congressional committees have three major powers: drafting bills and resolutions, reporting legislation to the parent chamber, and collecting information through hearings and investigations. This paper will focus on the last committee power which is the most closely related to oversight. All these functions are part of Congress' oversight power. The topic of this work is the Senate Select Committee on Intelligence. The literature recognizes a classification of senate committees: policy committees, mixed policy/constituency, constituency, and unrequested committees<sup>29</sup>. The top four senate committees are traditionally the Appropriations, Armed Services, Finance, and Foreign Relations.

### *Oversight*

Oversight is one of the three major powers granted to congressional committees and will be the main focus of this work. The literature on oversight covers three major ideas.

First, a large amount of work examines the justifications for oversight. Rockman noticed that "the principal value of justifying legislative monitoring of the executive is to ensure the triumph of representative government by lines of accountability running through the organ that embodies popular sovereignty"<sup>30</sup>.

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<sup>27</sup> Ibid, 3

<sup>28</sup> Ibid, 4

<sup>29</sup> Ibid, 80

<sup>30</sup> Rockman, 1984: 414

Second, the literature focuses on the goals of oversight, trying to answer the question: "what legislative supervision of the executive should accomplish?"<sup>31</sup>. McMahon (1943) wrote one of the first works on legislative oversight. He listed four major goals a quality oversight has to fulfill: "(1) check dishonesty and waste; (2) guard against harsh and callous administration; (3) evaluate implementation in accordance with legislative objectives; and (4) ensure administrative compliance with statutory intent". Ott (2003) writes about the oversight authorities and their powers. The oversight committees have the authority to:

legislate on all matters relating to the Intelligence Community (...); authorize the Intelligence Community budget for action by the full Senate after referral to the Senate Armed Services Committee; investigate allegations of criminality, intelligence failure, and/or waste, fraud, and abuse; monitor CIA and other Community operations and programs (...); determine what intelligence capabilities imply for major decisions and issues facing the Senate; confirm the most Senior Intelligence Community officials as a precondition to assuming their appointments; receive prior notification of contemplated covert actions after the President has signed a finding but before operations have commenced; access all sensitive intelligence community information and programs, including the authority to task Intelligence Community officials to supply such information through printed reports, letters, testimony and briefings.<sup>32</sup>

The final point dealt with in the very extensive literature on this topic is a definitional issue. On the one hand, there is generally a strong agreement on the fact that oversight is a good thing. On the other hand, there is very little consensus on the definition of oversight. Indeed,

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<sup>31</sup> Ibid, 415

<sup>32</sup> Ott, 2003: 77.

some definitions are very broad and others focus on very narrow segments of this activity. Ogul (1976) is using a broad definition: "legislative oversight is behavior by legislators and their staffs, individually or collectively, which results in an impact, intended or not, on bureaucratic behavior"<sup>33</sup>.

On the contrary, we can also find very exclusive definitions. For example, Aberbach defines oversight as:

Congressional review of the sections of the federal departments, agencies, and commissions and of the programs and policies they administer. This include review that takes place during program and policy implementation as well as afterwards, but excludes much of what Congress now does when it considers proposals for new programs even for the expansion of current programs.<sup>34</sup>

In between these extremes, we can find middle range definitions as the one advanced by Lyons and Thomas: "oversight encompasses all activities undertaken by a legislature to influence administrative behavior, during program implementation as well as afterwards"<sup>35</sup>.

Another theme the literature insists on is the performance of oversight. Barrett studies the oversight of intelligence on that angle: "oversight has been a crucial role of Congress, although many scholars and some government officials have judged it chronically deficient in its performance"<sup>36</sup>. The literature shows an "unending debate between those who assert and decry limp performance by Congress and others who view legislators and their committees as micromanagers who have harmed the executive branch's administrative ability"<sup>37</sup>.

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<sup>33</sup> Ogul, 1976: 11.

<sup>34</sup> Aberbach, 1979: 494.

<sup>35</sup> Lyons and Thomas, 1982: 118.

<sup>36</sup> Ibid

<sup>37</sup> Ibid

### *Turnover*

The literature on turnover is also quite relevant for understanding committee behavior. Scholars mostly study turnover as a dependent variable, trying to explain what influences turnover. More precisely, they look at the general turnover rate in both the House and the Senate to study the importance of incumbency, or the probability of getting reelected<sup>38</sup>. There is no consensus in the literature on an adequate level of turnover. On the one hand, "those most alarmed during the 1980s and most relieved in the 1990s, subscribed to the view that low turnover insulates the House from changes in public opinion, makes policy change less likely, and contributes to an air of arrogance and corruption in the House"<sup>39</sup>. On the other hand, "those most concerned by the large freshman classes in the House following the 1992 and 1994 elections subscribed to the view that high turnover produces less competent, more bitterly partisan, and more easily manipulated legislators"<sup>40</sup>.

Squire tries to answer the question: "what are the consequences of membership turnover on legislature's ability to perform its major task: the passing of legislation?"<sup>41</sup> He finds out that "high levels of turnover pose a number of negative consequences for an organization, such as the loss of organizational memory, and institutional and issue expertise (...) it leads to increasing inefficiencies in decision making"<sup>42</sup>.

Another part of the literature on turnover deals with its causes. Swain explores four general causes of turnover: death, retirement, failure to be nominated or defeat in the general election<sup>43</sup>. Kline, focusing more on the topic of interest in this study, highlights the principal

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<sup>38</sup> Swain, Borrelli, Reed, Evans, 2000.

<sup>39</sup> Ibid, 436

<sup>40</sup> Ibid

<sup>41</sup> Squire, 1998: 23

<sup>42</sup> Ibid

<sup>43</sup> Swain, 2000: 439

causes of committee membership turnover: the failure of the same individual to get reelected, and the general shifting of lawmakers from committee to committee<sup>44</sup>. In this work, he looks at the effects turnover has on committee work. He highlights two ways in which turnover can affect the efficiency of a congressional committee: "the congressmen can develop a technical expertise within certain specialties; there can be a modicum of stability in the membership of the legislative committees"<sup>45</sup>.

The study of the literature is a critical step toward the next chapter, indeed, it is necessary to build a relevant theory. Therefore, the theory evaluated in this paper will be deducted from the existing literature and policies. In the next chapter we will first develop our theory and then explain the method we will use to evaluate it.

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<sup>44</sup> Kline, 1977: 29

<sup>45</sup> Ibid: 30

## Chapter 2

### Theory and Method

A theory is a general statement that describes and explains the causes and effects of a specific phenomenon. It is composed of one or several hypotheses. Our first purpose in this chapter will be building a good theory with the elements we pointed out in the first chapter. The second step will be to explain the method we will use to analyze and evaluate the theory.

#### **A theory of congressional oversight**

"Congressional oversight for intelligence and counterterrorism is now dysfunctional. Congress should address the problem"<sup>46</sup>. This is one of the main conclusions of the 9/11 Commission. After months of investigation, members concluded that unless Congress starts dramatic changes and particularly improves its oversight activities, the United States risks not being able to ultimately prevent another 9/11 from happening again. Indeed,

of all our recommendations, strengthening congressional oversight may be among the most difficult and important. So long as oversight is governed by current congressional rules and resolutions, we believe the American People will not get the security they want and need. The United States of America needs a strong, stable, and capable congressional committee structure to give the America's national intelligence agencies oversight, support, and leadership.

The reform of Congressional oversight will be one of the greatest challenges facing the Congress in the future in order to insure America's security. Many normative recommendations

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<sup>46</sup> 9/11 Report, 2004: 420

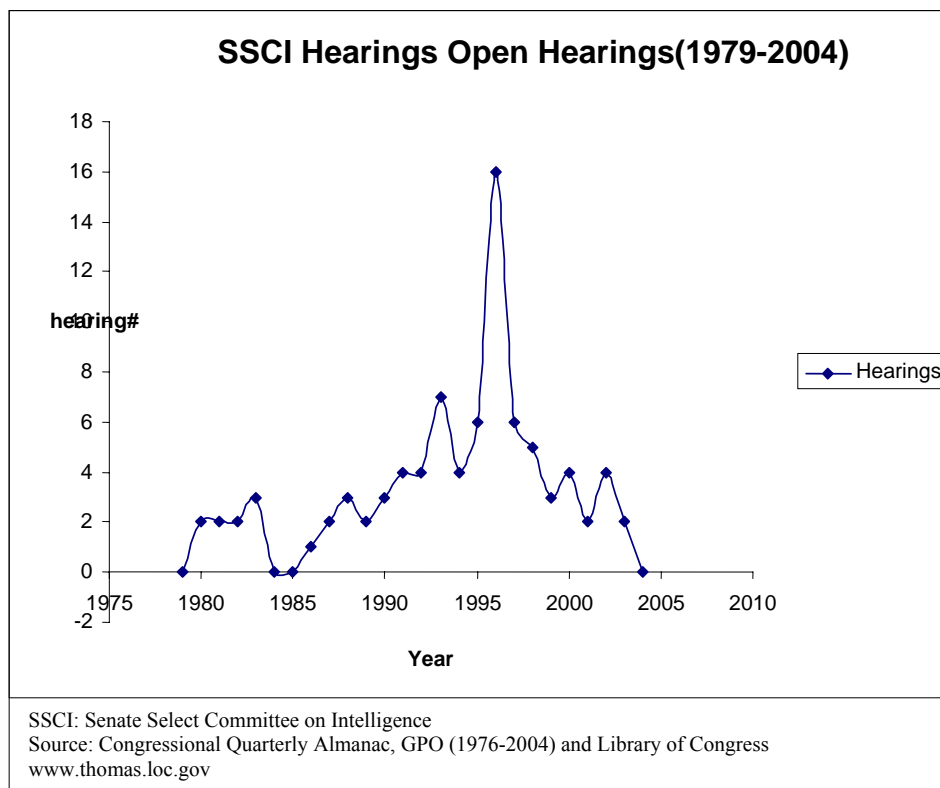
have been made in order to tackle the problem but what is really missing is an empirical demonstration of the relevance of the proposed solutions. Many, today, are accusing the low stability in intelligence committee's membership for being one of the main problems which need to be taken care of in order to maintain a better oversight. Hence, there is a need to look in depth into that charge and see if this is the real culprit for insufficient intelligence oversight. Therefore, the purpose of this thesis is to measure the degree of stability in SSCI's membership and its consequences on the efficiency of oversight.

### *Assumptions*

In *Alarms and Patrols: legislative oversight in Foreign and Defense policy*, Christopher Deering gives a classification of the Senate Committees looking at the number of hearings they hold during the period 1946-1994. The Judiciary Committee comes first, the Foreign Relations Committee is in the middle, and the SSCI comes last. Even if we need to acknowledge the fact the SSCI started its operation only in 1977, Deering thinks this committee would still come in last position, had he studied another period of time.

The number of hearings held by the SSCI has varied overtime. This variation can be illustrated with a figure of open hearings held by the Committee for every Congress over the period of time studied here: 1977-2004.

Many studies have tried to explain such variation in oversight activities but they have not succeeded in giving empirical foundations to their findings. This thesis draws conclusions from both the literature on oversight and the literature on membership stability in order to develop a theory that can explain the variation in oversight activities for the SSCI.

**Figure 1: SSCI's open hearings (1979-2004)**

The theory tested in this paper states that membership stability and effective oversight by the committee are positively correlated. Further, our central hypothesis is that the lack of stability in the membership of the Committee will create a lack of expertise and specialized skills that are necessary for the SSCI to perform a good oversight of the Intelligence Community. In schematic form:

Lack of Stability → Lack of Experience → Low Oversight Activities

Foundations for this theory come from very different sources: Congress members at large, Committee members, independent commissions, and political science scholars. All have focused on the issue of term limits, generalized as membership stability or a turnover issue, to explain deficiencies in oversight activities.

The question of membership stability has always been controversial. Indeed, when the Intelligence Committees were created, lawmakers feared that too much stability would have negative effects on oversight. Indeed, lawmakers were afraid that too much stability would be responsible for the creation of a co-opted environment in the committee. Many thought there was a risk that SSCI's members would start to identify themselves with the agencies they were supervising and therefore lose their objectivity.<sup>47</sup>

In order to have an experienced committee, members and staff coming from the intelligence community were usually preferred to work in the committee. This attitude increased the co-optation hazard, raising the risk that individuals might be prone toward favoring the agency they were coming from. At the birth of the committee, this phenomenon was thought to be a great advantage for developing quality oversight. Indeed, intelligence being a matter of high technicality, many were convinced that a certain degree of expertise was needed in order to deal with the Committee's activities.

In 1976, when the statutes of the SSCI were written, the authors were more concerned by the danger to "go native"<sup>48</sup> than by the great benefit experience would bring to the quality of oversight. In S. Res. 400, lawmakers included a special clause which required the turnover of committee members who have served an 8-year period in the committee. At the time, lawmakers thought that this term-limit rule would limit the risk of co-optation between the committee members, the staff, and the agencies they were supervising. This was also a way to assure that every members of the Senate had a chance to be on the committee and to gain expertise in Intelligence oversight in order to better legislate and oversee this matter.

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<sup>47</sup> The Founders of the SSCI feared the members would become co-opted after many years spent in the Committee.

<sup>48</sup> Johnson, 2005: 115

Many years after this rule was implemented, there was a widespread consensus over the fact that this high turnover caused by the mandatory rotation system had been harming the committee oversight. Indeed, after eight years of experience, the senior members were forced out of the committee thus leaving the place to more junior and inexperienced members. Another consequence of the term limit rule was that "a Senator barely [had] the time to master the substance of intelligence before his or her committee term [was] up."<sup>49</sup> Finally, with such a rule, the chance of a member to reach chairmanship was very low. Therefore, many members preferred to invest their time and resources in the work of other committees or even leave the committee before the end of their limited tenure. The Intelligence Committee deals with very specific and secretive issues, therefore, members have a hard time relating with their constituents on their work in this committee. In other words, it is hard for Congress members to pass pork-barrel legislations in Intelligence bills that would directly benefit their constituents, or could use as a reelection platform. Consequently, members prefer to invest their time in more rewarding committees.

*Lack of membership stability and lack of experience*

First, we need to take a close look to the first part of the theory. We assume at this point that the lack of stability in the committee membership will create a lack of experience in this institution.

Ott acknowledged that oversight committees face numerous problems but the major "structural problem involves membership turnover."<sup>50</sup> This issue demonstrates the necessity to find a balance between having experienced committee members -which is an inestimable advantage- and the undeniable risk of co-optation. Indeed, for the last decade or so, people have

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<sup>49</sup> Ott, 2003: 87

<sup>50</sup> Ibid: 86

been arguing over the relevance and utility of the term-limit rule. The expected outcome of the rule happened: the limited tenure increased the rotation rate of the committee membership. But this was unexpectedly accompanied with a negative side effect. Instead of improving the oversight activities of the committee, the rule provoked a dramatic decrease in the specialization level in the committee which in turn would be responsible for a diminution in its oversight activity.

The institutional turnover exacerbated by the term limit rule was degrading the quality of oversight which is the very phenomenon the authors of this rule were trying to avoid. Puzzled by such an outcome, many have tried to explain such a problem. Generally, they are pointing out the lack of membership stability to be the principal cause of a diminished level of experience and intelligence expertise in the committee.

President Clinton's first term was marked by a very serious intelligence failure which resulted in extended oversight and studies of the Intelligence Community. All the intelligence agencies had seemingly failed to "understand the intentions -or even the whereabouts- of the Somali tribal leader Mohamed Farah Aidid."<sup>51</sup> To deal with the atmosphere of doubt and contempt this event had created in the intelligence community, President Clinton decided to appoint a Special Commission on the Future Roles and Capabilities of the Intelligence Community. Members were appointed by both the President and the Congress. President Clinton nominated former Defense Secretary and Chair of the President Foreign Intelligence Advisory Board (PFIAB), Les Aspin, to lead the Commission. Later, he would nominate another former Secretary of Defense, Harold Brown, to replace Aspin who died of a stroke in May 1995. The law giving authority to the Commission required that the Aspin-Brown Commission -as it is commonly known- release its conclusions by March 1, 1996.

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<sup>51</sup> Johnson, 1996:55

The report of the Commission on Roles and Capabilities of the U.S. Intelligence Community explicitly questioned the utility and relevance of a term-limit rule in the congressional intelligence committees. The conclusions of the panel on this matter were that "(...) because of the fixed tenure rule, members often have to rotate off the House and Senate intelligence oversight committees at the very time they have begun to master the complex subject matter."<sup>52</sup> They noted that another side effect of a term limit is that "knowing their tenure is limited; some [members] put their time in other committees. As a consequence, in the view of many commission witnesses, an unfortunate loss of expertise and continuity occurs, weakening the effectiveness of the committees." Therefore, the Aspin-Brown Commission recommended decreasing the turnover rate by abolishing the limited tenure in the Intelligence Committees. At the end this action would be a means of increasing members' expertise in intelligence oversight. Concretely, this provision was reported by the Committee as part of the Fiscal Year 1997 Authorization Bill, but it was promptly removed it before the Senate could take a vote on it.

In 1997, the SSCI, under the leadership of Arlen Specter, published a special report on the committee's activities. This work was released after the publication of the report of the Aspin-Brown commission therefore it is worth noticing that the latter was written in a context of examination of the Intelligence Community. In a section on "committee internal reforms and enhancements", the committee recommended abandoning the term limit requirement. The Committee unanimously recommended "deleting Section 2(b) of the Senate Resolution 400 which prohibits members of the committee from serving continuously for more than eight years". They saw "ending member term limits on the committee as a means of increasing member expertise in intelligence oversight."<sup>53</sup>

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<sup>52</sup> Cited in SSCI Report, 1997: 36

<sup>53</sup> Ibid

After the unprecedented shock resulting from the 9/11 terrorist attacks, many realized that the nation wasn't prepared to face such catastrophic event. Numerous questions started to arise such as "How did this happen, and how can we avoid such tragedy again?"<sup>54</sup> To deal with these questions, President George W. Bush and the Congress appointed the National Commission on Terrorist Attacks upon the United States, also known as the 9/11 or Kean Commission. This new investigative panel was to work in a bipartisan and independent atmosphere under the leadership of Chair Thomas H. Kean and Vice Chair Lee H. Hamilton. Their mandate was, according to the law, to investigate "facts and circumstances relating to the terrorist attacks of September 11, 2001."<sup>55</sup> In the summer 2004, the 9/11 Commission released its report on the intelligence failures leading to the September 11 terrorist attacks. The report is a compilation of recommendations designed to be used as foundations for new legislation on the reform of the Intelligence Community. Between other recommendations, they think that: "Members should serve indefinitely on the intelligence committees, without set terms, thereby letting them accumulate expertise."<sup>56</sup>

Finally, on January 26, 2005, the Senate passed S. Res. 445, amending the Rules of Procedure for the Select Committee on Intelligence, and S. Res. 400. The amendment applies to the SSCI some recommendations made by the 09/11 Commission. The purpose of this amendment is to "improve the effectiveness of the Senate Select Committee on Intelligence, especially with regard to its oversight of the Intelligence Community of the United States Government with the "elimination of term limits."<sup>57</sup>

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<sup>54</sup> 9/11 Report, xv

<sup>55</sup> Public Law 107-306, November 27, 2002

<sup>56</sup> 9/11 Report, xvi

<sup>57</sup> S. Res. 445: Title II, Sec. 201. (C)

In conclusion we can say that there is widespread acceptance that the lack of stability in the committee's membership is a direct cause for the lack of experience noticed in this same committee.

*The lack of experience and the low oversight activities*

We need now to look at the second part of the theory and the ultimate consequence of the lack of stability in the committee. Therefore, we will focus on the link between experience and oversight activities.

Aberbach wrote that "oversight activity is done best and is more likely to be done by those with specialized skills."<sup>58</sup> The assumption underneath this generalization is that the more time one spends in a committee, the more specialized its skills will become, and therefore the more active its oversight will be.

The 1997 SSCI report on the committee's activities adds that: "The committee believes that limiting tenure of the Senate Select Committee on Intelligence limits member's experience and expertise thereby detrimentally affecting the quality of oversight."<sup>59</sup> Concretely, experience helps committee members to know what to ask during hearings and meetings. The more experienced they are the more assertive they become and the sharper their questions are. All these characteristics are necessary -but not sufficient- to reach an efficient oversight. Indeed, the committee members have to call for hearings and be proactive about it in order to get the information they want and more important need. Moreover, during hearings if the committee members do not ask questions, there is no reason for the individuals testifying to participate and give away information on their own initiative. The Committee members need to take a proactive role if they want to perform significant oversight.

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<sup>58</sup> Aberbach, 1990:53

<sup>59</sup> SSCI Report, 1997: 36

### *Conclusion*

The issue of membership stability in oversight committees is now widely recognized. Many have proposed solutions to this problem. Most of them suggest eliminating the institutionalized turnover created by this term-limit rule. By and large, these works are highly normative and no empirical work has been done so far to prove or disprove this policy recommendation. These normative solutions are based on the theory that increasing the stability of the committee membership, hence lowering the turnover of its members, will increase the oversight activities in this committee. What the theory posits is that a lack of stability creates a lack of specialization in the committee which, in turn results in a lower oversight performance (less hearings held, less reports written, less resolutions passed, and less effective questioning in hearings).

Membership Stability → <b>Experience</b> → Oversight activities
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This relationship was created based on observations and reports from many political specialists: committees, lawmakers, and political scientists. What is missing is an empirical demonstration of this linkage. Therefore, this thesis will focus on an empirical study of the question and try to show that these normative propositions also have empirical foundations.

### **The research method**

After exploring the theoretical framework of the research, we need to spend some time on the method we will use in order to evaluate the theory. First, we will take a look at the design. Second, we will examine the operationalization of our main variables.

### *Design*

This study will follow a theory testing design and will commit to a deductive analysis in order to prove -or disprove- the theory we present. The evaluation of the theory will be based on the quantitative and qualitative analysis of observations in order to provide empirical evidence to back up the relationship we found between the committee membership stability and its oversight activities.

This thesis will use data collected from the period of time starting in 1979 with the first membership renewal of the SSCI and finishes in 2003 with the last data available. The unit of analysis will be the congressional committee and precisely the Senate Select Committee on Intelligence. More particularly, observations will be made for each committee at the beginning of every Congress -in other words, every other year. This research will base its argumentation on two cases. Although the Senate Select Committee on Intelligence is the main subject of this research, the long established Senate Foreign Relation Committee (SFRC) will be used as a base line for comparison.

### *Hypothesis*

The purpose of this paper is to measure the degree of stability in SSCI's membership and eventually its consequences on the oversight activities of the committee. Drawing consequences from both the literature on oversight and the literature on turnover, the theory in this thesis establishes that the more stable the membership of the committee is, the more oversight activities it will hold, and, as acknowledged in the literature, the higher the quality of oversight will be.

Consequently, our main hypothesis states that stability and oversight activities are positively correlated:

$$H_1 = \text{High Stability } \alpha \text{ High oversight activities}$$

*The more stable the committee is, the more oversight it will perform.*

*Main concepts and variables*

*Membership stability & Turnover rate*

This research is looking at the stability of the committee as an institution. In other words -and in the analysis- we will consider the overall turnover rate in the committee without looking at specific cases of particular members.

Indeed, it seems that the overall turnover in committee membership is a good operationalization of the degree of membership stability. Therefore, turnover rates were computed for each Congress since the creation of the Committee (Senate Res. 400, 1976; first committee is in 1977). This variable is the percentage of new members entering the committee at each new Congress. To compute this variable the best source is the *Congressional Quarterly Almanac*, published for each Congress<sup>60</sup>.

In this part of the research it is important to describe and explain in detail the turnover trend in the SSCI. First, turnover can have multiple reasons such as death, defeat in reelection, and overall rotation between committees. One easy reason to distinguish from the others is the term-limit requirement. To do so, in this paper, members that have done their 8-years of service in the SSCI are called lame-duck committee members since they will be forced to quit the committee the following term. The results are presented in table 1.

Since 1977, 84 Senators have served as a member of the SSCI. Among them, only 37 members have served for the entire 4 terms or 8 years allowed to them. In other words, 44 percent of the committee members stayed as long as they were authorized to. Concerning the term limit rule, there have been 3 exceptions: 105<sup>th</sup> Congress: Sen. John Glenn (D, Ohio): 5

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<sup>60</sup> See Appendix for detailed data

terms or 10 years; 107<sup>th</sup> Congress Sen. Richard Lugar (R, Indiana) and Sen. Bob Graham (D, Florida): 5 terms or 10 years.

**Table 1: SSCI's lame duck members (1977-2004)**

	Number of lame duck members
95 <sup>th</sup> Congress 1977-1978	0
96 <sup>th</sup> Congress 1979-1980	0
97 <sup>th</sup> Congress 1981-1982	0
98 <sup>th</sup> Congress 1983-1984	9
99 <sup>th</sup> Congress 1985-1986	1
100 <sup>th</sup> Congress 1987-1988	3
101 <sup>st</sup> Congress 1989-1990	1
102 <sup>nd</sup> Congress 1991-1992	5
103 <sup>rd</sup> Congress 1993-1994	2
104 <sup>th</sup> Congress 1995-1996	1
105 <sup>th</sup> Congress 1997-1998	1
106 <sup>th</sup> Congress 1999-2000	5
107 <sup>th</sup> Congress 2001-2002	5
108 <sup>th</sup> Congress 2003-2004	4

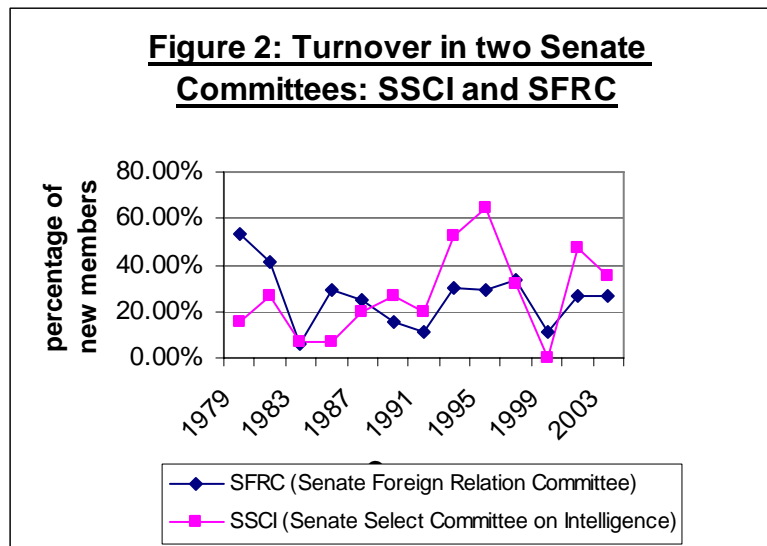
Having established the number of lame duck senators, it is now possible to differentiate between the departures from the committee caused strictly by the term-limit rule, and the ones caused by other reasons: failure to get reelected, natural rotation in the chamber, and voluntary departure.

An important conclusion can be drawn from this simple calculation: 49 percent of SSCI members left the committee because of the term limit rule and 51 percent for other reasons. This means that the term-limit rule by itself is responsible for almost half of the membership turnover in the committee. If our theory is verified by the analysis, it will eventually give great support to the argument in favor of the elimination of the term limit rule advocated over the last decade.

**Table 2: Causes of rotation from SSCI (1979-2004)**

Congress	number of departures	departures caused by term-limits	departures caused by other reasons
96 <sup>th</sup> 1979-80	2	0	2
97 <sup>th</sup> 1981-82	4	0	4
98 <sup>th</sup> 1983-84	1	0	1
99 <sup>th</sup> 1985-86	10	9	1
100 <sup>th</sup> 1987-88	3	1	2
101 <sup>st</sup> 1989-1990	4	3	1
102 <sup>nd</sup> 1991-1992	3	1	2
103 <sup>rd</sup> 1993-1994	9	5	4
104 <sup>th</sup> 1995-96	11	2	9
105 <sup>th</sup> 1997-98	6	1	5
106 <sup>th</sup> 1999-00	1	1	0
107 <sup>th</sup> 2001-02	8	5	3
108 <sup>th</sup> 2003-04	6	5	1
<b>TOTAL</b>	<b>68</b>	<b>33= 49%</b>	<b>35= 51%</b>

Finally, to have a base line we also computed the same data for another important committee: the Senate Foreign Relation Committee (SFRC). Like the SSCI, this committee deals with foreign policy issues. Consequently, it is useful to use this venerable committee as a point of comparison. This way, we will be able to compare the two committees and see if the case of the Intelligence Committee is unusual.



We can draw several observations from figure 2. First, it seems that turnover rates in the SFRC and the SSCI are varying in the same direction, and generally in the same proportions. This observation could illustrate a certain dependency on common external factors. The idea is that there could be exogenous phenomena which influence the membership stability of these committees. One can easily think of a possible sensitivity to the political context. The second observation is that the turnover rate is generally higher in the SSCI, which gives us another reason to focus on this Committee and to find out what is specific about it. Finally, we can observe that there is a relatively high variance in turnover rate. Therefore this enables us to think that this can be an explanation of why there is a variation in oversight activities.

#### *Experience, Expertise, & Seniority*

Expertise is one of the main goals pursued by the Committee system in Congress. Indeed, Asher explains that there is a "need of congressmen to specialize and acquire expertise. Specialization is intimately tied to the ability of Congress to make informed voting decisions (...) Specialization is facilitated by the committee system...specialization facilitates congressional performance of the oversight function."<sup>61</sup> Over time, specialization has become a norm of legislative behavior.

We think that expertise is positively correlated with the experience members acquire along their tenure in the Committee. Experience helps committee members to know what information to ask for during hearings or meetings. In this analysis, the experience concept is operationalized as the average seniority in the committee. In other words, this is the aggregate measure of the "time spent" in the committee, for each Congress.

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<sup>61</sup> Asher: Committees and the norm of specialization (Find year and page)

**Table 3: Aggregate experience in SSCI (1979-2004)**

96 <sup>th</sup> Congress 1979-1980	3 years, 8 months
97 <sup>th</sup> Congress 1981-1982	4 years, 6 months
98 <sup>th</sup> Congress 1983-1984	6 years, 5 months
99 <sup>th</sup> Congress 1985-1986	3 years, 3 months
100 <sup>th</sup> Congress 1987-1988	4 years, 6 months
101 <sup>st</sup> Congress 1989-1990	4 years, 8 months
102 <sup>nd</sup> Congress 1991-1992	5 years, 3 months
103 <sup>rd</sup> Congress 1993-1994	3 years, 10 months
104 <sup>th</sup> Congress 1995-1996	2 years, 10 months
105 <sup>th</sup> Congress 1997-1998	4 years, 1 month
106 <sup>th</sup> Congress 1999-2000	5 years, 8 months
107 <sup>th</sup> Congress 2001-2002	4 years, 10 months
108 <sup>th</sup> Congress 2003-2004	4 years, 2 months
<i>Average/ Mean</i>	<i>4 years, 6 months</i>

The results show a relatively low cumulative experience. Indeed, the average time spent in the committee is 4 years and 6 months. The most experienced committee was the one serving during the 98<sup>th</sup> Congress (1983-84) with an aggregate experience of 6 years and 5 months. This is relatively high, considering that the highest experience a committee can reach is 8 years. In contrast, the least experienced committee held office under the 104<sup>th</sup> Congress, with only 2 years and 10 months average experience.

We can do the same thing for the SFRC. We find out that the experience in this committee is extremely high with individuals such as Richard G. Lugar (R, Indiana) and Joseph R. Biden (D, Delaware) serving in the committee for 26 years and 28 years respectively.

**Table 4: Aggregate experience in SFRC (1979-2004)**

96 <sup>th</sup> Congress 1979-1980	2.9 years	2 years, 11 months
97 <sup>th</sup> Congress 1981-1982	3.65 years	3 years, 8 months
98 <sup>th</sup> Congress 1983-1984	5.29 years	5 years, 3 months
99 <sup>th</sup> Congress 1985-1986	5.88 years	5 years, 10 months
100 <sup>th</sup> Congress 1987-1988	6.7 years	6 years, 8 months
101 <sup>st</sup> Congress 1989-1990	7.9 years	7 years, 11 months
102 <sup>nd</sup> Congress 1991-1992	9.5 years	9 years, 6 months
103 <sup>rd</sup> Congress 1993-1994	9.3 years	9 years, 3 months
104 <sup>th</sup> Congress 1995-1996	10 years	10 years
105 <sup>th</sup> Congress 1997-1998	8.88 years	8 years, 10 months
106 <sup>th</sup> Congress 1999-2000	10.11 years	10 years, 1 month
107 <sup>th</sup> Congress 2001-2002	10.31 years	10 years, 4 months
108 <sup>th</sup> Congress 2003-2004	9.9 years	9 years, 11 months
<i>Average/ Mean</i>	<i>7.7 years</i>	<i>7 years, 8 months</i>

The table shows that the experience is higher in this committee compared to the experience in the SSCI. The aggregate experience seems to increase in the first few sessions and then to stabilize at a very high level. It is worth noticing that the average experience over the time period is almost equal to the maximum experience level the SSCI can reach with the term limit rule ---a level the Senate Intelligence Committee never reached so far.<sup>62</sup>

*Oversight Activities, Hearings, Bills and Resolutions, and Reports*

Lowenthal writes that Congress has several levers it can use to carry out its oversight function. Every oversight committee can use a bag of tools to fulfill its oversight function. Overseers actually pursue two main activities: they observe and try to improve the law to fix any flaws. To do so, they can hold committee hearings, initiate bills and resolutions, run investigations, and write reports.

Congress has a very precise position on legislative oversight:

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<sup>62</sup> Lowenthal, 2003

Each standing committee, other than the Committees on Appropriations and on the Budget, is required to review and study, on a continuing basis, the application, administration, execution, and effectiveness of the laws dealing with the subject matter over which the committee has jurisdiction and the organization of federal agencies and entities having responsibility for the administration and evaluation of those laws.

The purpose of the review and study is to determine whether laws and the programs created by Congress are being implemented and carried out in accordance with the intent of Congress and whether those programs should be continued, curtailed, or eliminated. In addition, each committee having oversight responsibility is required to review and study any conditions and circumstances that may indicate the necessity or desirability of enacting new or additional legislation within the jurisdiction of that committee, and must undertake, on a continuing basis, future research and forecasting on matters within the jurisdiction of that committee. Each standing committee also has the function of reviewing and studying, on a continuing basis, the impact or probable impact of tax policies on subjects within its jurisdiction.<sup>63</sup>

#### *Number of hearings and meetings*

The first way to measure oversight activities is to count the number of hearings and meetings held by SSCI for each Congress since the creation of the committee. Hearings are essential to the oversight process because they are a means to ask directly for information. Executive branch officials come before the committee to answer questions from members. If the

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<sup>63</sup> Legislative oversight by Standing committees (108<sup>th</sup> Congress)

committee wants an alternative point of view, members can also call experts from outside the agencies to testify.

Aberbach wrote that oversight hearings and meetings are "one of the best established indicators of the formal committee activity and it's the most reliable way of looking at trends."<sup>64</sup> Johnson also acknowledged the fact that formal hearings are a good measure of intelligence accountability. To the question "how much oversight is enough?"<sup>65</sup>, Johnson answered that a frequent assumption is that, *ceteris paribus*, more is better. Therefore, this paper will rely on this assumption to draw its conclusions.

Considering the secret character of the intelligence issues, most of the hearings are held behind closed doors. For example, in the 107<sup>th</sup> Congress, the SSCI held 6 open hearings against 73 closed hearings; during the 108<sup>th</sup> Congress, 2 open hearings were held against 108 closed hearings. But, according to Johnson, this should not be a problem since "the behavior of committee members showed little variation from the private to the public form" and "the fact of the matter is that we learn more in open sessions than we do in executive sessions."<sup>66</sup> Consequently, in this analysis, we will rely on the number of open hearings and meetings.

#### *Investigations and reports*

Usually, investigations result in reports that summarize findings and offer recommendations for change; they assure the rest of Congress and the public that effective oversight is being carried out. According to the SSCI, "the oversight committees are authorized to conduct investigations, audits and inquiries regarding intelligence activities as may be required." They also "monitor and assess world events where the US interests are involved."<sup>67</sup>

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<sup>64</sup> Aberbach, 1990: 34-35

<sup>65</sup> Ibid

<sup>66</sup> Johnson, 1996: 95

<sup>67</sup> SSCI, 1994:17

For the purpose of this research this variable will be operationalized as the number of published reports or committee documents for each Congress.

### *Legislation*

Oversight committees, such as the SSCI, also carry out their own legislation in addition to the intelligence authorization bill it is always in charge of initiating.

Indeed, "both oversight committees are legislative committees; they are authorized to have bills within their area of jurisdiction referred to them for disposition and can report legislation to their respective bodies." "Traditionally, the oversight committees have used the annual intelligence authorization bill as their primary legislative vehicle, not only for purpose of authorizing appropriations."<sup>68</sup>

It is also worth noticing that major legislations are very often a result of important investigations and reports run in the Committee.

This variable will be operationalized as the number of bills and resolutions referred to the committee as well as introduced by the committee for every Congress.

### *Conclusion:*

In conclusion we can follow Johnson by acknowledging the fact that "legislators spend much of their time looking at federal agencies in order to understand not only how well existing statutes are working but what changes in the law may be desirable."<sup>69</sup>

The main hypothesis this work will focus on says that the higher the turnover rate in the committee, the lower the number of oversight activities this committee will eventually hold, and therefore the less effective its oversight. Conversely, a low turnover is correlated with a more

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<sup>68</sup> Ibid

<sup>69</sup> Johnson, 1996: 94

effective oversight. Indeed, with a high turnover rate, there is a greater risk to have a rupture in the oversight process because the expertise will not be as good.

**Table 5: Summary of Main Variables: SSCI Oversight Activities, 1977-2004.**

Congress/Years	Open hearings	Bills and Resolution	Reports/publications	Turnover rates
95 <sup>th</sup> Congress 1977-1978	0	9	20	0
96 <sup>th</sup> Congress 1979-1980	2	9	12	15.4
97 <sup>th</sup> Congress 1981-1982	4	10	15	26.5
98 <sup>th</sup> Congress 1983-1984	3	12	10	6.7
99 <sup>th</sup> Congress 1985-1986	1	9	8	6.7
100 <sup>th</sup> Congress 1987-1988	5	12	16	20
101 <sup>st</sup> Congress 1989-1990	5	10	15	26.7
102 <sup>nd</sup> Congress 1991-1992	8	10	11	20
103 <sup>rd</sup> Congress 1993-1994	11	12	15	52.9
104 <sup>th</sup> Congress 1995-1996	22	9	16	64.7
105 <sup>th</sup> Congress 1997-1998	11	4	8	31.6
106 <sup>th</sup> Congress 1999-2000	7	3	12	0
107 <sup>th</sup> Congress 2001-2002	6	6	7	47
108 <sup>th</sup> Congress 2003-2004	2	5	8	35.3

Our main purpose in this thesis is to look at the relationship between membership stability and committee oversight. Including only the turnover variable in our explanatory model would be a serious mistake that would eventually lead us toward wrong conclusions; therefore,

in order to develop a well-specified model, we need to look for substantively significant control variables. This important task will be the focus of the next chapter.

## Chapter 3

### Competitive explanations

In the literature, one can find many alternative variables explaining the variation in SSCI's oversight activities. In this paper, they will be used as control variables in order to build a model of oversight activities as complete as possible. This research will touch on four different control variables: the political context, the importance of the committee (major or minor committee), the personal factor (commitment of members and the influence of the Chairman), and the level of specialization in the committee.

#### Political context

Johnson wrote that "the repeated pattern of intelligence accountability since 1975 has been one of shock, intense oversight response, remedial legislation, and then back to weak patrolling."<sup>70</sup> The debate over oversight activities always goes back to the typology of police patrols versus fire alarms, the first being the more beneficial because it helps prevent disasters from happening.

Nevertheless, we can hypothesize that fire alarms will engender more oversight activities than a day to day police patrolling kind of oversight. Indeed, it seems that: "most lawmakers on the intelligence oversight committees do not consider the patrolling of the secret agencies a prime responsibility [but] when intelligence failure or scandal does occur, lawmakers feel compelled to respond."<sup>71</sup> In other words:

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<sup>70</sup> Johnson, 2005:111

<sup>71</sup> Ibid

*H<sub>2</sub> = Crisis (international or domestic) a higher number of oversight activities*

*The number of oversight activities is higher in time of crisis.*

The idea underlying this hypothesis is that major crises or events tend to lead to intensive oversight and possible legislation. First, one can think of Operation CHAOS revealed by the *New York Times* journalist Seymour Hersh in 1974. This scandal led to major congressional investigations. Eventually these post-facto inquiries resulted in the passage of major legislation affecting the intelligence community. In 1974, the Hughes-Ryan act was passed and the SSCI and HPSCI created. Later, in 1980, Congress passed the Oversight Act. A decade later, back to back, the Inspector General Act (1989) and the Oversight Act of 1991 were successfully passed after the inquiries on the Iran-Contra scandal. Then another series of investigative commissions started with the Aspin-Brown commission (1995). The 9/11 terrorist attacks pulled a huge fire alarm in the US Congress and in the government in general, which triggered enormous investigations. The Kean commission worked on the intelligence failures leading to 9/11, and released a best seller report in the summer of 2004. This inquiry was concluded with the passage in Congress of the 2004 Intelligence Reform Act. SSCI, HPSCI, as well as the on-going Silberman-Robb commission on WMD are expected to produce legislation in 2005<sup>72</sup>.

On the contrary, the daily or police-patrolling oversight is producing very few major activities or legislations. This activity is almost entirely due to the self-motivation of committee members and chairs.

A simple way to operationalize this variable is to code each year considering whether or not it is a year of crisis or not. In this research, this variable will take the form of a dummy

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<sup>72</sup> Johnson, 2005: 111.

variable. Every couple of years (corresponding to each Congress) will take the value 1 if the United States had to face a crisis (international or domestic), and 0 if there was no crisis.

**Table 6: Crisis (1975-2004)**

Congress/Years	Crisis	Dummy Variable
94 <sup>th</sup> Congress 1975-1976	Intelligence Wars (CHAOS/COINTELPRO)	1
95 <sup>th</sup> Congress 1977-1978	Halloween Massacre	1
96 <sup>th</sup> Congress 1979-1980		0
97 <sup>th</sup> Congress 1981-1982		0
98 <sup>th</sup> Congress 1983-1984		0
99 <sup>th</sup> Congress 1985-1986	Year of the Spy	1
100 <sup>th</sup> Congress 1987-1988	Iran- <i>contra</i> scandal	1
101 <sup>st</sup> Congress 1989-1990		0
102 <sup>nd</sup> Congress 1991-1992	First Gulf War	1
103 <sup>rd</sup> Congress 1993-1994	Twin Towers bombing Somalia, Ames	1
104 <sup>th</sup> Congress 1995-1996	Robert Hannsen	1
105 <sup>th</sup> Congress 1997-1998	Bin Laden declares war	1
106 <sup>th</sup> Congress 1999-2000		0
107 <sup>th</sup> Congress 2001-2002	09/11 Afghanistan	1
108 <sup>th</sup> Congress 2003-2004	Iraq WMD	1

**Minor vs. major committee:**

*H<sub>3</sub> = Major Committee  $\alpha$  higher number of oversight activities*

*The number of oversight activities is higher in a major committee.*

Among members of Congress, the SSCI is considered as an important committee. Indeed, it seems to be very popular: "ironically, the waiting list to become a member of SSCI or HPSCI is lengthy, since many lawmakers enjoy the James Bond aura that attends membership; yet, once selected most lost interest in the day-to-day grind of oversight work and are more attracted to

district-oriented, reelection opportunities."<sup>73</sup> Inouye added that "the membership on the Intelligence committee is very prestigious in the Senate. The fact that you apply for membership on this committee doesn't mean you'll get it."<sup>74</sup>

Another way to appreciate the status of the committee is to look at the structural capacity of the committee. Indeed, it has been shown that a fairly active oversight profile usually results from favorable structural capacities. For example, the proliferation of congressional staff or financial resources does correlate with the growth of oversight activities in Congress. Moreover, "interests, abilities, and background of individual staffers, as well as their relationships with one another and with the committee members, became highly important."<sup>75</sup> Important group dynamics affect members as well as staffers behavior and finally, the overall operation of the committee.

To conclude, we can say that the SSCI is considered a major committee. Therefore, it should hold a high number of oversight activities.<sup>76</sup>

### **Personal factors**

Among the literature on oversight, there is a widespread consensus that personalities and personal involvement matter in the quality of oversight eventually produced. Johnson wrote that "individual politicians [differ] each with his or her own unique operational code, constituency pressures, and the style of behavior (...) One would consequently expect the exercise of oversight to differ from one individual to another."<sup>77</sup> Some committee members and even committee chairs would totally ignore the oversight task and others would pursue and stimulate oversight with vigor. Ogul states that "the motivations of members are more central to oversight efforts than are

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<sup>73</sup> Johnson, 2005: 113

<sup>74</sup> Smist; 82

<sup>75</sup> Aberbach, 1997: 7

<sup>76</sup> But SSCI is technically considered as a B committee, while SFRC is an A committee.

<sup>77</sup> Johnson, 1980: 478

structural factors"<sup>78</sup>. Personal interest and amity led to more oversight activity whereas enmity between members of the overseen agency and the committee led to less oversight activity.

In the literature, there are several indicators of the personal factor variable and how it can affect the quality of oversight. The first one is the attendance patterns of the committee members which reflect their personal motivations, and the second is quality of the questions they ask when they attend the hearing.

A good indicator of a member's commitment to intelligence accountability is his or her level of attendance to the hearings held in the committee. Johnson found that from 1975 to 1990, "approximately one-third of the total SSCI and HPSCI membership, on average, participated in oversight hearings".<sup>79</sup> Continuing this work, we found that in the period from 1995-2002, the attendance in open hearings was approximately 40.8 percent of the full membership. This confirms Johnson's conclusion that in general, "a good many legislators [more than 50 percent] failed to show up for work."

These statistics confirm the following hypothesis:

*H<sub>4</sub> = higher personal commitment of members a higher number of oversight activities*

*A high personal commitment of committee members will result in a higher number of oversight activities.*

Indeed a low commitment of members in the committee's activities reflects a lack of seriousness and disinterest in their function. Moreover, individuals lawmakers, and committee chairs in particular have to engage actively in the activities of the committee he or she is a member of if the oversight of intelligence is to be successful.

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<sup>78</sup> Ogul, 1977: 217

<sup>79</sup> Johnson, 2005: 112

Going further in the study of individual members' commitment to intelligence accountability, Johnson looked at the quality of the questions members posed to witnesses during hearings. Indeed it seems that "among those who did appear at hearings in the 1975-1990 study, the quality of the questions they posed to CIA witnesses varied widely."<sup>80</sup>

Another way to look at the commitment of members is to look at the quality of the questions asked by the members during hearings. Johnson distinguishes between hardball questions and softball questions. According to this author, playing softball refers to when "the legislators lob easy questions to witnesses, whose flattering answers are considered "home run" for the agency team." For many playing softball is a sign that the Committee has been co-opted by the agencies and therefore, they value hardball questions. Others reject this approach as a sign that Congress has been co-opted by the executive branch: they prefer hardball.

Johnson found that the tendency in both chambers has been to toss mostly softballs. Indeed, according to his results, 39% of the questions posed in the SSCI have been hardballs with about 10% posed in a very adversarial manner. The highest levels of rigorous interrogation occurred in the Senate: 57% in 1975 (Church Committee), 59% in 1987 (Inouye II and Iran Contra affair), and 57% in 1989 (Boren Committee). These are the only cases when the Senate committees recorded a majority of hardball questions.

An interesting point would be to look at the personalities and records of every single committee member. Even though this enterprise deserves its own research paper, one famous case though can be used here to illustrate our point. In 1980, the Congress passed the Intelligence Oversight Act which required the DCI to report on Covert Action exclusively to the newly created intelligence committees. For the first meeting on Covert Action held by HPSCI, DCI Admiral Stansfield Turner came before the committee to present a presidential finding. Senator

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<sup>80</sup> Johnson, 1996:97

Roman Mazzoli was actively criticizing the document and DCI Turner was trying to defend his position quite assertively when Chairman Boland called an end to the debate on the grounds that he did not "want any adversarial proceedings between this committee and the intelligence agencies."<sup>81</sup> Even though Mazzoli had the courage to stand for a more rigorous oversight, Chairman Boland had the last word. Senator Boland was challenged successfully during the second Covert Action meeting of the HPSCI. Indeed, this time, the committee staff director had requested a transcriber in the room in order to keep a transcript of the oral exchange. DCI Turner stopped his briefing and told chairman Boland that keeping a written record of his testimony was a security hazard and therefore not allowed. Chairman Boland agreed to stop the recorder but Senator Les Aspin spoke against that decision. Facing hard opposition from the chair and seconded by Mazzoli, Aspin called for a vote on the issue. This time Chairman Boland lost his case when the vote went to the Aspin-Mazzoli position by a 1-vote margin. The two individuals, by their courageous action and strong personalities, forced the Boland committee toward more scrupulous oversight.

### **Commitment of the Chair:**

The leadership of the chairman is an important variable we need to take into account when looking at the oversight activities of the Committee. Indeed, Johnson found out that "patrolling has been more the result of leadership from committee chairs and, occasionally, from more junior members who fervently believed in the need to maintain accountability over the secret agencies."<sup>82</sup> This author also concludes from several interviews conducted with senior staffers of the SSCI that the best Chairs, which were the best leaders and the more adversarial

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<sup>81</sup> Johnson, 1996:90

<sup>82</sup> Johnson, 2005: 109.

overseers, were: "Daniel K. Inouye (D-Hawaii), David Durenberger (R-Minnesota), Boren, Shelby and Roberts -six from a total of nine."<sup>83</sup>

*H<sub>5</sub> = committed chair a high number oversight activities*

*A committed chair will bring up the number of oversight activities in his/her committee.*

*Inouye: 1976-1978*

Inouye (D, Hawaii), Chair of SSCI for only one term, was the most respected member of the committee. He followed a "carrot and stick" approach to oversight. During the period 1976-1984, the SSCI had 3 chairmen. Of these three persons, Inouye was the most respected and the more effective. As Chairman, he devoted an enormous amount of time to the work of the committee.

*Bayh: 1979-1980*

His successor, Bayh took Inouye's place when he stepped down because he was the second most senior Democrat on the committee. He continued some of the precedents set by Inouye and the committee assumed intelligence leadership as the Senate passed the FISA 1978 and Intelligence Oversight Act of 1980. Bayh's leadership was important in the passage of both. But loosing his reelection bid in Indiana, he also lost his lever on intelligence oversight. Under the leadership of Chairman Bayh, the Intelligence Committee remained united and the committee itself became solidly established in intelligence policy. But Senator Bayh just continued what Inouye did. He, personally, was not a very adversarial overseer.

*Goldwater: 1981-1984*

From the beginning of the SSCI, Senator Goldwater made no secret that he strongly supported the Intelligence Community. He held very precise views about the type of oversight

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<sup>83</sup> Ibid: 110

the committee would conduct under his leadership: he was a strong believer in institutional oversight and not in adversarial oversight. Therefore, he strongly believed, and expressed publicly that the Committee was unnecessary and should be abolished. Consequently, Chair Goldwater wasn't perceived as a strong leader of the oversight committee. A good example of the lack of leadership of Chairman Goldwater is the fact that the attendance at hearings reached a low mark of only 7 percent under his chairmanship.

*Durenberger: 1985-1986*

With Chairman Durenberger, the SSCI started to regain the strong oversight status it had lost since Inouye Chairmanship. The first thing Durenberger did in his quality of SSCI's chair was to abolish all subcommittees. From now on, all committee business was to be conducted at the full committee level. This was thought to enable all the new members to learn about intelligence and to prevent one subcommittee from gaining too much power and finally to accelerate the oversight of intelligence.

Durenberger sought to establish a new and more cooperative relationship with the executive branch. Even if Durenberger accomplished a lot, his work was widely unrecognized. Indeed some other problems pulled the shadow on his work as the SSCI's Chair. There was the widespread perception that he was a "flake" and his statement over Israel spying on the US was not well received by the public and the Congress at large. Moreover, his relationship with Vice Chairman Leahy wasn't very good and finally, Durenberger entertained a difficult relationship with DCI Casey who worked actively to undermine the oversight process.

*Boren: 1987-1992*

Chairman Boren was known in Washington as a "consensus-builder" and an active overseer of intelligence. Under Chair Boren, the committee completely regained the reputation

and respect it had under Inouye. He did so by practicing consensus politics and eliminating leaks. For example he pleaded for the resignation of Senator Leahy who undermined the entire work of the committee when leaking part of the report to the press. The Boren committee dealt with wide array of intelligence issues. By the end of his first term as Chairman of the SSCI, Boren restored the committee to the position that members of the senate had envisioned when it was created. This was illustrated by an all-time high of 93% in attendance. He also practiced the politic of the carrot and the stick. He offered the executive branch the "carrot" of a secure committee with disciplined members and staff; but he also offered the "stick" of budget authorization. Although Boren was a strong believer in executive/legislative cooperation he was willing to publicly oppose the executive. He provided a strong and effective leadership to the Senate intelligence committee. He also conducted an oversight that incorporated the institutional and investigative oversight models.

*DeConcini: 1993-1994 and Specter: 1995-1996*

Both chairs DeConcini and Specter didn't leave a very favorable memory of the quality of oversight they lead during their tenure as Chairs of the SSCI. They were perceived as relatively weak overseers. Senator DeConcini had a reputation as strongly favoring significant cutbacks in intelligence spending. He was also viewed as a law-and-order Democrat but he wasn't perceived as very active SSCI Chairman. Senator Specter became Chair of the SSCI as a junior member of the committee. This didn't help him to lead a strong and adversarial oversight of the Intelligence Community.

*Shelby: 1997-2000 & Roberts: 2003- ?*

According to Johnson, these two Chairmen are very much alike. Indeed, "like Roberts, Shelby's oversight performance -although strong in recent years- was uneven over the span of his

tenure. In his early days, he didn't do much. (...) After he was snubbed by DCI Tenet, he turned to oversight with a vengeance." <sup>84</sup> Both were seen as strong overseers.

*Graham: 2001-2002*

Graham also exhibited changing attitudes toward oversight during his tenure. Graham became more adversarial when, in 2002, the second Bush Administration created hurdles in order to slow down the work of his Joint Committee inquiry.

Another thing concerning commitment of the Chairman is to look at the experience they have when they reach the Chairmanship. When looking at the table, one can see that this element is highly variable. Indeed, it goes from no experience at all in the case of Inouye to an eight-year experience in the case of DeConcini or Roberts. Graham is an extreme case with a start as Chairman after spending 10 years in the committee. It is worth noticing that the term-limit rule had a critical role in limiting the experience of the chair. Indeed, they had to reach the position after 6 years in the committee and therefore had to leave the committee after one term. Or, they reach chairmanship very early with no experience and leave the committee when their reputation and experience is built and beneficial to a good quality oversight.

It is important here to compare the case of SSCI with the one of SFRC. We find out that Chairs of the SFRC are a lot more experienced than SSCI's Chairs. First, they spend more time in the committee before reaching the chairmanship. Second, because there is no term-limit requirement, they stay in that position for a longer time. These two facts justify a better and more active oversight in general in the SFRC.

In conclusion, all these different findings demonstrate the idea that the personality of the committee Chair is a very important determining variable in the study of the oversight's quality produced by the committee.

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<sup>84</sup> Johnson, 2005: 110

**Table 7: Experience and Commitment of Committee Chair (1977-2004)**

Congress/Years	SSCI Chair	SSCI Chair Experience/Years	SFRC Chair Experience
95 <sup>th</sup> Congress 1977-1978	Inouye	0	Sparkman
96 <sup>th</sup> Congress 1979-1980	Bayh	4	Church 4
97 <sup>th</sup> Congress 1981-1982	Goldwater	6	Percy 6
98 <sup>th</sup> Congress 1983-1984	Goldwater	8	Percy 8
99 <sup>th</sup> Congress 1985-1986	Durenberger	8	Lugar 8
100 <sup>th</sup> Congress 1987-1988	Boren	4	Pell 12
101 <sup>st</sup> Congress 1989-1990	Boren	6	Pell 14
102 <sup>nd</sup> Congress 1991-1992	Boren	8	Pell 16
103 <sup>rd</sup> Congress 1993-1994	DeConcini	8	Pell 18
104 <sup>th</sup> Congress 1995-1996	Specter	2	Helms 18
105 <sup>th</sup> Congress 1997-1998	Shelby	4	Helms 20
106 <sup>th</sup> Congress 1999-2000	Shelby	6	Helms 22
107 <sup>th</sup> Congress 2001-2002	Graham	10	Biden 26
108 <sup>th</sup> Congress 2003-2004	Roberts	8	Biden 28

### Specialization

Specialization is one of the main goals of the Committee system in Congress. Indeed, Asher explains that there is a "need of congressmen to specialize and acquire expertise. Specialization is intimately tied to the ability of Congress to make informed voting decisions (...) Specialization is facilitated by the committee system (...) specialization facilitates congressional

performance of the oversight function.<sup>85</sup> Specialization has become a norm of legislative behavior.

*H<sub>7</sub> = specialization a more oversight activities*

*The more specialized a committee is, the higher the number of its oversight activities will be.*

In *Congressmen in Committees*, Richard Fenno explained that the low specialization is reflected in the absence of subcommittees. Indeed, the Senate Intelligence doesn't have any subcommittees to deal with specific intelligence issues. This is a sign of low specialization of the committee members. Therefore one can expect that the oversight will be more general in this committee. We can compare this phenomenon with the case of the House Intelligence Committee. This committee has four subcommittees dealing with specific intelligence matters: terrorism and homeland security, technical and tactical intelligence, intelligence policy and national security, human intelligence, analysis and counterintelligence. Consequently one can say that the specialization in the Senate Intelligence Committee is relatively low. We can therefore expect this to have negative consequences on the level of expertise that the members are able to reach.

The SSCI used to have many subcommittees. From 1977 to 1985, there were 6 subcommittees: Subcommittee on Intelligence and the Rights of Americans, Subcommittee on Budget Authorizations, Subcommittee on Collection, Production, and Quality, Subcommittee on Charters and Guidelines, Subcommittee on Secrecy and Disclosure, and finally the Subcommittee on Special Investigation. In 1985, Chairman Durenberger decided to abolish these

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<sup>85</sup> Asher, committees and the norm of specialization

in order to avoid having too powerful subcommittees. Consequently the committee became less specialized.

When we look at the data, we cannot conclude that the suppression of the subcommittees engendered a decrease in the number of oversight activities. Indeed, one of the reasons why they had been abolished was that there were too many conflicts between subcommittees and this conflict was delaying the work of the committee as a whole. Although, on a quantitative point of view, this variable is not significant, we still need to be aware of it and pay attention of further development. Indeed, the 9/11 Commission recommended the creation of a subcommittee on appropriations and a subcommittee on oversight. In the future, we need to pay attention of this fact and see if the creation of these subcommittees will eventually increase the oversight activities of the SSCI.

At this point we have built a model as previously described. This model comprises both qualitative variable and quantitative variables. The next chapter will focus on the quantitative analysis of these variables. This will enable us to draw a set of conclusions. Eventually, we will be able to give an evaluation of the policy recommendations of the 9/11 Commission in order to improve intelligence oversight.

## Chapter 4

### Case Study and Statistical analysis

Oversight is a polymorphic phenomenon and, as Johnson<sup>86</sup> shows, the explanation of oversight activities is complex and involves cultural, institutional and individual variables. In this thesis, we came up with a series of hypotheses that can be used to build a comprehensive explanatory theory of oversight activities.

#### **Figure 3: Summary of Hypotheses.**

Summary of hypotheses :( qualitative variables are studied in Chapter 3 (model/ Theory))

H<sub>1a</sub> = stability  $\alpha$  experience

H<sub>1b</sub> = experience  $\alpha$  oversight activities

H<sub>1</sub> = stability  $\alpha$  oversight activities

H<sub>2</sub> = crisis  $\alpha$  oversight activities

H<sub>3</sub> = Major committee  $\alpha$  oversight activities (qualitative)

H<sub>4</sub> = personal commitment of members  $\alpha$  oversight activities

H<sub>5</sub> = commitment of the Chair  $\alpha$  oversight activities (qualitative)

H<sub>6</sub> = experience of the Chair  $\alpha$  oversight activities

H<sub>7</sub> = specialization of committee  $\alpha$  oversight activities (qualitative)

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<sup>86</sup> Johnson, 1980

Our final model consists of both qualitative and quantitative variables. We need both of them in order to build a well specified model. The qualitative variables have been studied in the Theory section and are mostly control variables studied in depth in the literature. This chapter will focus on a quantitative analysis of the remaining variables.

### **Bivariate Regression Analysis: Turnover and Hearings.**

The first step in the analysis is to look at the relationship between the main independent variable and the dependent variable. To do so, we need to look at the different measures of the dependent variable.

The dependent variable is measured at time (t) -beginning of a Congress first session- and the main independent variable is measured at time (t-1) -beginning of the previous Congress first session. We will have to run a cross-sectional time series analysis using an Ordinary Least Square regression.

On the one hand, Ordinary Least Square regression analysis is a very powerful tool used to study the relationship between two variables. On the other hand, raw statistical results are often confusing and lack clarity to make a clear point. Consequently, the raw results and table will be presented in the appendices, at the back of the document. The text will nevertheless contain and explore the key findings of the regression analyses in more understandable ways.<sup>87</sup>

After running several bivariate regressions between the turnover rate and each measure of oversight, we came to the conclusion that the number of hearings was the variable driving the correlation. Indeed, the results showed that the relationships between the main independent variable and the measures of oversight with bills and reports were not statistically significant<sup>88</sup>. Therefore, for the purpose of this study we will build our statistical analysis using the number of

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<sup>87</sup> For a similar approach, see Kousser, 2005: 25.

<sup>88</sup> Results are shown in appendices.

hearings for each year as our dependent variable. Moreover, using a simple dependent variable will enable us to reach more accurate conclusions and forecasts.

**Table 8: Bivariate regression turnover/hearings**

R	0.600
R Square	0.360
intercept	.555
X (Turnover)	.103
Significance	.001
Regression equation	$y = .555 + .103X$

The variable "turnover rate" alone explains 36 percent of the variation in the number of hearings. Moreover, this explanatory variable is highly statistically significant which means that we can confidently reject the null hypothesis. Therefore, we can conclude that there is a strong relationship between our main explanatory variable and the dependent variable. Nevertheless the direction of the relationship is not the one that we were expecting based on the literature and several policy recommendations we used to build our theory. In reality, it seems that there is a positive relationship between the turnover rate in the committee and the number of hearings. Following the regression equation, we find that an increase of 10 percent in the turnover rate will result in one additional hearing during the 2-year period.

Even though these numbers are statistically significant, that does not mean they are substantively significant. To build a scale of substantive significance we computed the average variation for both variables. The average number of hearings is 3/year and the turnover in the committee is approximately 27 percent. If we resolve the equation with the average turnover rate,

we find that a turnover of 27 percent will result in additional 2.7 hearings and therefore almost the average number. Consequently we can conclude that these results are both statistically and substantively significant.

**Multiple regression: Final model:**

The SSCI was created in 1977; therefore, time limits the number of cases (years/Congress) we are able to include in our analysis. This fact will constrain us in the choice of our variables. Indeed, since the number of cases we have is limited, the number of variables we can include in the model will also be limited. If we include too many variables, our results will not be significant and our conclusions will not be reliable. Even though we will not include all the variables that are substantively significant, we need to be aware of them. Eventually, when the number of cases is higher we will be able to include them in the model. But for the purpose of this study and in order to reach consistent conclusions, we will limit the number of explanatory variables in our model.

Because we do not have enough cases and thus enough variation in the variables, we will, for this project, leave two dummy variables (specialization and chair commitment) and one aggregate rate out of the final model. This decision does not mean that these variables are unimportant. As we saw in previous chapters, they are substantively significant; but, from a statistical point of view, they are not significant. Therefore, they will not be considered in the final model we are offering now.

Two major control variables will be included in the model in addition to the turnover rate: the crisis and experience variables. We need to note that in this model the experience of the Chair is part of the aggregate measure of the committee experience; consequently, because of a

high correlation hazard between explanatory variables, we will not include this variable separately.

**Table 9: Multivariate regression: Final model**

R		.704
R-square		.496
Adjusted R-square		.427
Significance	Turnover	.001 <sup>a</sup>
	Crisis	.023 <sup>a</sup>
	Experience	.984
Coefficient/b-score (Beta weight)	Constant	.775
	Turnover	.129 (.754)
	Crisis	-2.577 (-.400)
	Experience	.012 (.984)

a: significant at the .05 level

The results of the statistical analysis present in table 10, need some interpretations. The R-square shows that these three variables account for almost 50% of the hearing number variation. The other half of the variance might be explained by the variables we were not able to include in this analysis.

The main explanatory variable (turnover) and the number of crises are statistically significant. In other words, in these two cases, we can reject the null hypothesis. On the contrary, the third variable (Experience) is far from reaching statistical significance. Consequently we will not be able to reach any conclusions regarding this variable.

A critical indicator in OLS regression analysis is the regression coefficient or b-score. Indeed, it enables us to reach a conclusion about the direction and the quantitative importance of the relationship between the dependent and the independent variables. Therefore, the turnover rate is positively correlated with the number of hearings held in the committee. In other words, the higher turnover is, the greater the number of hearings. The number of crises is, on the other hand, negatively correlated with the number of hearings. This means that the number of hearings decreases when the number of crises increases.

If we compare the standardized coefficients (Beta-weight) of these two variables, we can see that the variable Turnover accounts for a larger part of the hearing variation than does the number of crises.

*Conclusion:*

The statistical analysis enabled us to draw two consistent conclusions but both of them are contrary to the theory developed in the literature and to the policy recommendations enacted by many policymakers and congressional commissions working on how to improve congressional oversight of intelligence. Indeed we were, according to our theory, predicting a positive relationship between the number of crisis and the number of hearings, as well as a negative relationship between the turnover rate and the number of hearings. The empirical results indicate just the opposite.

In the concluding chapter, we will discuss these contradictory findings and suggest future research directions.

## Chapter 5

### Concluding remarks

#### Discussion of the results

The statistical analysis concluded that our main hypothesis was wrong. Indeed the negative relationship we were expecting after reading the literature and the policy recommendations on oversight was not confirmed by our empirical evidence. On the contrary, the data we were able to collect led us to the opposite conclusion. It seems that there is a solid positive relationship between the turnover rate and the number of hearings held in the committee. In other words, the empirical evidence available since 1977 shows us that the more turnover, the more oversight hearings.

To understand this conclusion we can refer again to Johnson's conclusion that SSCI is a committee that seems to be popular.

"Ironically, the waiting list to become a member of SSCI or HPSCI is lengthy, since many lawmakers enjoy the James Bond aura that attends membership; yet, once selected most lost interest in the day-to-day grind of oversight work and are more attracted to district-oriented, reelection opportunities."<sup>89</sup>

This observation can help us hypothesize on why the relationship between turnover and the number of hearings is positive and not negative as we were expecting. Indeed, it seems that at the beginning of their tenure in the SSCI, Senator enjoy the novelty of the job and feel the need

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<sup>89</sup> Johnson, 2005: 113

to fill their knowledge gap by holding many hearings and by actually doing their job. But very rapidly, it seems that these senators become disinterested in their task and focus on other committee assignments. This tendency is well illustrated by the low attendance of SSCI's members at hearings. It seems that after being very active in the committee, many senators lose interest in the daily work of the SSCI and either end up quitting or being passive. If a senator quits, his seat will be filled up quickly since there is a long waiting list. Therefore, even if the turnover is high, new members are coming in full of good intentions to perform an active oversight, until they themselves become disinterested with it and quit, leaving their seat to more active new members.

A useful question to look at in future research would be to find the point when Senators change from active to passive overseers and eventually quit the SSCI. A possible research hypothesis is that senators become co-opted after a few years of intensive CIA lobbying.

Moreover, it seems that one reason for the senators to stop doing their tasks in the SSCI is that the committee does not aid their re-election efforts. It would be interesting to find what rewards or incentives senators would accept in order to stay efficient in the Committee.

These findings confirm the position taken by the policymakers when they created the committee. And they go against the current policy recommendations to remove the eight-year term limit, which seems to be the wrong culprit to blame for the deterioration of congressional oversight. These policy recommendations have been made without looking at empirical evidence. Indeed, the results of our analysis can help us forecast that if the turnover becomes lower, the number of hearings will also decrease.

In the SSCI of the 109<sup>th</sup> Congress, the turnover rate has been very low: there is only 1 new member. At the same time many former "lame duck members" are still in the committee

thanks to the abolishment of the term limit rule. Therefore, five members are entering their tenth year of service in the committee: Chair Pat Roberts (R-Kansas), Orin Hatch (R-Utah), Mike DeWine (R-Ohio), and R.M. John D. Rockefeller (D-West Virginia). According to our results this is not an indication that the quantity of oversight will be better. On the contrary, our conclusions allow us to say that this move toward the abolishment of the term limit rule - therefore decreasing the turnover rate- will not help to increase the quantity of oversight activities.

### **Limits of the model:**

The main limit of this model is that it is underspecified. That is to say, all significant variables are not included in the statistical analysis. In order to reach consistent conclusions, we had to leave some variables out of the model. The SSCI was created in 1977; therefore, the number of cases (years) available for study is limited. In order to include more variables in the model, we need more cases in order to reach significant and consistent results.

Consequently, this research needs to be revisited when we have more cases and when we can include more variables. Time will give us more cases to study and will enrich our final model. Therefore, the conclusions we reached are not definitive and need to be confirmed with a more complete and well-specified model.

### **Conclusion**

To conclude this work, we can look at some remarks made by the Chair of SSCI, Pat Roberts, during an open hearing with intelligence officials. CIA Director, Porter Goss, stated before the committee that "despite gains made against Al Qaeda, the terror group is intent on finding ways to circumvent US security enhancements to attack the homeland."<sup>90</sup> SSCI Chair

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<sup>90</sup> Cnn.com, 2/16/2005

pledged that his panel will become more proactive in how it reviews the intelligence community's strengths and weaknesses.

The new institutional arrangements -including the abolishment of the term limit rule- will have to be evaluated in the future. But on the ground of this study it seems that the reason why oversight activities are so low is not a result of high turnover. Therefore research needs to be continued to arrive at a more complete explanation of the determinants of intelligence oversight activities.

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## Appendix A

### **S.RES.400**

SPONSOR: [Sen Ribicoff](#) (introduced 3/1/76)

- OFFICIAL TITLE AS INTRODUCED:  
A resolution to establish a Standing Committee of the Senate on Intelligence Activities.
- ABSTRACT AS INTRODUCED:

Establishes a standing committee of the Senate to be known as the Committee on Intelligence Activities, to oversee and make continuing studies of the intelligence activities and programs of the United States Government, and to submit to the Senate appropriate proposals for legislation concerning such intelligence activities and programs.

- COMMITTEE(S) OF REFERRAL:  
[Senate Government Operations](#)  
[Senate Rules and Administration](#)  
[Senate Judiciary](#)

**COSPONSORS(17):** Sen. Church, Sen. Baker, Sen. Javits, Sen. Nunn, Sen. Schweiker, Sen. Morgan, Sen. Mansfield, Sen. Brooke, Sen. Percy, Sen. Brock, Sen. Glenn, Sen. Mondale, Sen. Roth, Sen. Weicker, Sen. Huddleston, Sen. Biden.

### **SUMMARY AS OF:**

(REVISED AS OF 05/19/76 -- Measure passed Senate, amended, roll call #181 (72-22))

States that the purpose of this resolution is to establish the Senate Select Committee on Intelligence. Requires such Committee to make every effort to assure that the appropriate departments and agencies provide informed and timely intelligence necessary for the executive and legislative branches to make sound decisions on national security.

Establishes the Select Committee on Intelligence composed of 15 members, as follows: two (one from each party) from each of the Committees on Appropriations, Armed Services, Foreign Relations, and the Judiciary, and seven appointed from the Senate at large (four Democrats and

three Republicans), none of which members shall serve more than eight years. Provides for a chairman from the majority party and a vice chairman from the minority party, neither of whom shall simultaneously serve as chairman or ranking minority member of another committee. Requires referral to such Committee of all proposed legislation, messages, petitions, and other matters relating to: the Central Intelligence Agency (CIA), the Director of Intelligence, the intelligence activities of all other departments and agencies, and the authorization of appropriations for the intelligence agencies and intelligence activities of other departments and agencies. Provides for cross-referral of legislation from and to such Committee upon the requests of the respective chairmen. States that nothing in this resolution shall be construed as changing the authority of any standing committee to obtain access to the product of intelligence activities in departments and agencies relevant to matters otherwise within the jurisdiction of such committees.

Requires regular reports from such Committee to the Senate and other committees as appropriate. Provides that the Committee shall obtain an annual report from the Director of the CIA, the Secretaries of Defense and State, and the Director of the FBI. Permits an unclassified version of such report to be made public.

Gives the Committee investigatory and subpoena powers.

Prohibits access by staff members of the Committee to classified information unless they agree to be bound by the rules of the Senate relating thereto and receive a security clearance. Requires the Committee to carry out procedures to prevent disclosure of information without the consent of the persons involved. Permits disclosure of information where disclosure is deemed to be in the national or public interest. Requires the Committee to vote, upon a member's request, on the issue of public interest in disclosing information. Prohibits disclosure of such information if the President certifies that disclosure threatens the national security and that the public interest is outweighed; whereupon the Committee may refer the issue of disclosure to the Senate. Authorizes the Senate, meeting in closed session (but voting in open session) to approve or disapprove disclosure or refer the matter back to the Committee. Permits disclosure by the Committee of information, classified through established procedures, to other committees or Members (which shall not disclose it) if it keeps a record thereof.

Makes it the duty of the Select Committee on Standards and Conduct to investigate any unauthorized disclosure of intelligence information, and to recommend appropriate action to the Senate upon finding such unauthorized disclosure.

Expresses the sense of the Senate that the head of each department and agency should keep the Committee fully and currently informed with respect to intelligence activities, including anticipated activities and those which constitute violations of constitutional rights or other law.

Prohibits appropriation of any funds, beginning in fiscal year 1977, without authorization by passage of a bill or joint resolution, which are to be used for activities of the CIA, the FBI, or the intelligence activities of the Departments of Defense and State.

Requires the Committee to study, and report thereon by July 1, 1977, capabilities of United States foreign intelligence agencies, the extent and nature of the authority of the executive branch to engage in intelligence activities, the organization of intelligence activities in the executive branch, the conduct of covert activities and the procedures by which Congress is informed of such activities, the desirability of establishing a standing committee or a joint committee on intelligence, and the authorization of funds for intelligence activities and whether they should be disclosed in the public interest.

Defines the term "intelligence activities" to include: (1) the collection, analysis or use of information which relates to any foreign country, or any government, political group, party, military force, movement, or other association in such foreign country, and which relates to the defense, foreign policy, national security, or related policies of the United States; (2) activities taken to counter similar activities directed against the United States, (3) covert or clandestine activities affecting the relations of the United States with any foreign government, political group, party, military force, movement or other association; and (4) the collection, analysis or use of information about activities of persons within the United States whose political and related activities pose, or may be considered by any department, agency, bureau, office, division, instrumentality, or employee of the United States to pose, a threat to the internal security of the United States, and covert or clandestine activities directed against such persons.

**Appendix B**

**RULES OF PROCEDURE  
for the  
SELECT COMMITTEE ON INTELLIGENCE  
UNITED STATES SENATE**

(Adopted June 23, 1976)  
(Amended June 26, 1987)  
(Amended October 24, 1990)  
(Amended February 25, 1993)  
(Amended February 22, 1995)  
(Amended January 26, 2005)

**TITLE II—INTELLIGENCE OVERSIGHT REFORM****SEC. 201. INTELLIGENCE OVERSIGHT.**

(a) COMMITTEE ON ARMED SERVICES MEMBERSHIP.—Section 2(a)(3) of Senate Resolution 400, agreed to May 19, 1976 (94<sup>th</sup> Congress) (referred to in this section as “S. Res. 400”) is amended by—

- (1) inserting “(A)” after “(3)”; and
- (2) inserting at the end the following:

“(B) The Chairman and Ranking Member of the Committee on Armed Services (if not already a member of the select Committee) shall be ex officio members of the select Committee but shall have no vote in the Committee and shall not be counted for purposes of determining a quorum.”.

(b) NUMBER OF MEMBERS.—Section 2(a) of S. Res. 400 is amended—

- (1) in paragraph (1), by inserting “not to exceed” before “fifteen members”;
- (2) in paragraph (1)(E), by inserting “not to exceed” before “seven”; and
- (3) in paragraph (2), by striking the second sentence and inserting “Of any members appointed under paragraph (1)(E), the majority leader shall appoint the majority members and the minority leader shall appoint the minority members, with the majority having a one vote margin”.

(c) ELIMINATION OF TERM LIMITS.—Section 2 of Senate Resolution 400, 94<sup>th</sup> Congress, agreed to May 19, 1976, is amended by striking subsection (b) and by redesignating subsection (c) as subsection (b).

(d) APPOINTMENT OF CHAIRMAN AND VICE CHAIRMAN.—Section 2(b) of S. Res 400, as redesignated by subsection (c) of this section, is amended by striking the first sentence and inserting the following: “At the beginning of each Congress, the Majority Leader of the Senate shall select a chairman of the select Committee and the Minority Leader shall select a vice chairman for the select Committee.”.

(e) SUBCOMMITTEES.—Section 2 of S. Res. 400, as amended by subsections (a) through (d), is amended by adding at the end of the following:

“(c) The select Committee may be organized into subcommittees. Each subcommittee shall have a chairman and a vice chairman who are selected by the Chairman and Vice Chairman of the select Committee, respectively.”.

(f) REPORTS.—Section 4(a) of S. Res 400 is amended by inserting “, but not less than quarterly,” after “periodic”.

(g) STAFF.—Section 15 of S. Res. 400 is amended to read as follows:

“SEC. 15. (a) In addition to other committee staff selected by the select Committee, the select Committee shall hire or appoint one employee for each member of the select Committee to serve as such Member’s designated representative on the select Committee. The select Committee shall only hire or appoint an employee chosen by the respective Member of the select Committee for whom the employee will serve as the designated representative on the select Committee.

“(b) The select Committee shall be afforded a supplement to its budget, to be determined by the Committee on Rules and Administration, to allow for the hire of each employee who fills the position of designated representative to the select Committee. The designated representative shall have office space and appropriate office equipment in the select Committee spaces. Designated personal representatives shall have the same access to Committee staff, information, records, and databases as select Committee staff, as determined by the Chairman and Vice Chairman.

“(c) The designated employee shall meet all the requirements of relevant statutes, Senate rules, and committee security clearance requirements for employment by the select Committee.

“(d) Of the funds made available to the select Committee for personnel—

“(1) not more than 60 percent shall be under the control of the Chairman; and

“(2) not less than 40 percent shall be under the control of the Vice Chairman.”.

(h) NOMINEES.—S. Res. 400 is amended by adding at the end the following:

“SEC. 17. (a) The select Committee shall have jurisdiction for reviewing, holding hearings, and reporting the nominations of civilian persons nominated by the President to fill all positions within the intelligence community requiring the advice and consent of the Senate.

“(b) Other committees with jurisdiction over the nominees’ executive branch department may hold hearings and interviews with such persons, but only the select Committee shall report such nominations.”.

(i) JURISDICTION.—Section 3(b) of S. Res. 400 is amended to read as follows:

“(b)(1) Any proposed legislation reported by the select Committee except any legislation involving matters specified in clause (1) or (4)(A) of subsection (a), containing any matter

otherwise within the jurisdiction of any standing committee shall, at the request of the chairman of such standing committee, be referred to such standing committee for its consideration of such matter and be reported to the Senate by such standing committee within 10 days after the day on which such proposed legislation, in its entirety and including annexes, is referred to such standing committee; and any proposed legislation reported by any committee, other than the select Committee, which contains any matter within the jurisdiction of the select Committee shall, at the request of the chairman of the select Committee, be referred to the select Committee for its consideration of such matter and be reported to the Senate by the select Committee within 10 days after the day on which such proposed legislation, in its entirety and including annexes, is referred to such committee.

“(2) In any case in which a committee fails to report any proposed legislation referred to it within the time limit prescribed in this subsection, such Committee shall be automatically discharged from further consideration of such proposed legislation on the 10th day following the day on which such proposed legislation is referred to such committee unless the Senate provides otherwise, or the Majority Leader or Minority Leader request, prior to that date, an additional 5 days on behalf of the Committee to which the proposed legislation was sequentially referred. At the end of that additional 5 day period, if the Committee fails to report the proposed legislation within that 5 day period, the Committee shall be automatically discharged from further consideration of such proposed legislation unless the Senate provides otherwise.

“(3) In computing any 10 or 5 day period under this subsection there shall be excluded from such computation any days on which the Senate is not the

So in original.

Close session.

“(4) The reporting and referral processes outlined in this subsection shall be conducted in strict accordance with the Standing Rules of the Senate. In accordance with such rules, committees to which legislation is referred are not permitted to make changes or alterations to the text of the referred bill and its annexes, but may propose changes or alterations to the same in the form of amendments.”

(j) PUBLIC DISCLOSURE.—Section 8 of S. Res 400 is amended—

(1) in subsection (b)—

(A) in paragraph (1), by striking “shall notify the President of such vote” and inserting “shall—

“(A) first, notify the Majority Leader and Minority Leader of the Senate of such vote; and

“(B) second, consult with the Majority Leader and Minority Leader before notifying the President of such vote.”;

(B) in paragraph (2), by striking “transmitted to the President” and inserting

“transmitted to the Majority Leader and the Minority Leader and the President”; and

(C) by amending paragraph (3) to read as follows:

“(3) If the President, personally, in writing, notifies the Majority Leader and Minority Leader of the Senate and the select Committee of his objections to the disclosure of such information as provided in paragraph (2), the Majority Leader and Minority Leader jointly or the select Committee, by majority vote, may refer the question of the disclosure of such information to the Senate for consideration.”.

### **TITLE III—COMMITTEE STATUS**

#### **SEC. 301. COMMITTEE STATUS.**

(a) HOMELAND SECURITY.—The Committee on Homeland Security and Governmental Affairs shall be treated as the Committee on Governmental Affairs listed under paragraph 2 of rule XXV of the Standing Rules of the Senate for purposes of the Standing Rules of the Senate.

(b) INTELLIGENCE.—The Select Committee on Intelligence shall be treated as a committee listed under paragraph 2 of rule XXV of the Standing Rules of the Senate for purposes of the Standing Rules of the Senate.

### **TITLE IV—INTELLIGENCE-RELATED SUBCOMMITTEES**

#### **SEC. 401. SUBCOMMITTEE RELATED TO INTELLIGENCE OVERSIGHT.**

(a) ESTABLISHMENT.—There is established in the Select Committee on Intelligence a Subcommittee on Oversight which shall be in addition to any other subcommittee established by the select Committee.

(b) RESPONSIBILITY.—The Subcommittee on Oversight shall be responsible for ongoing oversight of intelligence activities.

#### **SEC. 402. SUBCOMMITTEE RELATED TO INTELLIGENCE APPROPRIATIONS.**

(a) ESTABLISHMENT.—There is established in the Committee on Appropriations a Subcommittee on Intelligence. The Committee on Appropriations shall reorganize into 13 subcommittees as soon as possible after the convening of the 109th Congress.

(b) JURISDICTION.—The Subcommittee on Intelligence of the Committee on Appropriations shall have jurisdiction over funding for intelligence matters, as determined by the Senate Committee on Appropriations.

### **TITLE V—EFFECTIVE DATE**

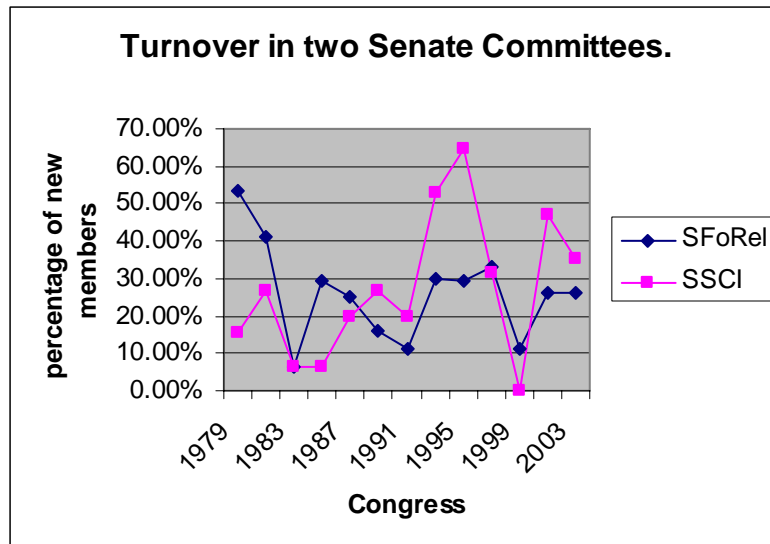
#### **SEC. 501. EFFECTIVE DATE.**

This resolution shall take effect on the convening of the 109<sup>th</sup> Congress.

## Appendix C

### Turnover rate in two Senate Committees: Senate Foreign Relation Committee and Senate Select Committee on Intelligence.

	SFRC	SSCI
1979	53.30%	15.40%
1981	41.17%	26.57%
1983	6.25%	6.67%
1985	29.40%	6.67%
1987	25%	20%
1989	15.80%	26.70%
1991	11.11%	20%
1993	30%	52.90%
1995	29.40%	64.70%
1997	33.30%	31.60%
1999	11.11%	0%
2001	26.30%	47%
2003	26.30%	35.30%



**Appendix D****Single regression analyses****Bivariate regression turnover/bills and resolutions**

Multiple R	0.049668
R Square	0.002467
intercept	8.321057
X (Turnover)	0.799486
P-Value (statistical significance)	.871989
Regression equation	$y = 8.321057 + 0.799486X$

**Bivariate regression: turnover/reports**

Multiple R	0.228386
R Square	0.05216
intercept	10.67239
X (Turnover)	4.033512
P-Value (statistical significance)	.452959

Regression equation	$y = 10.67239 + 4.033512X$
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**Bivariate regression: turnover/total activities**

Multiple R	0.558409
R Square	0.311821
intercept	19.98273
X (Turnover)	25.52249
P-Value (statistical significance)	0.047316
Regression equation	$y = 19.98273 + 25.52249X$

**Appendix E****Final Model****Descriptive Statistics**

	Mean	Std. Deviation	N
Hearings	3.3462	3.19928	26
Turnover	27.1931	18.69785	26
Crisis	.3846	.49614	26
Experience	4.4692	.94351	26

**Model Summary(b)**

Model	R	R Square	Adjusted R Square	Std. Error of the Estimate	Durbin-Watson
1	.704(a)	.496	.427	2.42072	1.595

a Predictors: (Constant), Experience, Crisis, Turnover

b Dependent Variable: Hearings

**Coefficients(a)**

Model		Unstandardized Coefficients		Standardized Coefficients	t	Sig.	95% Confidence Interval for B	
		B	Std. Error	Beta			Lower Bound	Upper Bound
1	(Constant)	.775	3.238		.239	.813	-5.940	7.489
	Turnover	.129	.032	.754	4.020	.001	.062	.196
	Crisis	-2.577	1.056	-.400	-2.440	.023	-4.767	-.387
	Experience	.012	.602	.004	.020	.984	-1.236	1.260

a Dependent Variable: Hearings