

Shenon-Zelikow Correspondence about the 9/11 Commission
(2007)

About these records: In January 2007 Philip Shenon contacted me as part of his further research for his planned book on the 9/11 Commission. I agreed to cooperate fully and answer all his questions to the best of my ability, on the record and in writing.

Now that the book is being published, and for the benefit of those interested in the work of the Commission, attached are my records of these detailed exchanges, which were conducted via email.

Mr. Shenon's questions or correspondence are in *italics*. My answers are in regular type. Sets of exchanges are set off by page breaks.

Any insertions for clarity, such as some clarifying last names of individuals being mentioned, are placed in brackets.

Among the more common references are to Tom [Kean] and Lee [Hamilton], the chair and vice-chair of the Commission, and to Chris [Kojm] and Dan [Marcus], the deputy executive director and general counsel of the Commission.

Philip Zelikow
January 31, 2008

On Jan 10, 2007, Phil Shenon wrote:

Dr. Zelikow,

I hope you're enjoying a less frantic life. I can't blame anyone for wanting out of Washington.

The State Department press office assured me that they passed along my interview requests from before Christmas, but I did want to be sure.

I've got a contract from Warner Books for a history of the 9/11 commission, and obviously I'd appreciate the chance to talk with you. I've been at work on the book for about six months. I've talked to all but two of the commissioners and most of the staff. Those interviews made clear, as if there was any doubt, that you were at the center of everything.

Given your responsibilities at State, I figured I would leave the interview request until later in 2007, when I got closer to the end of my reporting. But I'm wondering if, given your return to Virginia, there might be a chance now.

If you'd be available for an interview, it would be totally at your convenience. I'd be pleased to travel down to Charlottesville.

Would you let me know?

Thanks

January 10, 2007

I'm happy to help you with this important book. I would prefer to handle questions in writing. On matters of this kind, I can express myself more thoughtfully and accurately if I can write my answers. Where time is available, and you're not on an overnight deadline, it can be a better medium.

Also more flexible for you, since you don't have to set aside specific times, places, etc.

On Jan 11, 2007, Phil Shenon wrote:

Dr. Zelikow,

Thanks for getting back.

I'm hoping you might reconsider the idea of a face-to-face interview. I'm interviewed eight of the commissioners -- still hopeful of getting Thompson, Fielding less so, especially now -- in person and on the record. I've had several hours of on-the-record conversations with Dan Marcus about "front office" issues.

And you're renowned for your work on oral history! I don't have to tell you how artificial and unsatisfying a written exchange can be in this sort of venture, especially since it limits the ability for follow-up questions while issues are fresh.

If it's a question of accuracy, I can certainly give you a copy of the digital tape within hours of an interview.

But again, I appreciate your willingness to help me.

Best wishes

January 11, 2007

Different methods work for different circumstances. Most respondents in oral history projects won't sit still to write thorough answers to written questions, and followups. I'll try. The written medium will be more effective in this case, at least for me.

Philip Zelikow

January 30, 2007

I apologize for taking so long to reply, but I've been preoccupied with organizing my life back in Charlottesville and getting my new classes underway.

But back to your questions!

"1. I've only found bare bones material about your early life. Were you born in Texas? But can you tell me a bit about your upbringing, your family?"

A: I was born in New York City but my family moved to Houston while I was a baby. That's where I grew up, went to high school, did most of my undergraduate education, went to law school, and practiced law (aside from a brief stint as a briefing attorney for the Texas Court of Criminal Appeals in Austin).

"2. What led you to leave Texas for college in California (if indeed you went straight from Texas to California)? Were you torn about leaving Texas?"

A: I was active in intercollegiate debate for the University of Houston. I transferred to Redlands to participate in their excellent debate program during my senior year. I then went back to Houston for law school.

"3. I saw from some of the biographic material that after law school, you practiced in Texas for a time. Is that correct? Was your original plan to practice law? What sort of law?"

A: Law school was the basic plan (unless I chose a career coaching debate). During law school I had worked on civil rights (employment discrimination) and on criminal and civil rights cases at the US Attorney's office in Houston. I was also active in moot court, winning the ABA's national competition in 1978. After clerking at the Texas Court of Criminal Appeals, I went into private practice with a lawyer named David Berg, a renowned trial lawyer. My practice was criminal and civil, trial and appellate, state and federal. I tried at least a dozen cases to a jury. My most well known work was in civil rights, especially:

(i) a case where we sued the University of Houston for giving way to perceived Saudi pressure and refusing to let their PBS station air a program that was critical of the Kingdom. The program was called "Death of a Princess." We won in the District Court. Then, when the case was combined with another from Alabama, we lost in a deeply divided en banc decision of the full Fifth Circuit which the Supreme Court declined to review. I argued the case in the Fifth Circuit. The case was *Barnstone v. University of Houston*. The district court opinion is available at 514 F. Supp. 670 (S.D. Tex. 1980); the final appellate opinion is at 688 F.2d 1033 (5th Cir. 1982).

(ii) a case where, along with Morris Dees of the Southern Poverty Law Center, we represented Vietnamese-American shrimpers who were being harassed by the Klan and Klan-trained/inspired thugs. We sought unprecedented injunctive relief, putting marshals at docks, shutting down Klan training camps, etc., using an old anti-militia law that had never been applied before. We were successful, and the precedent was then used in other anti-Klan cases. The case was *Vietnamese Fishermen Association v. Knights of the Ku Klux Klan*, 543 F. Supp. 198 (S.D. Tex. 1982).

"4. What led you to Fletcher? A desire for a career in diplomacy? History?"

A: While practicing law, I had returned to graduate school, studying history at night. I was very interested in foreign policy and had no idea how to pursue a career in it. Fletcher said it trained people for this. So I asked David to give me a leave of absence while I gave this a try. He did, shunting some work my way while I was in school so that I could help pay the bills (I sat second chair on a murder trial during my Christmas break during my first year in school). I did well at Fletcher and stayed with that field, though I was 'of counsel' to David's firm from time to time even into the 1990s.

"5. Did you have any early political involvement? Are you a Republican?"

A: I was registered as a Democrat or as an Independent until 1991. Until then my only active political work had been to work and speak publicly for Carter in the election of 1976. My experience in the Bush [41] White House, and especially during the first Gulf war, led me to register as a Republican and work actively for the reelection of George H.W. Bush during 1992.

I have not taken an active role in any subsequent political campaign, except my own. While living in Massachusetts, I ran for and was elected to my local school board. No one asked me about my party affiliation. It wasn't listed in local races in my town.

"6. What led you to your first government postings?"

A: After receiving my M.A. and completing my Ph.D. coursework at Fletcher, I taught for the U.S. Navy at the Naval Postgraduate School. I then entered government through the front door, joining the Foreign Service in 1985 through the traditional exam process. I remained a career diplomat until I went to Harvard, first taking a year of leave and then resigning from the Service in order to remain at Harvard.

"7. I see from your State bio that you had an overseas posting (or postings) as a diplomat. Where?"

A: My first tour, an unusual one, was at the conventional arms control negotiations in Vienna. I did consular work at the Embassy when the talks were out of session. As I arrived the talks morphed from the old MBFR talks on central Europe into the new CFE talks covering all of Europe. I was the first political adviser to the new CFE delegation, headed by Steve Ledogar, until I was transferred back to Washington to work in the Department's crisis center, then in its Secretariat staff. I was then detailed at the beginning of 1989 to work on the NSC staff for Brent Scowcroft, Bob Gates, and Bob Blackwill.

"8. What led you to the NSC in Bush 41? Were you recruited by someone? Who?"

A: Still an FSO, I was detailed there from State. Bob Blackwill played a key part in that. I had encountered him as a professor at Harvard's Kennedy School of Government and he had led the MBFR delegation in Vienna.

"9. What were your responsibilities on the NSC? Did you work closely with Dr. Rice? On what projects?"

A: I handled European security issues and was deeply involved in the diplomacy to unify Germany and end the cold war in Europe. Later I was also involved in coalition management during the Gulf crisis and war of 1990-1991. Condi had the Soviet portfolio. You can get a very detailed sense of our work, and our working style, from our book, "Germany Unified and Europe Transformed," published in 1995 by Harvard University Press.

"10. Did you enjoy your teaching years at Harvard? Would you have been happy to stay? Was the Miller Center offer too good to pass up?"

A: I loved my time at Harvard. I was deeply involved in the Kennedy School's core curriculum and in my joint work with Dick Neustadt and Ernie May, among other colleagues. I would have been happy to stay, and believe the University felt likewise, if folks from Virginia had not sought me out.

The Miller Center offer was extraordinary because of the potential to build an institution and develop unprecedented programs for basic research in American political history (the White House recordings program -- see WhiteHouseTapes.org, the Presidential Oral History Project, and the program on American Political Development). The University also offered me the chair in an excellent history department, the chair I still hold.

And Charlottesville is a wonderful place to live, with a temperate climate.

"11. Your 'Catastrophic Terrorism' piece in Foreign Affairs [1998] was remarkable for its prescience. Where did you come by your interest in terrorism issues? Can you tell me more about the origins of the piece?"

A: Because of my background, I had long been struck by the problem of the bridge between criminal justice problems, constitutional rights, and national security. My involvement in the Klan cases was part of that. My master's thesis at Fletcher was on the British suppression of the Arab revolt in Palestine between 1936-1939. After coming to Harvard, I wrote a set of case studies on "Policing Northern Ireland" based in part on work in Belfast (these studies are still available from the Kennedy School Case Program).

Ash Carter and John Deutch were good friends and colleagues. The three of us led a Catastrophic Terrorism Study Group in 1998 (the full membership of this group is footnoted in the Foreign Affairs article). We talked to a number of officials in the Clinton administration at the time, including John Hamre and Eric Holder. I was the principal drafter of the group's report, which was boiled down for the article.

Hope this helps.

[Asked to respond to an article criticizing the Commission written by Paul Pillar]

January 30, 2007

I believe you asked me or one of my former colleagues about this Pillar article some time ago. Since I prepared some comments on it for Walter Pincus [Washington Post], it is only fair that you should get them too. In addition, I'll send along a brief supplemental email that I sent to Walter, and will also forward to you an informative addition I received from Ben Rhodes.

So this should be the first of three messages on that topic, which was a useful occasion for further clarifying some of our reasoning about intelligence performance and our recommendations.

January 27, 2007

Memorandum for Walter Pincus

Subj: Comments on Article by Paul Pillar on the 9/11 Commission work

You asked me to comment on this article. I asked for some time to give you something more thoughtful than a soundbite. Here it is.

Summary

The article defends Pillar's analytic work while he was in government, work that was criticized by others inside the government before 9/11 and which was also implicitly criticized by the Commission's findings. The Commission heard and considered his side of the argument, but it is natural and appropriate that he should offer it again in order to defend his record.

Sadly, to do this, Pillar has invented a story of how and why the Commission came to its conclusions in order to support a kind of ad hominem argument ... that the Commission could only have come to its conclusions about the deficiencies of strategic intelligence if it was acting in bad faith in its obsession to create a DNI.

-- The premise of the story is false, and Pillar does not offer any evidence to substantiate it.

- The Commission's findings on strategic intelligence were reasonable; indeed, many of the concerns the Commission identified were raised before 9/11 and do not rely on hindsight.
 - Pillar's story about the preconceived agenda has another vital fallacy: The findings on strategic intelligence were not the basis for the DNI recommendation. That recommendation was principally based on other findings, related to community management and operational management. Those other findings, in turn, tended to reinforce conclusions reached by many prior examinations of the community.
-

To be more specific. Pillar's article makes four basic arguments:

- 1) The Commission staff had a preconceived agenda for organizational reform of the intelligence community to create a DNI. It designed its work to advance this preconceived goal.
- 2) The Commission's findings on strategic intelligence were designed to serve this reform agenda.
- 3) The Commission's findings on strategic intelligence were thus unsupported and willfully misused the available evidence.
- 4) And, by the way, the DNI reform (and the NCTC) is a bad idea.

Each of these four contentions deserve a closer look.

- 1) The Commission staff had a preconceived agenda for organizational reform of the intelligence community to create a DNI. It designed its work to advance this preconceived goal.

Note, for example, Pillar's arguments on the "two key early decisions" of the Commission on p. 1023. "In short, the output of the 9/11 Commission – particularly as it related to performance of the intelligence community – was advocacy of a particular proposal, and an effort to manipulate public opinion in support of that proposal." (p. 1024)

Pillar offers no evidence or citations for these particular assertions. They are not correct.

- From the start, there were advocates on the staff for organizational reform. There were one or two advocates among the commissioners for organizational reform. This is natural enough, since the issue had long been a subject for study, with at least a dozen prior efforts calling for massive reform. One of these was the just

concluded Joint Inquiry of the House and Senate intelligence committees on the intelligence community's performance before 9/11. Amy Zegart's forthcoming book (from Princeton UP) will discuss this record in much more detail.

- But I was not one of those advocates.¹ Nor was my deputy, Chris Kojm. Nor was a key adviser on these matters, Ernest May. And we decisively influenced the staff recommendations to the Commission on these subjects.
- Further down in the staff, some members of the team examining the intelligence community came in as advocates of a DNI-like reform as a result of their own experiences; but other members of that team were not so convinced. But that team did not do the major work on strategic intelligence – the subject of Pillar's complaints. The work on strategic intelligence was primarily driven by the excellent work of another team, led by former CIA deputy director for intelligence Douglas MacEachin, with significant direct involvement by me and by May, among others.
- Pillar goes on, though, to then assert a causal link between the supposed preconceptions of the staff and critical Commission decisions about the report. He offers no evidence. I know how these decisions were made. The links he asserts simply weren't there.
- Incidentally, Pillar makes another assertion (on p. 1023) that the Commission was so focused on the DNI idea that "[s]ome other important topics bearing on terrorism, especially involving foreign policy, it barely addressed at all." His statement may seem odd to readers of the report, who might remember that the Commission very deliberately chose to place its recommendations on strategy, including foreign policy, ahead of its organizational suggestions. This was chapter 12, which covered 37 pages. Then came a shorter chapter on organization, chapter 13. And in that chapter the DNI recommendation comes second, and gets about 7 pages of text.

¹ Like others, I was very familiar with the reform case. But, at least in my case, my main concerns before taking the Commission job in 2003 were with analytical methods, the use and pooling of information, and the relationship between analysts and policy consumers. May and I had worked on these topics for more than ten years. And my internal work, on the PFIAB for example, had focused primarily on terrorism analysis and the domestic/foreign divide, not on the broader reorganization ideas that was an understandable focus for some of my colleagues on the board. So, while I was open to various other reform ideas, and knowledgeable about them, I had no strong, fixed position about what the Commission should ultimately recommend. As others on the staff will recall, the really serious work on developing the policy recommendations did not get underway until 2004, and that work was deeply influenced by our assessments of the factual record and the interviews we had conducted with senior intelligence officials.

2) The Commission's findings on strategic intelligence were designed to serve this reform agenda.

- Pillar frames the argument by noting the evident hindsight bias of a commission like ours. We were very conscious of this danger; other staffers will remember frequent discussions on how to avoid it. So that readers of the report would share this consciousness of the hindsight bias, we chose to lead off chapter 11 of the report with two paragraphs devoted to this caution (p. 339).
- The argument over how to portray the al Qaeda danger, and criticisms of intelligence community assessments, are not a post-9/11 construct. These criticisms had been voiced before 9/11, were recounted to us by Dick Clarke and other NSC staffers, and by other officials.
- To make his ad hominem argument, accusing the Commission of bad faith, Pillar argues that the strategic intelligence findings, in particular, were driven by the reform agenda. This is also false. The main drivers for the DNI recommendation were the findings on overall community management, the foreign-domestic divide, and problems of operational management. These problems, and our case for change, are summarized in two places: the summary of management failures before 9/11 on pp. 353-358 and the six reasons for overall management change listed on pp. 408-410.
- It is therefore evident that the particular findings on strategic intelligence, which deal with portrayal of the threat and the character of warnings, were not a significant basis for our DNI recommendation.. To the extent our findings on strategic intelligence led to policy recommendations, they would probably relate more to:
 - the structure and work of the proposed NCTC (which in turn built on the prior 2002 decision to create the Terrorist Threat Integration Center);
 - tradecraft issues on how to apply the community's own experience with "warning" to its terrorism assessments; and
 - other deeper issues about analytical methods (including the emphasis on current intelligence at the expense of basic research) and the use/relevance of major estimates like an NIE.

3) The Commission's findings on strategic intelligence were thus unsupported and willfully misused the available evidence.

- Pillar argues, correctly, that the intelligence community gave policymakers adequate strategic notice before 9/11 that al Qaeda was a serious threat. That was not our argument. We faulted:

- the failure to develop adequate assessments of al Qaeda as an organization before 1999;
 - the failure to aggregate many particular assessments into better, cumulative assessments;
 - the failure to use such cumulative assessments to hash out the arguments about whether the long-standing terrorism danger had become qualitatively different (arguments that were being made before 9/11);
 - the particular failure to use the NIE process to deliver such a compelling assessment or compilation of the arguments – which thus would have helped engage Congress as well as the Executive; and
 - some particular critiques – on the inadequate use of CIA’s own established tradecraft for warning (including about aircraft as weapons) and the failure to link strategic alarms to tactical information (e.g., the failure to link the discovery about Moussaoui to the ongoing strategic alarm in the 2001 summer of threat).
- An illustrative finding, for example, was that: “Whatever the weaknesses in the CIA’s portraiture, both Presidents Bill Clinton and George Bush and their top advisers told us they got the picture – they understood Bin Ladin was a danger. But given the character and pace of their policy efforts, we do not believe they fully understood just how many people al Qaeda might kill, and how soon they might do it. At some level that is hard to define, we believe the threat had not yet become compelling.” (pp. 342-43).
- Pillar makes a particular argument that the Commission’s focus on NIEs was misplaced (pp. 1027-28). The Commission’s judgments on the way the threats were conveyed (on pp. 341-344, for example) are fair. Pillar may disagree; but our view is certainly not an unreasonable one. Nor is it the product of hindsight. As the Commission’s records will show, once they are declassified, the concerns on strategic assessment were voiced by several intelligence officials, including before 9/11 – which was one reason why DCI Tenet began moving in 2001 to create a new strategic assessment unit (a story we briefly summarize on p. 342).
- Pillar then offers a lengthy argument about the Commission’s treatment of the 1995 NIE and the 1997 update, including the argument that the Commission focused too much on them. We did not just review the NIEs. We reviewed every analytic product we could find. CIA had several opportunities to comment on our drafts, and offer countervailing evidence. A number of staffers, including me, reviewed their comments and arguments. Where we thought they made good points, we made changes. We think we summarize the analytic record fairly (including the findings written for President Clinton’s covert actions). We would

be glad to see the relevant products declassified, including the 1995 NIE and the 1997 update, so that anyone can compare those assessments to the body of information then known to the intelligence community.

- Pillar also believes we were unfair in saying he downplayed the danger of “catastrophic” or “super” or “grand” terrorism. We quoted and cited his book. He thinks we are unfair to his views. He was writing in the context of a debate, begun in the late 1990s, about whether to escalate the way the US thought about the terrorism threat. I confess a personal interest here, since Ash Carter, John Deutch, and I co-authored a 1998 report of a larger study group on “catastrophic terrorism” with our results summarized in a Foreign Affairs article of Nov-Dec 1998 with that title. Pillar was responding to such alarms, and was making policy arguments advising that the USG should not overreact to them. The citation is there so others can judge whether we quoted him fairly.
- As his argument develops, it seems that Pillar’s complaints really concern only a few very specific passages and findings in the Commission’s report, and these few points seem mainly to be those that touch on Pillar’s own performance. It is reasonable that he may want to defend his record. But upon these few points, Pillar has developed this large superstructure of an argument, in which these paragraphs of the Commission’s report become central, the Commission staff willfully ignored evidence, this willful behavior can only be explained by the Commission’s preconceived policy agenda, etc.
- To regain a sense of perspective, it is worth noting again that our particular critique on strategic assessment is more nuanced than Pillar implies, and it is not a post-9/11 artifact. Others in the intelligence community and in the administration had these concerns before 9/11. They told us about them; contemporary documents bear them out.
- Pillar also argues that the Commission’s approach did broader harm by oversimplifying the portrait of the terrorist enemy and thus “fostered the misperception ... that the radical Sunni Islamist terrorist threat is to be equated with that one organization.” (p. 1036). He runs with this argument to make various policy arguments.

The simplest answer is just to note what the Commission report actually said, in plain English: “Our enemy is twofold: al Qaeda, a stateless network of terrorists that struck us on 9/11; and a radical ideological movement in the Islamic world, inspired in part by al Qaeda, which has spawned terrorist groups and violence across the globe. The first enemy is weakened, but continues to pose a grave threat. The second enemy is gathering, and will menace Americans and American interests long after Usama Bin Ladin and his cohorts are killed and captured.” (p. 363)

Two and a half years later, I think that assessment still holds up pretty well.

4) And, by the way, the DNI reform (and the NCTC) was a bad idea.

- This is a legitimate argument. It can, and should have been, made and defended on its merits, without attaching it to all the accusations about preconceived agendas and the like.
- As for my own views, the Commission investigation led me to the strong conclusion that community management needed significant reform, that even the best DCI could not adequately perform all the jobs entrusted to him. I stand by that judgment.
- As for the NCTC idea, it was truly a product of the Commission's work. It was first conceived in 2004 and developed as a response to endemic analytic and management problems we had not fully understood when we began our work.
- The records of the O/DNI and the NCTC so far are mixed, of course, as are the anecdotal judgments one can collect from people working in those organizations and in the intelligence community. I also think that the fate of organizational innovations, and these innovations in particular, depend vitally on the Executive Branch officials chosen to carry them out and on the attitudes of the Congress. And I think that, even in the best cases, reform on this scale needs several years in which to reach maturity and prove its worth.

January 30, 2007

Begin forwarded message:

Walter --

One point I did not include in my memo, but relevant perhaps for you, is to reflect a bit upon Pillar's extended argument on the virtues of the Robb-Silberman commission (pp. 1041-1042)[of the Pillar article].

Given his praise for their work and their methods, you may find it striking to read chapter 6 of that commission's report, and its recommendations on (a) the community management problem and the DNI; and (b) the proposed NCPC, based on reasoning quite analogous to the reasoning that led to establishment of the parallel NCTC.

Given Pillar's focus, it is also interesting to note what the Robb-Silberman commission said about analysis, in its chapter 8, and specifically about shortcomings in strategic assessment (e.g., pp. 402-405 of their report), even though they were studying a different set of issues.

Incidentally, I thought the Robb-Silberman recommendations on all these points were good and quite constructive. Some of them, as with mission managers for select topics, are being implemented.

January 30, 2007

And this.

Begin forwarded message:

From: Benjamin Rhodes

Subject: Re: Comments for Walter Pincus on Paul Pillar article

Philip -

This is addressed on pages 285-286 of Tom and Lee's book, *Without Precedent*, as well. Specifically, the point is made that the Commission came around to the DNI recommendation as they became more familiar with the problems of the status quo. The book specifically says that at the beginning of 2003, "...we would have said it was unlikely that we would recommend the creation of a new office to oversee America's intelligence agencies - a director of national intelligence, or DNI. Through the course of our inquiry, this perspective flipped."

best - Ben

On Jan 31, 2007, Philip Shenon wrote:

Dr. Zelikow,

Thank you for emails. I appreciate your detailed answers to those questions. It's all hugely helpful. I'm fascinated by your work on the "Death of a Princess" case. I remember the flap that program created.

And thanks for your rebuttal on Pillar. I wasn't sure what to make of his article, although you probably know it reflects a larger viewpoint among Tenet loyalists that the commisison was somehow out to "get" the CIA, another subject I'd like to ask you about at some point. Probably best to ask you those questions when Tenet puts out his book in a couple of weeks. Tenet's inconsistent memory has apparently been jogged!

I'll be back to you with another round of questions. Thanks again.

January 31, 2007

The notion that I was out to get the CIA, or Tenet, is amusing. As you know, we had several veterans on board. I had worked in Harvard's Intelligence and Policy Program, a public research program supported by the CIA, from 1992 to 2002. In that capacity and others I had worked well with many at CIA, including Directors Tenet, Deutch, Woolsey, and Gates. The program is described in the preface of the newly published book [Ernest] May and I edited, "Dealing with Dictators: Dilemmas of US Diplomacy and Intelligence Analysis, 1945-1990," which gives a good sense for the reseach we conducted in this program.

My views of CIA's work before 9/11 are relatively positive, but I understand the sensitivity to the criticisms we did levy. Right or wrong, I do think it is hard to find much evidence for preconceived hostility.

I'll look forward to Tenet's book. His answers to us were given under oath, in the private session as well as the public one.

On that subject, you'll remember the questions raised after Woodward's book about who said what to whom on July 10, 2001. The substance on the warnings [in Woodward's book] is accurate, part of a series of warnings before and after that date. The key phrases and alarms are accurately recounted in the Commission report. The particulars about who went where and why on July 10 were not correct, which is one reason why the Commission did not report on a July 10 meeting. Tenet recounted a similar story in his internal interview; Marcus (who was on the team of questioners) specifically asked Tenet how Rice reacted to his warnings on this occasion.

You may not know this, but [after the Woodward book, State of Denial, was published] Steve Dunne, Barbara Grewe, Mike Hurley, and I (with later help from Alexis Albion) immediately went back to our old files at NARA and dug up the relevant material. We developed a reasonably thorough summary that we all found satisfactory, with relevant quotations from our classified interviews with Tenet and [former DDCI John] McLaughlin. We wrote it in a manner that we thought would raise no declassification problems. We asked NARA to declassify this paper.

NARA passed the request to the White House lawyers, who checked with CIA. Tenet was given access to our proposed statement and objected to its release. I was told that he argued that we were quoting selectively, though he made no request that we quote some other passage (Tenet and CIA also have access to their own copy of the interview transcript.)

The White House refused to permit the release of our statement. They can best explain why. Their concerns, as I understood them, were unrelated to classification. This was in October 2006.

A negotiation process then ensued in which former staff were allowed to release some summary talking points, by which time the press had moved on and various people, including several former commissioners, were doing the best they could.

Some Democratic members of Congress expressed interest in the matter at the time, perhaps just to score a point or two before the upcoming election. Haven't heard much about it since. Presumably NARA still has our unreleased statement.

On Feb 1, 2007, Philip Shenon wrote:

I left that go-round with the Woodward book very confused. But in the end, as I recall it, the commission had no indication from Tenet that Rice had "brushed off" the warnings, no?

I didn't mean to get to this level of detail yet, but this theory by Tenet loyalists that the commission was out to "get" the CIA stems, in part, from meeting that you had -- or are said to have had -- at Langley a day or two after you were appointed by Kean and Hamilton. As is told by CIA folks, including Mark Lowenthal, you told the CIA people in the room that you believed that 9/11 had been a massive intelligence failure and would never have happened had there been a DNI. The folks in the room say they took this as indication that you (and the commission) had already decided to overhaul the CIA, or least the role of the DCI, before knowing the facts. Your (purported) remarks are reported back to Tenet within hours.

I think you may see this anecdote repeated in the Tenet's book. Is there any truth to it? Did something like this happen?

Thanks.

February 1, 2007

On your first point, no -- it had no such indication. Just the opposite.

The anecdote about my meeting at Langley is strange on several counts: I don't remember saying either of those things to anyone (massive intel failure) or (would have been avoided with a DNI).

It is even more doubtful because I did not actually believe those things in 2003. I do not believe the second one even today. I have never thought that just having a DNI would have somehow prevented 9/11. I can't even quite make out the counterfactual chain to make such an argument.

As for my belief in an "intelligence failure," I usually shy away from that term. As should be apparent by now, my assessment of CIA's performance was pretty specific, pro and con. That's reflected in the Commission report, all the drafts going into the report, and I think researchers will find it reflected in every other contemporary record.

By early 2003 I had views about the failure to pool information and serious data sharing weaknesses, like those the Markle Foundation task force explored, for which our outstanding example was the Hazmi and Mihdhar cases. I drafted this Oct 2002 report,

which you'll see doesn't get into the DNI idea. You can read it here: http://www.markle.org/downloadable_assets/nstf_part_1.pdf You can see our use of the Hazmi & Mihdhar illustration on p. 28 (without access to classified info on this), and see the kind of conclusions we then drew from it.

I also was concerned about some of the long-standing analytical challenges, but did not then have a view about the 'strategic assessment' problems, about which I then knew little. If anything, I would have given CIA the benefit of the doubt on having sounded the general alarm. I had little or no view back then about the specific operational management problems we later analyzed, which I then didn't understand.

This is the first time I've heard this tale. It sounds like a pretty overheated and oversimplified reconstruction. We've encountered a few of those. Anyway, there should be contemporary records to show when/whether I even met with folks at Langley in Jan-Feb 2003. And, if there was such a meeting, who else was there, etc. There are plenty of folks who worked with the Commission who had a pretty good sense for my views, including several CIA veterans. And, as I said -- and contemporary records should bear this out -- I had not decided whether to even recommend a DNI proposal to the Commission. My general warning to staff early on was not to be so preoccupied with this question, and several staffers may remember that I tried to push off Commission discussion of it until we had done more work on other things.

February 7, 2007

On Feb 6, 2007, Philip Shenon wrote:

Good morning.

Today's 10 questions.....

1) While Hamilton didn't think you were reluctant to take the job, I believe Kean had that sense. Did you, understandably, set "conditions" in accepting the job? I believe you wanted an important role in hiring, for example.

In addition to the general conception of the work, I proposed that the staff be unitary and nonpartisan, and that I be able to manage it effectively. I also proposed that Tom, Lee, and I would concur in any hiring or firing of staffers. These proposals were essential and were accepted. Once Chris Kojm came on board he also, in effect, became part of the required consensus on personnel decisions. He had good judgment.

2) Was it your idea to have to a common, nonpartisan/bipartisan staff? (Obviously this upset some of the Democratic commissioners.)

It was.

3) If so, why did you want a common staff?

I thought a unitary, nonpartisan staff offered the best chance to manage a massive investigation of this kind. A partisan division of the staff would immediately have fateful consequences for the Commission's work and credibility.

Also, division of the staff into a set of personal staffs would effectively set up ten executive directors, ten staffs, and ten agendas. Not likely to achieve the aims we had set.

Such an arrangement also would knock away Tom and Lee's ability to manage the Commission itself. The necessary corollary of the unitary approach is an empowered chair/vice chair who could give me authoritative guidance from day to day.

I had also watched the Congressional Joint Inquiry [of the House and Senate Intelligence Committees into the intelligence community's performance before 9/11] experience, and

tried to understand both its strengths and weaknesses. The unitary staff approach had been one of its strengths.

4) A broad question, I know. But did you share Kean's view that this was a commission "designed to fail"?

I think he is making a statement about political circumstances more than about the hard-wiring. Some very seasoned Washington hands whom I respect had urged me to decline Tom and Lee's offer, because they thought the enterprise was a no-win proposition in general, and could be damaging to me personally.

But, as you can tell, I had a conception of this that I thought could succeed, and perhaps even render an unprecedented level of public service, and thereby also set a positive example for such efforts in the future.

5) Did you share the view of Kean and Hamilton that there could be no "finger-pointing" -- no finding of individual blame -- if the commission was to succeed?

Not quite. My view, and the view the report actually adopted, was to lay out the facts of what people did based on the information available or reasonably available to them.

Blame is obviously subjective and, in the circumstances of 9/11, complex. In criminal law the standards are laid out, and even in that realm the problems can sometimes be challenging. So our approach was to lay out the facts and leave it to readers to decide what form of blame, culpability, responsibility they would assign to the conduct we described. We would not sanitize or shelter anyone in the presentation of those facts.

We did use pseudonyms to protect a few identities of lower-level career civil servants. Their identities were known internally and Lawrence Wright has now identified most. Different for Lawrence Wright to do it than for us. Some of this conduct was also the subject of IG investigations by their agencies. Also, I was worried about placing a 'mark of Cain' on a few civil servants -- thinking how overwhelming this might be for their lives and the lives of their families. We would not have been reticent had we found instances of reckless or criminal misbehavior, but the problems we saw were of a different kind.

6) Did you come up with the term "front office" to describe the staff leadership?

I don't think so, but I don't remember.

7) What was your philosophy in hiring staff? (I have now interviewed dozens of the key staffers, and I don't have to tell you that they are a very impressive group.)

I wanted the very best people we could find in America. Time and circumstances compressed the scope of what we could do, but I wanted to get the very best we could possibly find. So, in addition to some of the excellent people who applied, I actively sought out some superior talents that I knew of. Some commissioners also recommended people they thought we should consider.

8) Who was your first hire?

Aside from Chris Kojm, that was probably Stephanie Kaplan. Who was indispensable throughout. Other examples of people I sought out very early on were Ernest May, Doug MacEachin, Warren Bass, Alexis Albion, Lloyd Salvetti, and Dianna Campagna (for the unglamorous but vital records/secretariat function). These examples are illustrative. I also tried to identify and recruit the best staff from the Joint Inquiry.

9) Some, not all, of the staff have described your initial hiring interviews as very tough. Is that fair? Were you testing people?

The Kean/Hamilton book describes a tough interview of Kevin Shaeffer; is that an accurate depiction?

There was no intent to make the interviews especially tough, and I don't remember them as being unusually demanding. I needed to do what little I could to gauge quality of mind and temperament.

The account in Tom and Lee's book on Kevin Shaeffer may reflect what they knew. I don't recall Kevin contacting commissioners, though I have no doubt that he did. I don't recall hearing about him from Lee. It is possible that, after this was already moving along, one or another commissioner pressed Kevin's case. But he was not one of the staffers who was selected because of an outside referral. I remember his case very well, and Kevin himself may not know all the circumstances.

I picked his resume out of a giant pile in the family room of my home in Keswick, Virginia. It was very early in the hiring process. His resume stood out partly because of the extraordinary essay he attached with it, telling his 9/11 story. I asked my wife right then to read this story, and talked to her about how, despite his lack of some of the

conventional qualifications, he might still make a terrific choice. But I couldn't do it as a pity choice, hiring a token victim. He had to be a real hire, able to do real work as a full colleague of his fellow investigators. And I think that's the way Kevin would have wanted it.

So I needed to get a bead on how Kevin was regarded within the Navy. For this I turned to John Lehman, with his contacts. Lehman checked him out and passed back wonderful reviews. So then I interviewed him. I don't remember saying what's quoted in Tom and Lee's book, and doubt I said it. And I thought Kevin was my own find. But I wanted to impress on him that he needed to pass muster for his ability, not just for his 9/11 experience. Because I thought that if he made the grade, I wanted him to have the self-esteem he would need to have about why he was there and the substantive job we thought he could do.

Few personnel decisions ended up pleasing me more. His performance on that team was outstanding by any standard. Few hires turned out better for the Commission.

10) Did you think the original \$3 million budget and final deadline were realistic?

At first I did not know, because I hadn't done the analysis. It seemed doubtful. And, sure enough, the analysis soon showed we would need about 4 times that much. We moved quickly on that, though of course it wasn't easy.

The time issue was harder to project, and we went back and forth on this inside the Commission. Much depended on how our work developed and the quality of executive branch cooperation. There is also a Parkinson's Law that operates in these matters ... the work will always grow to fill the space you allow for it.

Commissioners too had a variety of views, some related to how the Commission's report should relate to the timing of an election year.

On that one, my own view was that, if we could get the work done, sooner was better, and we had a civic duty to put our report before the American people before they voted. But commissioners ended up making that call.

One other broad question: You're obviously a major character in "Without Precedent." Without asking you about ever anecdote, was that book fair in its depiction of you and your role on the commission?

In general I thought their book was fair toward me. I had no part in drafting or editing it.

As for my role or the roles that others played, they will be apparent enough in the records of the Commission's work and, given your efforts, you'll probably end up being able to form an informed judgment of your own!

Stay warm.

Thanks.

February 8, 2007

On Feb 8, 2007, Philip Shenon wrote:

And more and more....

1) After you began assembling a staff, what were your first priorities for the investigation?

1. Organize the work, to set in motion efforts that could proceed simultaneously along multiple fronts.
2. Take stock of the work that had already been done, above all the full report and investigative records of the Joint Inquiry.

2) It sounds like the logistics were nightmarish at first. Was it any more difficult than you expected to secure office space, get security clearances.... Did you have a sufficiently high security clearance from the intelligence board to do your work on the commission? Did you need additional clearances?

GSA was reasonably helpful on the space issues. Security clearances required massive effort to move swiftly. Here we benefited from getting the Joint Inquiry's security officer detailed to us, with his accumulated contacts, and the White House also intervened at a couple of key points.

3) The Kean/Hamilton book describes your difficult meeting with Gonzales and says Gonzales found you "aggressive and overly expansive" in your access requests and cut off further contacts with you. I've heard similar accounts elsewhere; it was much discussed on the staff and among the commissioners since it left only Kean and Hamilton to negotiate with the White House. What happened? What is it that you requested? Did you have some history with Gonzales?

I believed the White House had decided to cooperate fully with the Commission's investigation. I had received those assurances directly from Andy Card and Condi Rice. I believe Tom, and possibly Lee, also had sought and received such assurances. That was an important assumption as I considered Tom and Lee's offer.

I met with Gonzales in his West Wing office. I think this was in January 2003 and that I hadn't formally accepted the appointment.

His deputy was there; so was Jay Lefkowitz from the WH staff -- Lefkowitz was an able staffer who had been handling the Commission issues for Andy Card. It's possible that John Bellinger was there too ... I'm not sure.

Given my belief about the President's commitment to cooperate fully with the Commission, I came into the meeting pushing hard, because I felt it was important for folks to understand from the very start what full cooperation would entail. I made the point, in that meeting, that a critical problem plaguing past investigations was the belief that the Commission had not requested/seen critical documents. Even where the documents might have made no difference, the criticism undermined credibility. E.g., the Warren Commission not seeing the files on the CIA's Mongoose activities against Castro. I cited this example.

So I said the White House should be prepared to provide full access to documents and people. I specifically mentioned NSC records and PDBs. I pointed to precedents in the documentary access given to the congressional Pearl Harbor inquiry of 1945-1946 (under much more partisan circumstances). I had anticipated some of the executive privilege and separation of powers concerns and had some arguments/ideas about how those concerns should be refuted or allayed. I stressed then and later that Tom and Lee had to be in the position of saying publicly and truthfully, at the end of the day, that they had seen every document they wished to see.

Gonzales had a different view. He started from the position that the Commission would receive the kind of access the White House had given to the Joint Inquiry. I was surprised that he was taking such a dogmatic approach to a nearly unique challenge. From my point of view, the level of access that had been given to the Joint Inquiry would be unacceptable. I said so, and said I would not want to serve with the Commission if it ended up only receiving that kind of access. So the meeting didn't end on an upbeat note.

To be fair to Gonzales, it became plain to me later (it was not at the time) that there was not a solid connection between the intentions of various parts of the White House. Others were going to defer, at least at first, to the Counsel's office on the legal issues ... and that pulled many of our issues into being handled primarily by the lawyers in the White House and the Office of the Vice President.

My problems at that time were addressed in subsequent days by assurances, from Lefkowitz and Gonzales' deputy, that the Commission would receive better access than had been given to the Joint Inquiry, that the White House understood our requirements, and would take a fresh approach in trying to meet them.

I kept Tom up to date on all of these discussions.

As far as I knew, there was no bad blood between me and Gonzales. He was very courteous to me. I respected his position and was courteous too, but also direct, even blunt. I had been in many government meetings, including in that White House, where senior officials understood and even welcomed that kind of directness.

I hope you will attempt to interview everyone on the administration side of this, so you can hear their side of the story.

4) Can you set the scene for me? Was this in Gonzales's WH office? Just you and him? Was it shortly after you took the appointment?

Were you surprised by his reaction? How long did it last?

Covered above.

5) Was that your only meeting with Gonzales?

There may have been another in the early days, I'm not sure. I certainly joined in another meeting with him in 2004, under different circumstances.

To those mindful of protocol, it was certainly appropriate for Gonzales to deal with Tom and Lee. The problem was that, by keeping the meeting at principals only (cutting out his own key staffers too), the effect was to work troublesome issues at a higher level of generality. On the surface this might seem like an ingenious White House move to deal with more amiable counterparts. Instead it ended up adding layers of further complication and friction to a process that was already very difficult.

6) This whole unhappy incident would seem to knock down a bit of early common wisdom among some of the staff and the family leaders -- that you were some sort of Bush administration "plant" on the 9/11 commission. (Obviously you were not Judge Gonzales's plant!)

But were you aware that some people on the staff saw you that way early on? If so, did it bother you? How did you counter it?

Sure, people would have some preconceptions about me. But the Commission appointed me because they thought I would be fair and impartial. So therefore I had to act upon that premise, and not do anything that seemed to concede I was biased and unreliable. The only answer was to play straight and do my job. Where I had a recusal issue (on the 2000-2001 transition), I had to set an example by volunteering to be interviewed about it under oath (the first witness to do so, I believe). Playing it straight also meant that if I bent over backward to be tough on the Bush administration, just to show off, that would be another form of bias.

Another counter was to be collegial. That doesn't mean go along to get along. It may mean tough arguments. But it means a willingness to hash out key issues with your peers.

Some of my colleagues also may not have realized that I knew people on both sides, Democratic and Republican. Indeed it was an issue for many members of the staff, who had various kinds of past dealings and associations.

I often reminded myself (and others) of two principles. First was to think and work on both administrations with the detachment one would give if they had held office fifty years ago, say in the Kennedy or Eisenhower administrations.

Second was to avoid the usual trap for investigators of falling, unconsciously, into the 'gotcha' game to justify all their hard work. The often unconscious impulse to uncover something one can criticize, in order to justify all the work and inconvenience of the investigation. Here the easiest antidote is to apply the investigator's golden rule: Treat others as you would wish to be treated, given the requirements of a vital investigation, and comprehend their performance within the world they inhabited, not just the world of retrospective omniscience. We didn't have to try to juice up the story. If we told it straight, there was plenty to say.

7) Obviously you (and the commission) had a troubled relationship with some of the family leaders. Was it troubled from the start? Do you wish you or the commission had handled the family representatives differently? Perhaps this was a no-win situation from the start?

It was pretty troubled from the start, because the family groups were scarred by years of frustrating efforts to get answers, to get the right kind of investigation. So in addition to all the issues grief counselors can tell you about, there was a further level of anger, which in some cases had hardened into deep bitterness and mistrust.

At the start this was pretty universal. As time went on, opinion among the family groups and victim representatives became much more varied, including about me. But certainly some family members saw me as part of the problem, and still do. Though there would be particular differences, some people just wanted the Commission to play a particular role, acting out the part in the way they envisioned, and they would end up being disappointed with anyone who didn't play that role.

I told staffers at the start that they should assume that, whatever we did, a significant number of people would criticize our work.

When it comes to a national trauma of this kind, in which so many millions of opinions are engaged, that was inevitable -- and even more so given the widespread distrust and alienation that many people feel toward the United States government.

8) Your appointment apparently caused some distress for some of the Democrats on the commission, which led them to demand of a tough-minded Democrat as general counsel to "balance" you out. Did that reaction by the Democrats surprise you? Were you distressed by it?

I was a little surprised, more because I thought whatever issues folks had would have been settled beforehand. But I was not too distressed. I felt I understood what was happening, and felt I had a solid understanding with Tom and Lee. I was appropriately involved in all of the deliberations about who else might be hired, and what such a person would do.

9) So Dan Marcus got the job. Did you have a good relationship? Were there times when he served as a "balance" to you?

I did have a good relationship with Dan. We have different styles. I think he would concede that I was a bit more confrontational, more the litigator (which I had been). And there were indeed some points where we had to make a stand and be willing to fight. But I could also rely on Dan to disagree if he thought I was mistaken, or too impulsive. A very good quality to have around. I think he, Chris, and I all brought a different mix of skills and strengths to the job, but they meshed well. This is what one should seek in putting together a management team.

And I felt we genuinely worked as a team. For instance, we might argue or get irritated from time to time -- and often were under great stress. But the stress pulled us together, it didn't pull us apart. And I never felt that Chris or Dan would try to hide or circumvent. So different commissioners would lobby one or another of us, but each of us would then table the issue for all, usually deciding it together.

Also on substance, Dan -- like Chris -- had good judgment, including in draftsmanship. And Dan brought Steve Dunne in, an invaluable addition.

10) The Kennedy School's case study on the commission refers to a "personal price" that you paid for your work on the commission. It says you had no further conversations with Rice, apart from one conversation about an overseas trip, and quotes you as saying that you "didn't talk anymore to my friends." Is that correct?

The personal price was more in home and family, though fortunately I'm still married to the same wife.

As best I can remember, the case study's statements are correct about Rice, that after my appointment I cut off communication with her, except for a discussion to get her help with foreign governments in facilitating the Commission's overseas work. I don't remember talking to Steve Hadley at all during this period. And the White House Counsel's office probably also told White House folks to run all contacts with the Commission through them.

Lefkowitz was an important contact early on, including the initial budget problem. My main White House contacts (Dan Levin's role aside) were with John Bellinger or people who worked for him or Gonzales. Usually Bellinger. About the only non-lawyer White House contact I can recall after the summer of 2003 was a phone call exchange with Rove, probably in 2003, related to past correspondence with me in my Miller Center role, related to presidential library preparation (I had no horse in that race). It was a brief conversation and we did not discuss the Commission. The issue was then handed over to Gonzales or Miers on their end, and I handed it off to others at the Miller Center and heard nothing further about it.

I forgot to ask earlier about the KSG study, which is another useful roadmap to me. The author told me that you have reviewed it before publication. Was it fair in its depiction of you?

Lundberg shared it with me and with others she had interviewed. I thought the study was fair. My main wish was that the casewriter, Kirsten Lundberg, had talked to folks in the administration and gotten their side of it. It might have made the study even more interesting.

Thanks again.

February 9, 2007

On Feb 9, 2007, Philip Shenon wrote:

Thanks, again, for such quick responses.

I'm certainly trying to talk to the administration. Andy Card gave me a long and very useful on-the-record interview a few weeks ago.

I'm still waiting on Gonzales.

May I follow up on a couple of your latest answers?

1) Your answers about Gonzales fit into a picture that has been painted for me by others - namely, that Gonzales did not serve his "client" very well with his stubbornness on access. Did that occur to you as you listened to Gonzales that day? Were you confounded by his stand that day?

At that early point I just thought the White House had a left hand/right hand problem, and that surely the problem would go away once folks got together and reflected seriously about this.

2) Others on the commission have argued to me that Gonzales may have been out of his depth on a lot of these executive privilege issues and must have been pushed to take these absolutist positions by others, especially Addington. Fielding seemed to have had that view. Do you think that's the case?

I have heard such things, but don't have firsthand knowledge.

Actually I also thought presidential prerogatives had receded too far in the preceding ten to fifteen years, especially on executive privilege against congressional claims -- less on executive privilege against claims coming out of judicial processes. The Miller Center had organized a National Commission on the separation of powers (chaired by Howard Baker and Griffin Bell) which reported in 1998.

But I thought our Commission was a unique statutory creation, and that the law's requirements could be addressed in ways that would not create damaging precedents for congressional requests.

3) You refer to another meeting with Gonzales in 2004 on another subject. What meeting was that? Was it awkward to deal with Gonzales after the earlier go-round.

The meeting in 2004 involved others from the Commission, possibly including Jamie [Gorelick] as well as Lee. It was part of a process in working through another problem, but I don't have a good memory of what it was about. It was not a critical or decisive discussion. I didn't find it awkward to deal with Gonzales afterward. He was always courteous. We just have different views about many subjects.

3) You brought up the recusal issue about the 2000-2001 transition and your offer to testify under oath. When did that happen? Why did that happen? (I had thought that occurred later in the investigation after the families began to protest about your relationship with Rice). I understand that Dan Marcus did that interview, with Warren Bass and others participating. Is that right?

My interview was one of the first conducted in the interviewing stage, on October 8, 2003. I insisted on being under oath, to help allay concerns and show we would not be asking anyone to accept a standard we would not apply to ourselves. I also provided unclassified documents that were in my possession from the transition period, since they might help with later work and interviews. Your understanding of the participation sounds right to me.

Thank you.

On Feb 9, 2007, Philip Shenon wrote:

Thanks.

Could I press again on question 3?

What prompted that interview and your offer to testify. Was it the family protests? Prior to that, had you been recused on transition issues?

I thought I understood that you felt the recusal was unnecessary, that there wasn't the conflict that the families and others were suggesting.

February 9, 2007

I don't recall that these decisions were made because of family pressure. We had made the decision on when and how to interview me no later than summer 2003, if not earlier. Folks weren't ready to conduct the interview until early October.

I believe I recused myself on transition issues very early on, but I'll be glad to defer to Dan on this if he has a good recollection of it. I did not think my involvement in the transition was terribly consequential, but I was a fact witness on a couple of early exchanges involving Rice/Hadley and Clarke, and I had a couple of documents that shed a little light on the 8 or 10 top issues some members of the transition team were placing in the foreground.

Again, it is hard now to recover the context of those early months, but it may be helpful to understand that, in early 2003, I don't think we fully anticipated the kind of clashing views between Rice and Clarke that became so evident later. For instance, when we hired Mike Hurley, who had worked with Clarke, the point did not occur to us as a potential problem. (And, because of who Mike is, it was not a problem for us.)

The full extent of the friction between Clarke and Rice/Hadley did not come out when Clarke was questioned by the Joint Inquiry. Nor was it apparent from his other prior statements. Those were the main materials we had in those early days.

From: Philip Shenon

Subj: Re: More Responses

Date: Fri Feb 9, 2007

Thanks.

But so Im clear, did you recuse yourself without prompting? (As you know, this became a huge issue over time for the "Jersey Girls" and some of the other family advocates. And if you get Dick Clarke talking about this issue.....)

The impression I had from others is that you thought, even in late2003, that a recusal was unnecessary -- that the conflict of interest, if any, was minor, as you suggest in your last answers.

But Im told that Marcus and some of the commissioners felt differently and that there had been discussion with you of a complete recusal on NSC issues.

The compromise was a decision to have you recuse yourself on transition issues (or so I was told).

Ill try to run this all by Marcus.

And I promise to move on....

February 9, 2007

I don't recall how the decision on my recusal arose, only that I probably sought Dan's advice and that this had been settled around the time, early on, that we decided on my interview.

The bid to push me out of all NSC work came later and was a separate matter. It would have had the prompt and foreseeable effect of forcing my resignation. Just take a minute to reflect on all the other restrictions on my work that would necessarily flow from that one. The strategem was pretty obvious, and I saw no sign that most commissioners wanted this. Tom and Lee did not raise it with me.

February 12, 2007

On Feb 10, 2007, Philip Shenon wrote:

My intrusion on your weekend...

1) Was it clear in your mind when you signed up what had gone wrong on the Warren Commission, the Pearl Harbor investigation, etc, (apart from inadequate access, review of the evidence?) Did you need to go back and review any the history of those panels? To your mind, was their a best model for this sort of investigation? Was there one commission that seemed to have been especially successful because it had a joint non-partisan/bipartisan staff?

I did recall or review the history of those panels (there were a number of Pearl Harbor investigations) and others that are less well known (like President Johnson's crime control commission in the late 1960s), including some British experiences. But there was no model.

These past experiences suggest questions and possibilities; then one must draw answers from the facts and circumstances at hand.

Rather than see a model in a commission with a unitary and nonpartisan staff, mostly it was just the opposite -- there were few if any models for success when the commission or committee operated on partisan lines with member-directed sub-investigations.

I had just directed two efforts -- the Carter-Ford commission on federal election reform, which was a quite difficult and politicized topic in 2001, and the Markle Task Force. The Congressional Joint Inquiry was another recent example to consider.

2) There was certainly a perception very early on the staff that you wanted to centralize authority in the front office -- and make that move clear to the staff. Was that a fair perception?

From my own experience and others, including the Joint Inquiry, it was good to have a well organized and managed staff. We actually delegated quite a bit of authority by creating the 'team leader' structure and giving the team leaders significant scope to organize and manage their team's work. Other investigative efforts were actually more centralized than ours. Thus our selection of team leaders and relationships with them were important.

3) There's an interesting, thoughtful early memo you send out to the staff. Sort of a rules of the road. Staffers praise the memo -- certainly it gave them an early indication of your writing talents -- although the directions on how to deal with commissioners rubbed many the wrong way. You direct them, if they receive calls from commisisoners, to refer the calls to the front office. It was seen, fairly or unfairly, as an effort to block communciation between the staff and the commissioners. What was the intent of that direction? Gorelick told me she protested and had that directive reversed. Was it reversed?

Again, this was drawn from experience. There are at least two dangers.

First is the issue of who can task assignments to the staff. If any commissioner can call staffers directly, usually the dynamic is one in which there are questions, the staffer is asked to answer them, or feels obliged to answer -- because the individual staffers are obviously going to try to be deferential to the telephoning commissioner. So you give them an instruction that can help them be courteous but protect the management of their time, and the staffer can cite a general instruction so he or she doesn't have to feel put on the spot to be perceived as unresponsive or uncooperative.

Second is the issue of how to get good information to commissioners. On a number of subjects, multiple teams and multiple individuals on a team may be working on a problem. The job of the front office, if commissioners have a question, is to get them an answer that reflects these different threads of work, or else the commissioners can easily get a mistaken understanding of what is going on or what folks have figured out. Once these mistaken impressions take hold, it can sometimes be difficult, even with very conscientious people, to get folks to focus on new or more cumulative information.

The directive laid out the principle, and the discussion with commissioners about it sensitized at least some of them to the hazards we were trying to counter. On the other hand, they had needs too. What developed was a generally workable balance. Commissioners generally understood the norm, but it was managed in a way to avoid an unduly rigid approach and to mitigate some of their understandable worries.

4) Was the Sept. 20 cutoff for the investigation your idea? Did you feel strongly about it? (As you know, some members of the staff felt it set an artificial boundary that made it difficult to judge the performance of the Bush administration, federal agencies, much beyond 9/11/.) A couple of staffers describe an early meeting at which you became very angry when someone suggested investigating issues that went beyond Sept. 20.

All of us recognized the need to set some date boundaries, especially as we drafted our information requests. You may not have talked to some of those who were on the other side of this argument, that we didn't need anything beyond September 11 at all. And the

September 20 choice was not rigid. Depending on the information needed, some of our information requests were broader.

In some of our document requests some would also have gone earlier. Usually we started in 1998, but on some issues we went much further back. Again one can debate the pros and cons.

We had to look at the mandate, and figure out where the commission's work ends and we become more of a congressional oversight body. What some folks may not see, too, is that each of these choices carry opportunity costs.

It is obviously incorrect to suggest that I would be angry about "investigating issues that went beyond Sept. 20." We spent a lot of time investigating current policy to counter terrorism, including many measures adopted after Sept 20, and this is apparent in our report.

We tended instead to draw a line between plenary inquiries into how decisions were made, which we carried up to Sept 20, and an investigation into what the current policies are and how they are being implemented -- on which we ran our work right up to the present day. The significance of Sept 20 is that it was a pretty clean dividing line for the most immediate, emergency responses to the attacks, since it was when the President completed announcement of the first large-scale round of responses. Dan, Chris, and I all thought this made sense, and the Commission agreed.

We had some significant arguments on this with the administration, which didn't understand why we wanted anything after September 11, but we prevailed.

If any staffer had a particular case about a factual issue that required more documents postdating Sept 20, we were glad to look at it. But we sometimes had to check the natural impulse, especially among some who had worked on the Hill, to think about their agenda in the way they would have if they were on a congressional oversight committee. In some cases our role was much greater, and our access to people and information much greater. In some cases different.

5) When did you first read the joint inquiry report? Can you describe the circumstances of it. Did you go over and sit in Eleanor Hill's office? Did you do it at one sitting?

I don't remember the date. It was early in 2003. I did first read it in the Joint Inquiry offices, which is where I had to do a lot of the initial work with their materials. This was true for other staffers too. (Another source of friction and difficulty, involving both Congress and the administration.)

6) A broad question, I know. But what did you make of the joint inquiry and its report? Were you impressed, not impressed?

Their mandate was much narrower than ours. Within their mandate I thought they had done an impressive amount of work, especially in the time available to them and given the constraints they faced. Their staff also ran out of time to do much additional investigative work after their hearings began.

7) I understand the restrictions in discussing the famous 27 redacted pages from the joint inquiry report. But I get two views on them from your former staffers -- a) that they are a bunch of loosely connected facts that amount to little or b) that they are damning evidence against an American ally that the 9/11 commission needed to follow up on urgently. (Senator Graham, who is no fan of the 9/11 commission, as you know, has said on the record that they are strong evidence that Saudi Arabia had "spies" in the United States who supported at least two of the 9/11 hijackers.) What was your view of the value of the 27 pages?

They were a set of important investigative leads. These leads deserved intense, immediate attention and followup work.

I am familiar with Senator Graham's views, and spent hours with him in 2004. We ended up obtaining and developing much more evidence on the matters he was concerned about. It is hard, for example, to see how one can develop firm conclusions about the behavior of various Saudis from an investigation that did not interview any Saudis. Even if one doesn't like them, that should be part of the process of coming to judgment.

Partly because of the preoccupation with the Saudi angle, obviously important as it is, I've always been struck by the relative inattention to the more ominous findings we offered on other leads, as with people like Mohdar Abdullah and Anwar Aulaqi, who happen to be Yemenis.

8) Did you know any of the other commissioners, apart from Slade [Gorton]?

I was acquainted with Jamie Gorelick and John Lehman.

9) A follow-up from earlier: When did you begin debate in school? High school? If it caused you to switch colleges and head off to exotic California, I suspect you must have

been very talented? Did you win awards? (I was on the debate team in high school but gave up after it became clear that I could never compete with the likes of you!)

I began in high school, in Houston. I did ok in college. It feels silly now to recite awards.

10) How was it that you were born in New York? What caused your family to move to Texas? Was it quite early in your childhood?

My father's work took him to Houston off and on after WW2, and we moved there permanently in the mid-1950s. It's the only place I remember from my childhood.

February 18, 2007

On Feb 12, 2007, at 9:14 PM, Philip Shenon wrote:

Thanks again.

A few follow-ups:

3) About that directive. Does Gorelick have it right, though? She says she protested and had that directive "reversed" --- her word -- which allowed staff to freely answer inquiries from commissioners.

There was no formal reversal. But I thought her concerns and those of others had merit, and I think my description reflected the resulting, sensible compromise and captures the reality of how it generally worked out, with staff being responsive while staff and commissioners understood the competing concerns to make sure answers were coordinated and accurate, and to protect the management of staff time.

4) But with the understanding that Sept. 20 wasn't hard and fast limit, was it your idea that Sept. 20 be set as a "guideline" date?

For document requests of the kind I described. For that particular kind of document request we needed to pick an end date, and September 20 was our default guideline for those. No one ever really proposed a satisfactory alternative, except for those who thought we should cut off at September 11.

7) *What did you make of Mohdar Abdullah and Anwar Aulaqi? Do you have a sense who "tasked" them to help?*

My colleagues and I said what we wanted to say about this in the report. We took those issues about as far as a set of outside investigators could take them.

9) *I know you don't want to brag about debate awards. But it's significant, I think, that you uprooted yourself from Texas to go to college in California to take advantage of the debate program. You must have been very good, no? (I've met no one who questions your talent at debate....)*

Still don't want to tell college stories. Intercollegiate debate, as it was practiced back then, was also a rather technical and specialized craft. It was valuable experience in policy research and analysis.

10) *What was your father's work?*

He worked in local TV production and advertising, and later with introducing Spanish-language TV.

Thanks.

March 6, 2007

Sorry about the delay in replying [to questions from February 22]. I have been overseas, and am in India at the moment, but did want to get back to you. Answers are below:

Your modesty forced me to go back and look. Redlands debate society -- the award-winning team of Zelikow and Fabiani! I know Mark from ages ago. You two must have made quite a team. You're right about Redlands. That is a remarkable national record over many years.

Anyway, another 10 questions:

1) "Without Precedent" describes an early meeting that you have in New York with Bloomberg's aides. You apparently get an unfriendly reception: (From the book: "The first words from the mayor's staff were: 'What are you doing here?' albeit said in a somewhat more colorful language.") Do you recall which aide/s? Was this at City Hall? What was the more colorful language? Did you have a sense why the reception was so hostile?

The meeting was at City Hall. My recollection is that John Farmer went with me, maybe Stephanie Kaplan too. John later termed this our 'welcome to New York' meeting. I don't remember the aide's name; he was one of several officials we saw.

Their position was this: NYC didn't cause the 9/11 attack. The 9/11 Commission had nothing to do with them and should leave them alone.

I replied, firmly, that the statute was reasonably clear on this point. We would be looking at the attack itself and the immediate response, not just in NYC but also in Washington.

But local preparedness and the local response was not only an essential part of the story, it would also be an essential aspect of our policy recommendations.

As to why they were so hostile, they can answer better than I. But I think your folks who cover the city regularly will not find this surprising.

2) Were there some federal agencies that were especially cooperative from early on? Did any of them surprise you with their willingness to help? (I was told the NSA was surprisingly helpful.)

Agencies tend to take their cues from the leadership. Mike Hayden, for example, was directing NSA and is highly professional, and someone I had worked with before. The State Department was also especially cooperative and businesslike. This was not a surprise to me, but was valuable. At the local level, Arlington County was also excellent.

3) Were there some that were especially uncooperative early on? Which ones?

I was a bit surprised by the initial difficulty we encountered in getting what we needed from the congressional Joint Inquiry's work, but eventually we worked through that. At first the main problem was making sure that agencies were getting the guidance we knew they would have to have in figuring out how to deal with us. Andy Card's memo in early 2003 was very helpful in setting things in motion, obliging agencies to designate POCs, etc.

4) I was told by the staff that, at first, the FBI was very uncooperative. Apparently the "plot" team at some point puts together a petition to insist on greater cooperation from the FBI. Is that right? What changed at the FBI?

The situation with the FBI was difficult and uneven. They were scarred and wary from an experience with the Joint Inquiry that had left bad feelings on both sides. They were still involved in what they regarded as an ongoing set of criminal investigations.

Other than the obvious things, there were two major demands we wanted FBI to accept. First, we told them we planned to carry the investigation outside of DC and physically get out to some of their major field offices, speaking directly with case agents and assessing current progress.

Second, we eventually realized that the traditional document request methods just would not suffice for us to be able to get the level of detail we needed for the plot team and, to some extent, for the terrorist finance team as well. We would need more direct access to their case file system. Obviously that presented some tough problems for them. As any prosecutor knows, raw case files contain sensitive information of many kinds, including a great deal of chaff and rubbish that may sound sensational but doesn't check out. So there is great potential for misuse and abuse. The plot team appreciated the significance of what they were requesting, but united to make a compelling case. I was involved enough in the details of this work to see that they were right.

We ultimately had to insist on the necessity of this kind of access to FBI files in meetings directly with Bob Mueller and his senior leadership. FBI gave way. Perhaps to their surprise, they found that our people were highly professional and discreet. They also came to realize that we appreciated how much we were standing on the shoulders of the largest criminal investigation ever conducted in the history of the United States.

5) Several of the commissioners have described Bob Mueller's "charm" or "lobbying" campaign to win them over (to allow Mueller to see his reforms through without an overhaul of the bureau). He offers breakfasts, lunches, dinners, meetings anytime, anywhere. Were you aware of the campaign? Did Mueller try it on you?

Sure we were aware of Bob's efforts. He spoke with me too on various occasions. What ensued was a good dialogue, since Bob was making the case that: 'I get it. We are changing the Bureau.' And we could then engage him directly with our questions and challenges. Their reform program actually evolved during the process of his interactions with the Commission, even before we issued our report — which then took account of the changes.

6) A broad question, I know, but here goes: Some of the commissioners and staff have argued to me that the FBI was a much more fundamentally "broken" agency than the CIA -- the CIA's overall competence was far greater, certainly in dealing with terrorist threats. Do you think there is any truth in that? If so, is that a realization that you had early on? (Some of the commissioners, as you know, now regret not having called for a broad overhaul of the FBI, if not a break-up.)

There is truth in your statement about FBI being more 'broken', and I may well have made that observation myself, at the time.

As the report describes, the FBI is organized to do criminal investigations. Hoover had gotten them into the intelligence collection business, with tragic results that then caused most of that establishment to be scrapped. So they were haltingly rebuilding an intelligence collection capability and an even more embryonic analytical capability.

In other words, FBI was trying to develop basic organizational capabilities — and all the training, routines, and organizational culture that go with them. CIA's problems were not so fundamental.

We spent a lot of time on the arguments about breaking up the FBI, [proposals for creating] the domestic MI5, etc. None of those recommendations solve the problem of building organizational capability. So the argument then became the inability to have intelligence work coexist alongside criminal investigative work. Hence we would have [if these proposals were enacted] a purpose-built federal intelligence collection capability implanted in all American cities, alongside (and adding more friction to) the FBI and the state and local authorities (some of which, like the NYPD, were already deeply in the intelligence business).

We looked hard at MI5, which is an agency I knew reasonably well. Many people don't understand how small MI5 is, and (a) how much it operates as a planner and coordinator of work actually carried out by others, usually the police; and (b) how it is a worldwide organization, not a domestic service.

The recommended design of the NCTC was thus significantly influenced by the MI5 model. But I was careful never to tell people it could be an 'American MI5' because of the preconceptions and baggage people would attach to that description — some of it quite inaccurate.

7) I'm traveling this week and don't have my copies of the KSG case study. But I believe I've read that you prepared an outline of the final report very early on, perhaps within the first weeks of the investigation. Is that right?

That is right. The team organization in part came out of early thinking about the ultimate work product the teams would produce.

8) Was it your original plan to write the whole report (with Professor May)? If so, do you recall when it was that you realized this was not going to be possible?

There is some confusion on this point, and I'm probably at fault for it.

I didn't know how the report would get written. I knew it shouldn't just be a stitched together compendium of team reports — a patchwork quilt. So there had to be some integrating authorial role, and I knew I would play some part in that. I knew the task would be beyond me, so expected that May's help would certainly be needed too. But the concrete task was daunting and I hadn't really figured out how it would get done.

So for much of 2003 I left me (and Ernie [May]) as the kind of default placeholder for how it would get done, but this was just to have something to say until I could figure out a recommendation to the Commission for how we would actually tackle this daunting task and how it could get done. Naturally this left people worried about how it would get done, and how they would play in the process. I was worried about it too, but it wouldn't help much to fret openly about it.

Later in 2003 we developed the idea of team monographs — and the related staff statements — to address several goals: (i) a vehicle for staff to get their work on paper and start refining it; (ii) a base from which staff statements and material for the report could be drawn; and (iii) a form for possible separate publication of highly detailed annexes to the principal report itself, if we could get such material in a publishable condition. At one time I even thought the report might be accompanied by seven to ten such monograph volumes.

By early 2004, as the qualities of various staffers and the work was getting clearer, we developed the idea of tasking draft sections from individual staffers, chosen on merit and given freedom to write more freely than they could if it was a collective authorship — knowing it would all get scrubbed many different ways.

The staff statement process was critical in figuring out ways to do group drafting and fashion a 'Commission' style.

I shouldered some of the initial drafting burden, joined by Ernest in some cases. In most sections others did the initial drafts. In some cases my editorial role, and that of my front office colleagues, was significant. In some other cases the quality of draftsmanship

coming to us was so high that little or no further work was needed. And then, of course, our drafts went to the commissioners.

9) Did you choose which staff members went to which teams? How did you choose team leaders?

I made those judgments together with Chris, and usually also with Dan.

Team leaders were chosen based on experience and the usual mix of personal and professional qualities. Chris and I reviewed the team leader choices in detail with Tom and Lee, and more generally with all the commissioners.

10) Let me play devil's advocate, with [Richard] Ben Veniste the devil. Ben Veniste is critical of the way the team structure operated, especially the requirement that information be funneled up to the front office, with the front office deciding how it should be shared. Others have said this duplicated some of the intelligence agency "stovepiping" that the commission was investigating. Is there any truth in that? Can you understand why some might see it that way?

Take a few minutes and hypothesize how this alternative structure would have actually worked in practice. ... You see. And, though such a structure might have worked better for Richard personally, it would have necessarily then left the Commission less obliged to work collectively under the guidance of Tom and Lee.

The front office did not control information sharing. That was usually limited by classification issues. In fact we created good databases of material that cleared staffers could access, from whatever team.

I have heard the stovepiping argument, but have not heard any concrete examples of how it damaged our work. Everyone in a project tends to want to know everything they can and complete information sharing in an organization is always elusive. So some concerns are to be expected, but we needed to listen and adapt as best we could. The development of the shared databases was a key adaptation.

Related to this was a phenomenon we discovered — our ability to replicate, as if in a laboratory, some of the same interagency friction that we were observing in the government at large, as the teams internalized some of the attitudes they were so carefully recording. We could see the symptoms and try to address them.

There was only one principal division of information access, driven by the need to have one work/dataspace that could handle — and broadly distribute — sensitive compartmented information (SCI) among a significant portion of the staff, and another workspace that did not need all the extraordinary security features that go with the former workspace. One staffer did tell me of an instance where a member of our staff who had

worked for Richard [Ben Veniste] in his Whitewater job had joined Richard at the SCI workspace on a weekend. Since the staffer lacked the requisite clearances, he had to be asked to leave. That kind of experience can indeed be irritating.

To give you a concrete illustration of how we worked to avoid stovepiping, a good one is the way we used Barbara Grewe. She had originally led Team 6 and had real mastery of DOJ and FBI materials, including from her work with the DOJ IG. During 2004 we concluded that her talents could be more effectively employed if we pulled her out of Team 6, brought in a different leader for that team, but brought Barbara into the CIA part of the work and give her a lead role in developing our draft on some of the specific FBI-CIA operational problems before 9/11 and on the 'summer of threat.' She ultimately became our lead drafter for chapter eight of the report, with invaluable knowledge of all the relevant material across the agencies.

Or, as another illustration, we also developed — with the particular help of Warren Bass — a comprehensive, rolling chronology of policy activities that we distributed among a number of staffers on different teams. This could be used in preparing for interviews that involved issues for multiple teams, and was continuously updated until the later stages of our work, at which point the document was superseded by the drafting process itself.

Thank you.

March 14, 2007

On 3/12/07, Philip Shenon wrote:

Many thanks again. I envy you India -- it was my winter vacation this year. Wrote chapter outlines from a hotel room in Jodhpur....

A few follow-ups to your last set of answers:

1) About the FBI and Bob Mueller. I've heard it argued repeatedly that Bob Mueller "saved" the FBI, if only because he could not be held responsible for the pre-9/11 bungling and seemed eager to cooperate with the commission. Did it occur to you that if Freeh had still been director during the commission's investigation, that the commission might have moved for a breakup of the bureau or at least a much more dramatic overhaul?

The key elements in Mueller's message were that he understood the problems and that he was moving on a significant, detailed agenda for institutional reform. The FBI had to change its approach to intelligence collection and analysis, and start addressing the related issues of recruitment, training, and organizational culture. Had Freeh still been director, the question would have been whether he could credibly state that he recognized these problems and was acting vigorously to address them. One way or another, the Commission would have recommended that the FBI address these concerns.

We also had some insight into how the Bureau had worked some post-9/11 cases.

Thus for [deciding whether to condemn] Mueller the issue became whether the Commission was reasonably sure his agenda was misconceived and that we felt reasonably confident we could propose a better plan — understanding that any plan would take years to take hold.

2) As a student of government, were you surprised/appalled/horrified at the extent of the FBI's bungling before 9/11? Moussaoui, the Phoenix memo, San Diego, to say nothing of its decrepit technology, dismal bureaucracy... Was there one disclosure about the bureau's failures that was a particular jaw-dropper for you?

I don't recall being so shocked. As you know, I had looked at these problems for years, while at Harvard and in my PFIAB service.

Before rushing to join the lynch mob, it was also important to keep an eye on the Bureau's strengths. We were very impressed with the old-fashioned, sweat the details, thoroughness of many aspects of the Bureau's post-facto investigation of 9/11. It spotlights some of the strengths in their work ethic, especially in tough criminal investigations. The challenge then is to build on those strengths, and the Bureau's reach and contacts in many American cities, in reflecting on whether it can be fixed, and how.

The alternative, as mentioned in my other message, is to build a new agency — a project easily underestimated and misunderstood, fraught with potential pitfalls of its own. [We had to judge] What approach was most likely, in the relative near-term, to strengthen protection of the country (including its traditional values)?

3) Among the commissioners, there is some real contempt for Louis Freeh and his leadership, or lack thereof, of the FBI. Is that something you share?

No. Though Freeh has mentioned me in some of his attacks, I don't return the hostility. I respected the hard work he had done on Khobar, and believed his views on that were substantially right.

I don't know him very well — did not participate in the interview of him — and had not been close to the battles of the Clinton administration, which colored so many views. I did think the broken relationship between the White House and the FBI during those years hurt the country.

As for his wider management of the Bureau, I played an active role in choosing how to describe that in our staff statement and in the report, and you know what we said.

4) I know that several members of the FBI "team" wanted a far more dramatic overhaul of the FBI than was recommended by the commission. Were you aware of that? Were the commissioners aware of that? (The staffers felt that [team leader] Christine Healey was far too forgiving of the bureau's sins.)

There were differences of view within the team, and among the commissioners. I had, and have, some regard for Christine's maturity and experience in judging this matter. Christine herself was scrupulously fair in presenting the spectrum of views within her staff. In weighing the advice, it was important to think about how much of it was informed by experience in overseeing or studying the management of government institutions.

I made my arguments to the commissioners, as did Christine, and the commissioners also heard from several other points of view before finally deciding how to proceed. This was one of the few issues in the policy recommendations on which commissioners had a prolonged debate.

5) On MI-5, did you participate in this wonderful meeting with Eliza Manningham-Buller? It's mentioned in "Without Precedent." Did she impress you? Was she indeed someone out of Le Carre?

I did participate in that meeting. I had already met with her, and some of her coworkers,

in London both in this job and before. She has a good, no-nonsense style.

Incidentally, the Commission also heard from the chief of Australia's "MI-5" equivalent and we gave them material on other foreign approaches — Israel, Germany, etc.

6) She is apparently asked at that meeting about how the United States might duplicate the (relative) British success in Northern Ireland. I was told that she didn't think it a good comparison to what might be accomplished in the United States, since Northern Ireland was easy pickings for terrorist watchers -- "a shooting gallery" or a "hunting party." Is that right?

I don't recall that question, but I think I know her views on Northern Ireland, and don't believe she said, or would have said, it was "easy pickings" or a "shooting gallery" or "hunting party." That's not her view. The British did believe they had penetrated the organization through the success of long, very hard (and somewhat controversial) intelligence efforts.

7) Any other strong memory from that meeting? Was it important in the commission's decision not to recommend an MI5-like agency here?

She certainly didn't think her institution was easily translatable to the American setting, and that argument may have had some weight for some commissioners.

8) You salute Hayden and the NSA's cooperation. Do you think the commission adequately made use of the NSA's archives in the investigation. I've heard it argued from staff that there were many NSA archives that were never explored as they should have been. (I understand that the last-minute flurry of activity over Iran-Al Qaeda came from what was found in the NSA files.)

We obtained the needed material. The question is whether the relevant staffers went through the material as thoroughly as we might like. In the CIA and FBI cases, I have more firsthand knowledge of how we mined the holdings. In this case I'm not as well informed, and would defer to the judgments of folks like Lloyd Salvetti and Doug MacEachin on this.

A few points may help provide perspective, though.

1. Any NSA material regarded as significant at the time was incorporated into the intelligence community assessments that we went over very thoroughly. For instance, quite a bit of the intelligence in the 'summer of threat' originated in NSA reporting.
2. We cut into some of this material from other angles as well, pursuing specific leads.

3. Part of the problem in the Iran case was that NSA's view was not picked up on or reported to policymakers by the CIA in drafting its assessments for the intelligence community as a whole. It was a kind of dissenting view, and no one had alerted us to its existence. Fortunately we found it in some last 'due diligence' canvassing of material toward the end, appreciated its significance, and jumped on it. There were differing views in the staff on how to interpret and describe these findings in a way that was rigorous and fair; I ended up examining the material directly and drafting the synthesis that appears in the report — having checked my draft with the other staffers on three different teams who had worked on various aspects, to be sure they agreed it was a fair statement of the evidence.

In effect, all we could do [on the Iran-al Qaeda issue] was present a set of questions that only the US government could answer, with further work, and ask the government to do that work.

9) Can you tell me what happened on the Iran material? I understand that after it's brought to your attention, you hurriedly (and obviously, properly) organize an early-morning field trip to Fort Meade on a Saturday in June or July to look for the raw material.

See above. MacEachin, Salvetti, and Lorry Fenner played invaluable parts.

10) Did that incident cause you any worry that other NSA material might have been missed?

I never felt complacent, and remain ready to believe someone may, in the future, find evidence we missed or didn't know about. But, because of the points I mentioned above, because we had good staffers working the material, and because of the repeated combing through available material not just by us but by others, we felt we were able to go forward with our report.

Thanks.

March 15, 2007

On 3/15/07 Philip Shenon wrote:

And Iran raises the question of Iraq...

1) Going into the investigation, did you have a view on the question of whether there had been substantial cooperation between Iraq and Al Qaeda?

I knew that Iraq had supported other terrorist organizations, mainly in the Palestinian context.

I had followed some of the debate on Iraq's relationship to al Qaeda but didn't have an analytical view of my own. I did not attach much credit to the argument that al Qaeda wouldn't have anything to do with a secular dictator like Saddam. On the other hand, the evidence the administration had cited in the runup to the invasion of Iraq was relatively limited.

2) Did you ever suspect a link, direct or indirect, between Iraq and 9/11?

I wanted to look hard at the evidence. I heard there was this cell at DOD working on it. I definitely wanted to be sure we got their documents. But I never ended up seeing any evidence that led me to suspect there was a link between Iraq and the 9/11 attack, and there was quite a bit of evidence to make that scenario seem improbable.

3) I spent several hours with John Lehman for the book, and obviously he was a big promoter of the idea of the Iraq-Qaeda link through much of the investigation. He now suggests that he, like many people, was misled by the administration about the evidence. Did you feel misled at all?

No, because I had never bought into the argument of that faction. I hadn't looked at their evidence, and wanted to look at it and see if there was really something there.

4) The decision to have Laurie Mylorie [Mylroie] testify at one of the public hearings created a good deal of suspicion among the families and some of the commissioners, Ben Veniste in particular. Dan Marcus said her appearance was controversial among the staff, as well, and that he thought it had been entirely your decision to have her appear. Is that correct? Why did you decide to have her appear?

I influenced most of the witness selections for that hearing. Given the topic of the

hearing, that side of the argument on state sponsorship needed to be represented by someone, and Mylroie was the best choice for that. She was one of four witnesses on that particular panel. I was acquainted with her work, and was already skeptical about it, but thought the Commission should hear from that side and get a sense of who these people are.

It's true that some folks didn't want to give her any air time at all. And there were others, including at least one commissioner, who felt those views should be heard.

I was also mainly responsible for the appearances by [Rohan] Gunaratna and Gilles Kepel, as well as others like Dennis Ross. Kepel was an important choice, since he argues — along with Olivier Roy — that al Qaeda's rise is symptomatic of the failure of political Islam, not its growing success.

The witness I was most pleased about was Marc Sageman, whom I felt was my discovery after I encountered him at a National Academy of Sciences panel and became a promoter of his work. That hearing started a wave of attention to him and his work, which I think is good because he adopts a distinctive and insightful approach to understanding al Qaeda.

5) Had you had any sort of professional dealings with Mylorie previously?

None. I didn't know her personally or professionally.

6) Were you surprised by what she had to say at the hearing? (I went back and read the transcript yesterday; her testimony was remarkable.)

Not too surprised, since I had spent some time with her book and other writings. As I said, commissioners needed to see/hear this for themselves, since she represented a strand of opinion that had a number of adherents.

7) Brass tacks: There was a sense among several staffers that you were eager, at least early on, to try to have the commission demonstrate an Iraq-Qaeda connection. Do you think you were?

It's important to be careful about words, here, because there was an Iraq-Qaeda connection, and the Commission described it. It just did not mature into a collaborative operational relationship. And there was no credible evidence of a connection between Iraq and 9/11.

The context for these old discussions can sometimes be important too. For instance, we reported accurately that, in 1998-99, Clarke thought there was a

connection between Iraq and al Qaeda, that the connection might involve chemical weapons development, and that it might even be a bad thing to drive UBL out of Afghanistan because he might then run to Baghdad, which he thought would be worse. The evidence about the Qaeda-Iraq link turned out not to be as strong as that, but Clarke's beliefs at the time were sincere and are part of understanding the way people regarded the problem back then.

I wanted to be sure everyone kept an open mind about the evidence until we were ready to come to judgment. I think the staffers who were most directly involved in working on this issue understood my approach. Because once we came down on this issue, it would be important. And it would be vital to say, and show, that we had looked fairly at the evidence and the arguments of both sides — and that had to be true, not just spin.

But it would be quite wrong to say that I wanted the Commission to come to a conclusion that there was a connection between Iraq and 9/11. I had never made this argument before I joined the Commission, so don't know why it would have become more appealing to me. I doubt that the staffers closest to our work on this problem would make such an assertion. But I understand the concern. You're hearing one side of it; if you talked more to folks who tended to side with Bush you could hear another. This sort of corridor talk is natural. But it was also one reason I took care throughout my work at the Commission never, in any setting, to express an opinion about the war in Iraq, pro or con.

When we then came to judgment on how to describe the Iraq connection, I was the initial point person defending it, first to the commissioners and then to the American people — in that [May 2004] staff statement. I wanted to put myself behind that judgment and stake my integrity on it. I took some heat from folks like Safire (e.g., his column entitled "The Zelikow Report"). At the time, there was also a spectrum of views about these questions within the Commission. But at that point I could look anyone in the eye — including any commissioner -- and tell them, honestly, that we had looked hard and fairly at this, and there was simply no credible evidence of a connection between Iraq and 9/11.

On state connections with al Qaeda, Iraq was never the hardest problem, analytically. Iran was.

8) I'm told by several staffers that you rewrote State Statement #5 to suggest a clear, collaborative link between Iraq and Al Qaeda -- there had been no such statement in the draft written by Scott Allan, apparently -- and that this created a good deal of anger and anxiety on the staff. It took their (diplomatic) protests in a meeting in the commission's conference room on K Street to have the statement suggesting the link removed. Is that account right? (Among the people in the room: MacEachin, Hawley, Albion, Hurley....)

Your first sentence is greatly exaggerated. Fortunately the Commission's records will eventually be able to document to anyone just what the disputes were about.

Although Team 3 had the lead on that statement, they were not really involved in the underlying research on this particular issue, which had to do with a couple of sentences to summarize material we later ended up putting in chapter two of the report. Some folks on that team didn't want anything about Iraq to appear in 'their' statement, and were very sensitive about that.

The key point, perhaps forgotten as stories are told and retold, is this: The discussion was not mainly about whether the proposed language was true. It was about whether it should be in this statement, or another. Some members of the team felt any mention of al Qaeda and Iraq could be misunderstood if it was in a staff statement on diplomatic efforts. (The contrary argument had been that this related to cataloguing state sponsors, which was connected to the diplomatic story.) Some staffers also worried that, by attracting press notice, inclusion of the material would distract attention away from their hard work reflected in the rest of the draft statement. But the substance of the couple of sentences we considered adding — which will be evident in our records -- would not now be considered controversial, or even remarkable.

Others on the staff thought the material should stay in. The umpire on this particular call (and there were many debates in the drafting processes) really was Chris Kojm, who pointed out that we could just handle this in one of our later statements. On reflection, I think the complainants (led by Bass) were right on this one. Those two sentences were indeed better left to a later statement that could deal more directly with how to discuss the Iraq-Qaeda connection.

9) Did you support the way the commission, in the final report, described the links (or lack thereof) between Iraq and Al Qaeda?

I drafted the language that ultimately was accepted. And I believed it was accurate. Based on what we have learned so far, I would not amend a word of it today.

10) Were you surprised at how aggressively VP Cheney tried to rebut the commission's description of the Iraq-Qaeda link (or lack thereof) in the earlier staff statement?

I was surprised by the Vice President's reaction, especially since it contrasted with the way the President himself chose to react. Also, we studied what the VP said — in an interview with MSNBC, I believe. We immediately recognized the intelligence reports on which the VP relied. This was revealing, because we had dug into the sourcing behind that reporting, and the VP's staff did not know, or

had not warned their boss, about the questionable provenance of that information.

Thanks.

On 3/16/07, Philip Shenon <shenon.nytimes@gmail.com> wrote:

A couple of follow-ups on these questions:

I've talked to a large percentage of the commission's staff, including the people on the key teams, and this belief that you were determined to find a collaborative Iraq-Qaeda connection (beyond the well-documented, mostly early contacts) is widely held, fairly or unfairly. Several people have pointed to this business with State Statement 5. Obviously the administration was under attack in this time period over the reasoning for the invasion of Iraq, and it would have been hugely helpful to the White House to have the commisison find an Iraq-Qaeda link

1) Can you tell me what you remember in this dispute over State Statement Number 5? What is that you wrote in that upset some people? (And as best I can tell from several sources, people really were upset.)

2) Can you see where your efforts to keep an open-mind about Iraq-Qaeda were perceived as something else?

3) You suggest I'm hearing only half of the story on the issue. But I really have talked to a lot of people, including the key people on the issue. Where should I go, among the staffers, to get the other side?

4) On this business of the NSA archives, were you aware of the staff concerns that the archives were not being reviewed, or at least reviewed adequately? (For the record, I don't have any indication that you were aware of these concerns; it may have been Kevin Scheid who dropped the ball here.)

Thank you.

[I believe my answer to this message was sent from a mobile and was not preserved.

The language referred to in Q1 is material that was drafted by another staffer and by me; it summarized what the Commission knew about the general Iraq-Qaeda contacts in the 1990s and administration concerns about it at that time. This material was described in later staff statements and included in the Report on pp. 61, 66, 128, and 134.

On the other Qs, I did not believe Shenon was accurately representing the views of most of the involved staffers. Several of the staffers he had interviewed contacted me to express their concerns.]

March 23, 2007

On 3/23/07 Philip Shenon wrote:

Sorry to burden you with more questions while others still some pending. But I've spent much of the last week with CIA types and wanted to get the questions to you while they were still fresh....

1) You'll recall our early exchange about the anecdote told by Mark Lowenthal about your visit to Langley shortly after you joined the 9/11 commission. You questioned the accuracy of Lowenthal's account. With your response, I tried to do due diligence and went back to Lowenthal's colleagues, including Winston Wiley and Rudy Rousseau. Wiley, who says he was at the meeting, which was apparently held in his 7th floor conference room, confirms Lowenthal's account and says he found your "prejudgements" about the agency disturbing. Rousseau was not at the meeting but says your comments were reported to him -- and Tenet -- almost immediately. Whatever you said, it appears that the tone of that meeting put the CIA on a defensive posture from the get-go (or so they want me to believe). Do you remember anything more about this meeting?

I don't remember any more about it. I don't know what prejudgments folks mean ... You asked me about a couple of specific ones earlier, which were not my view at the time, and were not understood as my views by any of my colleagues.

A lot of particular things were already swirling around, and CIA certainly feeling very, very defensive. But my own views were as I, and others, have described them. And in fact I had positive initial views of the efforts and ability of Lowenthal, Wiley, and Rousseau. And, at least at that time, I tended toward positive views of Tenet and Black too.

In fact I arranged to have a group of staffers join me in spending a good deal of time with Rudy and his folks early on the process, which I also recall as a positive experience for us.

2) Several staffers have told me they had grave doubts about Tenet's credibility from the early stages of the investigation. They say you did, also. If that's true, why?

This isn't correct, at least for my views. I came in with an open mind about Tenet and a keen sense that he and CIA had been carrying most of the weight of the CT effort for years, and for a long time I tended to give him the benefit of the doubt in analyzing his work. I actually felt a bit surprised, and increasingly puzzled, as we worked through the issues with him during our private interviews in 2004, for some of the reasons you allude to in your questions below.

3) *There were similar doubts about the credibility of Cofer Black. Did you share those doubts. Why?*

I did not share them, at least early on. I was aware early that there were some direct factual contradictions between his version of a couple of matters and those presented by others, including Clarke. That had arisen in the Joint Inquiry. And Cofer has a particular style that is powerful, but also invites double-checking of the facts. We eventually had a very difficult private interview with him.

4) *As best I can tell, very few witnesses were placed under oath in the private sessions with the commission. Is that true? Why?*

That is true. We had significant discussions about our policy on this, with a spectrum of views within the staff as well as among commissioners. The arguments in favor of swearing witnesses is obvious. The argument against is that many witnesses would feel intimidated, would be more likely to seek lawyers (a habit ultimately pursued only by our key CIA witnesses, which tells you something about the institutional climate there), and would be less forthcoming. There are precedents on both sides.

We finally came to a consensus view in the staff, which was endorsed by the commissioners, that we would place witnesses under oath where their versions of events were being directly contradicted by other witnesses. In other words, where there was a swearing match, all sides would be placed under oath. Also, this was an option always left on the table if staffers wanted to request it because they thought it would be valuable. We would need to get a commissioner to attend the interview in order to administer the oath, but that was not usually a problem. Dan Marcus should remember this issue well.

5) *As best I can tell, Tenet, Black and Dick Clarke were placed under oath for those sessions. Is that right? Where there others?*

There were others. At least several, possibly a number, of other witnesses placed under oath, but I don't remember who they were.

6) *Did you make the decision to place Tenet under oath at the private sessions?*

In a formal sense, I had the final call for the staff, but that particular choice was a consensus view. All kinds of factual disputes had emerged, including allegations from inside CIA, by the time we interviewed him.

7) Do you recall who performed the oath? (I believe it was Ben Veniste.) Did Tenet resist?

Might have been Roemer or someone else at one or more of the three interview sessions with him (and we met with him on other occasions on other issues).

8) Staffers say there was an angry exchange between you and Black and one of the private sessions. What prompted it?

His lawyer was exceptionally intrusive, and it was difficult to get meaningful answers to some of our questions.

9) Tenet is still (very) upset about your comments about him in Elsa Walsh's piece in the New Yorker. Was there some specific incident of dishonesty by Tenet that you were referring to?

Your questions, below, show you already have a pretty good idea of why I said what I did. And Tenet did lobby former commissioners, successfully, to get a countervailing quote in Elsa's article. But if you look back at my quote, and compare it with what you know of staff views — other than my own— you may judge for yourself whether my words, which I chose carefully, were accurate.

10) I'm told that in the three private sessions with the commission, Tenet demonstrated a remarkably faulty memory -- couldn't remember important meetings, documents, phone calls. Bob Kerrey describes Tenet as being like a "grand jury witness" whose lawyers told him to answer "I don't recall" to every question. Were you disturbed by these memory lapses?

See answer to Qs 11 and 12.

11) Was there one of Tenet's memory lapses in particular that disturbed you? (I'm told by staffers that they were disturbed when Tenet claimed he could not

remember his first briefing of Bush.)

12) There an important encounter in your third (and final) private session with Tenet. Apparently just before the meeting, you had come up with a "missing" one-page addendum to the famous Christmas MON, and the page -- which the commission had not seen previously -- showed that the CIA did have lethal authority on Bin Laden, undermining Tenet's repeated claim that the agency was never given clear authority. The page apparently includes reference to the fact that it -- the addendum -- had been requested by Tenet himself. You ask Tenet about the page, and he claims he cannot remember it. I'm told that for the staff, this was the final straw with Tenet, proof that he was not telling the truth. is all that right?

(For the record, Tenet's people say that the 9/11 commission made much too much of the one-page addendum. They say the addendum granted limited lethal authority of only 30 days and that it was not surprising that Tenet could not remember it, since it had been drafted and approved while he was on vacation.)

Staffers may have been bothered about his recall of his first meeting with Bush. I was not. In general, I went into these sessions expecting him to be a vital witness on a number of key issues, and I can certainly understand the difficulty in recalling details among so many episodes. But as time passed, we saw how the staff prepared Tenet for these sessions, and how he used those briefing materials, and how he handled some quite memorable episodes, especially in 1998-1999, in late 2000, and in 2001. I may have been naïve, but I only slowly came to conclude that George had decided not to volunteer any information on any topic unless we already had the documentary proof, and then he would add as little as possible to that record.

The Christmas 1998 MON was not the minor detail described to you, and everyone at the top of the administration knew it. According to one of the administration's lawyers, it was the most sensitive and extraordinary intelligence document signed out during President Clinton's time in office.

More to the point, the issue of whether the President had authorized lethal action against Bin Ladin was one of those factual matters on which witnesses had already sworn to contradictory accounts. We were in fact so convinced by the CIA side of the story that it became apparent to Berger that we must not have all the relevant documents. His suggestion on this to me eventually led us to demand a massive reexamination of the underlying presidential records (and yet another related conflict with the White House) that did allow us to unearth a clearer picture (confirming Berger's assertion, by the way), and producing the account you now see in the report.

And that MON was produced, the documents show, out of direct exchanges between Berger and Tenet in which Berger's view changed at least once, and

which led to the President being asked to sign Tenet's suggested language on Christmas eve. For Tenet to have no recollection at all of such an episode ...

Thank you.

March 24, 2007

On 3/24/07, Philip Shenon wrote:

Thanks.

The agency really has mounted a full campaign -- at least with me -- to try to debunk the commission. Pillar's article was the opening salvo. I hear Tenet's publication date is April 30, so we should see more soon. They made Rudy Rousseau available to me for a long, on-the-record session a couple of weeks ago.

Anyway, some follow-ups to your (fascinating) answers in the last round.

1) Was your complaint more with [Cofer] Black's lawyer than with Black?

Some of both. I got the impression, unfortunately, that Black had already come to regard us as adversaries, and he has a certain style he adopts with adversaries. Others at CIA, including some of his key subordinates like "Richard," were very helpful and forthcoming.

2) What was this exchange?

I don't remember just what was said; I gave you the best sense of it that I can recall. The commission's records of the session may have more detail.

3) Can you tell me more of the detective story behind the discovery of the one-page addendum to the MON [Memorandum of Notification]? I was told that you (personally) may have found it -- close to the end of the investigation -- in the archives of the joint inquiry?

This is a bit garbled. The so-called 'addendum' is actually the authorization language being approved by the President, so it is actually the heart of the document. It is the operative language.

The Joint Inquiry never got to the bottom of the problem. As with many other subjects, they usefully elicited the first round of contradictory testimonies that could thus alert us to the character and size of the problem. But they could never resolve many of the questions they unearthed because of the constraints and issues within their own investigation.

The problem had to do with the specific document, but much more than that. On the specific document, people thought they had it because they were working with

an earlier version of it (e.g., the December 21 draft). What I discovered, working with Marcus and Dunne in our combined review of the underlying White House records at NARA, by reviewing every successive version of this and comparing them carefully, was the rewriting of the operative language that occurred at the last stage.

But one reason we found this is because we had been alerted to its very great significance by others, especially Berger and Berger's [NSC] legal adviser ([Jamie] Baker). This also then partly explained both Berger and Clarke's testimonies on this point, which had flatly contradicted the version told by Tenet, Black, and others.

Further, the work on this was part of a wider effort in reconstructing the story of this and the other MoNs with much greater care, partly because we interviewed the key lawyers involved, because we examined a much wider range of CIA documents (including some operational cable traffic) with cues from some of their officials, and because we did the further review of White House documents at NARA, unearthing seemingly minor omissions which actually plugged some key gaps.

This effort is well documented in the Commission's files, because as the story was pieced together we wrote some detailed summaries of what we were finding, and how we were learning it, for other staffers and then for commissioners.

4) Is there any fear that the addendum had been withheld from the commission for some reason?

No. The cumbersome method for producing White House documents, which was prompted by other causes, was partly responsible for the problem. For example, people thought documents were duplicates, and therefore did not copy them for the reading room. Also, there were various constraints on examining paper sent directly to the President that further complicated the way records were prepared for the reading room.

As we became aware of the resulting problems, we insisted on direct examination of all the underlying records at NARA. Another argument and negotiation ensued. We finally prevailed and that led to the crash effort by myself, Marcus, and Dunne (with an NSC lawyer present) in which we meticulously documented, in writing, every anomaly and gap, and plugged them.

But none of us could detect any rhyme or reason in the gaps that would allow inferences of a broader malign motive, beyond inadvertent errors and the flaws induced by the underlying document production process mentioned above.

5) *Was it indeed one page?*

Yes, in this case. The operative texts for the Bin Ladin MoNs could usually be contained on one page. But, since I see you focusing so much on this one document — as important as it was, you may want to keep in mind that was just one aspect of a whole series of connected puzzles and issues.

6) *When, where did Sandy Berger tell you to go looking for it? Did [he] you tell you to go in search of a one-page addendum?*

Sometime early in 2004. He was not the only one. He and others kept describing a result and process that didn't appear in the documents. We asked them about that point blank, and their memory was so clear that it seemed apparent to us that we needed to go back and doublecheck the documents with extreme care.

7) *Do you remember what you thought, felt when you actually saw the addendum? Can you set that scene at all?*

It was like piecing together a puzzle with a number of pieces, and there was a sense of relief and satisfaction once we finally figured out how it fit together, and made sense of what we were being told — including by the lawyers. I immediately wrote up the proposed solution, with all the relevant evidence, for other concerned staffers so we could all examine it and see if it held up. It did. I think we all took some satisfaction in being able to clarify this problem.

8) *How explicit is the lethal authority?*

Explicit, in plain language. The whole point of the change was to go from: 'capture, kill if part of the fight in capturing' to 'if a capture operation is not feasible, you may conduct an operation to kill him'.

This is a fundamental distinction in the kind of operation you can mount. In the first case it is always a capture operation, which is about as demanding an operation as one can imagine (including, to take just one aspect, plans for exfiltrating the captive(s) out of Afghanistan). The second case can be done with an RPG from a hundred yards away.

There were no euphemisms in the language.

9) Was the authority only for 30 days, as Tenet's people claim? If so, does that diminish the MoN's value in any way?

No such language. And if there had been, of course we would have put that in the report, since that would have been a huge limitation.

The reason they came back for the new MoN in February 1999 is not because of any time limit in the December 1998 MoN, but because they were seeking authority for action by a materially different set of partners. (see 3rd full para on p. 133 [of the Report]; 4th full para on p. 139)

10) Is it correct that the addendum refers specifically to the fact that Tenet himself had requested it?

No. In this case the annex only contains the operative language of the MoN.

We reconstructed the prior Berger-Tenet communications from both documents and interviews about the period before that language was signed out. The sources are cited in our notes.

11) Is it possible that Tenet is telling the truth when he says he cannot remember it?

Folks who really know the record just have to reach their own judgment on that.

And, as I mentioned earlier and as you can see after lingering over the various stories different administration officials give from that period, this was only one of many puzzles we were trying to get Tenet's help to solve.

12) Given this widespread concern among the commissioners and staff about Tenet's truthfulness, was there ever any discussion of a referral to the Justice Department or the CIA IG regarding false statements? (Apparently there was consideration of a DOJ referral for some of the FAA, Norad testimony....)

No. The situations were quite different. In the first case you have a complex yet vital record that the key principal says he cannot recall well, and he says some things that could be explained as mistakes, just misremembering a pretty convoluted set of episodes and decisions in which the President himself is going back and forth.

In the other case we eventually concluded, from the evidence, that agency officials who were immersed in the relevant records may have deliberately fabricated a detailed and false story about what happened. We ultimately prepared a lengthy, written referral that detailed the evidentiary basis for our

suspicious. After some debate, we recommended to commissioners that the referral should go to the relevant IG's for DOD and DOT rather than a criminal referral to DOJ, and they accepted that recommendation. That we would regard this as a close call says something about the way we regarded the evidence. More than two years after our referral, those IG's reportedly concluded that the conduct of the agency officials was negligent, but not criminal.

Thanks

On 3/30/07 Philip Shenon wrote:

And if I could add two more follow-ups.

I had a long conversation yesterday with a (former) senior CIA official loyal to Tenet who said he thought this one-page document was "a memo giving guidance to the field" -- the tribals, in particular -- about the Bin Laden operation. Tenet and his people obviously don't have access to this document anymore and, again, are trying to play down its importance. This former senior aide said he doubted it gave "explicit lethal authority."

1) Does any of that sound right?

This fellow also said that it was Reno was blocked explicit lethal authority in any of the MoNs.

2) Does that sound right?

Thanks.

March 30, 2007

Your source does not have this right. But read the account below and judge for yourself, since you talked with the source.

We describe the many intelligence policy issues with care in our report. The December 1998 MoN is discussed, for example, on pp. 132-134.

An MoN is not merely an addendum or annex or bureaucratic afterthought. These are significant documents that must be signed personally by the President of the United States, and they are prepared because the White House judges that Congress must formally be notified of the decision, pursuant to a preexisting presidential finding, to carry out a new or materially different covert action.

Once an MoN is signed by the President of the United States, the DCI then usually takes a separate action, which is to send an operational message to officers and agents telling them what they should or can do, pursuant to the new authorities approved by the President.

In the case of the December 1998 MoN we described both the document approved by the President and the separate guidance message sent to the field — and the report they sent back. The details were important. Why? Because the intent that was so clear to President Clinton, Sandy Berger, and Dick Clarke (authorization for a straight kill operation) then got a curious, almost opposite reaction from the people in the field (who promised not to kill him!) which then elicited no further communications to address the problem.

Thus the White House thinks they've authorized one thing (and so testified to us). Then the field has — at best -- a garbled or contradictory understanding (and had so testified to us!).

And now you see why Tenet is so vital, since he is the bridge between the field and the White House. He apparently got the heightened authority in the Dec 24 MoN (rewriting the Dec 21 draft). Yet he then later told us that the White House did not authorize a straight kill operation.

And then, to compound the confusion further, when CIA comes back to Clinton again in Feb 99, asking him to write a fresh version of the lethal authority he had signed out in Dec 98, Clinton amends the document in his own hand to pull the authority back to where it had been before Dec 98 (kill only in context of capture operation). As the report explains, Clinton does this for reasons Clinton himself cannot remember and no one else can explain.

As for AG Reno, she was a persistent dissenter from almost all the major UBL-related decisions on various grounds, as we note in the report. Another important point in her case is that she always took care to dissent on policy grounds, declining to interpose a legal objection (e.g., assassination executive order) that would have been far more problematical for the President.

Her dissent on the Dec 24 MoN was overridden, and the President approved the lethal authority in that document (so your source appears to be mistaken on that point as well). Her dissents were overridden in other cases too, so it's not very fair to blame Reno, at least not in this aspect of the story.

To be fair to your source, we describe how tightly compartmented this information within the Executive Branch. So many officials at CIA genuinely did not fully understand the details of what was going on between the DCI and the White House. I have no reason to believe that Cofer Black, for example, ever saw the Dec 24 MoN.

This illustration is representative of a whole series of incidents, especially in 1998-99 and in late 2000, that invite many questions, and where Tenet was obviously in a unique position to clarify puzzles and contradictory testimony.

You may also see why, given the extreme sensitivity of the Dec 24 MoN and these other matters, a complete failure to recall the episode might seem odd. So perhaps some of our concerns may seem more understandable, and you can also see how the concerns deepened in the course of the investigation, as we learned more about what actually happened.

March 31, 2007

On 3/30/07 Philip Shenon wrote:

And now I'm confused.

As I understand it, there is the Christmas MON and there is a separate, later one-page "addendum" -- if that's the word -- to the MON. You go back to Tenet for a final private interview after discovering the "addendum" (perhaps in the joint inquiry's archives?). This one page had the explicit kill authority, or so I thought.

That is not correct. The so-called addendum was actually the operative language of the MoN; it was the actual language of the authority the President approved that day, and was necessarily part of the package he signed out. So of course it has the kill authority, in the case of the Dec 24 MoN.

I certainly didn't mean to suggest that Tenet & Co. are suggesting that the MON was insignificant. Just that the "addendum" was not so significant.

It was the operative language of the MoN, the actual kill authority and thus the heart of the decision package. But, to give them the benefit of the doubt, perhaps your sources aren't familiar enough with this particular issue to understand just what we're talking about in this case. Otherwise

I appreciate you taking so much time on this.

April 5, 2007

On 3/31/07, Philip Shenon wrote:

Thanks again.

But please let me go back at this because it is confusing (and important and fascinating). I've gone back and reread the portions of the commission's report, but I'm still left with these questions:

1) So I'm correct to say there was a draft MON on Dec. 21, a final, tougher version on Dec. 24 that has explicit lethal authority?

Yes.

2) You're aware of the 12/21 version for a long time but discover the 12/24 version very late in the investigation, no?

Without going back into the records, I can't offer more detail of what we knew when.

3) Both are one page?

The format of the documents is such that the full packages are invariably longer than one page. The operative authority, in this case, easily fit on one page.

4) Do you, personally, discover the Dec. 24 version at NARA? At the facility on Pennsylvania Ave.? About when?

The details of this reconstruction were complex, and I don't remember which of us discovered what document when or where.

5) Tenet's people say he is on vacation on Dec. 24 and that it's therefore not surprising he is not aware of it. But I believe the argument from the commission's staff is that, since the 12/24 MON gave the explicit kill authority he had sought for so long, Tenet certainly should have been aware of it. Is that right?

I doubt that George Tenet would say that, because he was on vacation when the President signed it, he was not aware of this MoN's contents. And that would be true for any MoN, not just this one — though this was exceptionally sensitive and important.

Nor, I think, would "Tenet's people" do him any favors if they imply anything else.

6) Is it the discovery of the final, 12/24 version of MON that leads you to request the third private interview with Tenet? (Tenet's people say he was alarmed when he got the request for a third interview and called around -- to Gorelick, etc. -- to find out why you wanted to talk to him again.)

No. There were a number of issues that had emerged in our further work that led us to believe another interview was needed. And, so people have a chance to refresh their recollections, our staff usually review the general themes that will come up with the staff of the witnesses. It's in our interest for witnesses to be prepared and be as knowledgeable as possible about the relevant facts.

7) Tenet's claim at the third private interview that he does not know about the 12/24 version of the MON is described to me as a critical moment for the commission -- the moment when Tenet's credibility was really lost to you folks. Does that sound right?

I can't speak for others. And, as I've said repeatedly before, it was not just this episode that left me puzzled. No 'aha' moment. It was just that, as we reflected together about what we had learned, I at least was troubled by his inability to recall or add much to our understanding of so many critical episodes.

8) Tenet's people claim that after each of three interviews, you and Ben Veniste go up to Tenet and thank him for all his cooperation and service. (They claim, as you know, that they had no indication that you disbelieved his testimony.) Does that sound right?

No, and I hope you're not spinning up his people to elicit angry comments.

In my case, my courtesy to Tenet was sincere. I am very aware of the scale and breadth of his service over a number of years. I would be courteous to him and appreciative of that service today. I have some concerns about his judgments in office — the most serious of which are on subjects different from the ones you're working on. But I also think he did some good things for the CIA and for the country.

And my concerns were not so much at the table, at the time. For me, more of the reflections on credibility came later, sitting with staff colleagues and going over

the material, sort of shaking our heads about it.

9) Tenet's people claim that Tenet's memory is not especially faulty, especially for a man who was -- during the course of your investigation -- working 20-hour days and overseeing wars in Afghanistan and Iraq. Is there some validity to that?

I understand about working hard in government. And being asked to remember events.

Tenet has a point of view. We were careful to include it in our report. His staff had an opportunity, often repeated opportunities, to review or suggest corrections in what we intended to say about the factual record, seeing it in writing both before we finalized our staff statements and before we finalized the report. He was aided — and apparently still is being aided -- by staff with access to relevant records. And he will soon publish a memoir to add even more of his point of view to the record.

10 Was something in all this measured in a 30-day period? Tenet's people keep talking to me about a 30-day authority.

I would need a more specific reference to jog my memory.

I'm sorry if I'm being dense here.

April 7, 2007

On 4/5/07 Philip Shenon wrote:

Thanks again.

My reference to "Tenet's people" is an honest one. You can tell from Pillar's article, which is widely circulated among the Tenet loyalists, that they are angry about the commission. I didn't need to spin up their anger. Tenet is spitting mad to this day about the quote in the Elsa Walsh piece (odd, I know, given how much criticism has been directed at Tenet from every other corner in recent years).

Anyway, may we move from one interesting character, Tenet, to another, Dick Clarke?

1. Did you have any particular view of Clarke from your dealings with him during Bush 41? Good or bad public servant? Honest?

He was a very capable yet controversial figure then, as in all years since. He ultimately was unable to remain in a position requiring Senate confirmation, but was retained by the Bush [41] administration by bringing him over to the NSC staff.

2) I've spoken with Clarke at length. He does feel that, to some extent, you were an architect of his demotion in the early days of the Bush 43 administration. Is there any validity to that? (And perhaps you would challenge the use of the word "demotion".....)

His NSC staff position remained the same as he had on paper in the Clinton administration. The difference was that, in the Clinton administration, his informal position on his issues had effectively bypassed or subsumed Steinberg and Kerrick (Berger's deputies), because of the relationship Clarke had developed with Berger (and had developed well before Steinberg came over to the White House). In the Bush administration, Hadley's role was the same on paper as it was in practice, including on the terrorism issues. The informal, and largely record-free, principals-group for terrorism issues in the Clinton issues (where Clarke played a unique role) was also replaced in the Bush administration by the regular committee process.

It was this more formal, regular system, which therefore ran the system through Hadley personally and through his Deputies Committee institutionally, which was at the core of Dick's sense of increased distance or displacement. I was not the architect of that. But his comment blaming me is revealing.

Clarke's complaint is more ironic than he may know. Rice was advised to fire him, advised in the strongest possible terms, by at least one outgoing member of Clinton's cabinet. She knew, as Berger and Steinberg told anyone, that Clarke had been the object of repeated complaints and requests for his dismissal and reassignment during the Clinton administration. Clarke had also been on the NSC staff for an exceptionally long time, much longer than any other analogous member of the NSC staff.

So it was significant, and very much a discretionary choice, that Rice chose to retain Clarke. And in 2002, after he asked for reassignment, Rice then helped arrange for a mutually acceptable transfer to a senior cyberterrorism job he wanted. Clarke later was involved in requests for other, higher ranking, jobs before he left the administration and broke publicly with it.

I take no view about whether any of these judgments by Rice were the right ones. I had nothing to do with the management of the NSC staff after January 19, 2001.

3) He says that given your close friendship with Condi and your work on the transition, it was a conflict of interest for you to accept the job on the 9/11 commission. (To put it bluntly, his phrase is: "The fix was in.") Can you understand his concern?

His phrase is characteristic enough, and also revealing.

Had Gore been elected in 2000 instead of Bush, I would have been close friends with people who might have been in analogous positions, including both work colleagues and co-authors. I had been involved in the Clinton transition in 1993, though it was after the inauguration, at the Pentagon, and lasted for several months.

Indeed, had we applied such a criterion, very few senior members of the staff might have been able to accept employment with the Commission, including some of our staffers who had worked for Clarke himself.

4) He wondered if Kean and Hamilton, before hiring you, were really aware of your relationship with Condi and your exact duties on the transition. Do you think Kean and Hamilton were fully aware?

We have covered this ground before. I made sure Kean and Hamilton were aware of these matters; they said they were, and I believed them. My work was well known, in general and in detail, to many in DC, including people like Berger and Steinberg whom I had worked with directly during that month, and whom Hamilton and several other commissioners knew well.

My work on the transition covered a span of about one month. As far as I know, for better or worse, the Bush administration made no consequential decisions about counterterrorism during that month, except to rank the topic among their higher initial priorities. As I learned much later, I did not have the security clearances to be briefed on the most sensitive pending issues, much less influence their resolution.

The only consequential management decision on counterterrorism during that month was the decision to retain Clarke and his team. The general organization of NSC work, and Hadley's role, were worked out between Rice and Hadley.

5) Members of the commission staff, including folks from Team 3, say you raised questions throughout the investigation about Clarke's truthfulness. Is that accurate?

Others had put the questions on the table because they (e.g., Cofer Black) had already testified under oath (to the Joint Inquiry) in ways that directly contradicted Clarke's testimony to the Joint Inquiry. Still other officials, like Mike Scheuer, had made some extremely serious allegations. Still more officials, at State, Justice, Defense, and CIA, had called attention to some of the controversies that had led to the requests to Berger that he [Clarke] be dismissed or reassigned. So I guess you could say his credibility was at issue.

In general, my preconception going in was quite different from what you say some people told you. I had known Clarke, off and on, for a long time. My general premise then was that Clarke was, by nature, someone who preferred blunt-spoken candor and regarded himself as a truth-teller. He tended to oversimplify and rush to judgment — very fast on the draw. As a manager, he was of the type who rallies his troops with the 'us against them' division of the bureaucratic world, with those on your side becoming a band of brothers and those on the other side becoming 'enemies of the good', who get bad-mouthed personally as well as on substance. (Fortunately, as far as I know, I had never been in the latter category.)

But on substantive matters, I went into the investigation with a predisposition to believe Clarke's retelling of events, because one of his virtues is his reluctance to dissemble.

6) They said that it was you who insisted that Clarke be placed under oath in the private sessions because of your concern -- expressed to the staff -- that he would not be a credible witness. Is that correct?

We placed a number of witnesses under oath, not just Clarke. We have gone over the circumstances of this decision before, in which others participated. Contrary

to your question, I in fact then thought Clarke probably would be a credible witness, making allowances for his style. But he had to be under oath for the same reasons people on the other side of these swearing matches had to be placed under oath too.

7) I've heard about several angry disputes between you and Warren Bass over the handling of material involving Clarke. The claim is that you believed that Bass was depending too much on Clarke's word and trying to make the report too "Clarke-centric." Do you recall using that term?

I don't recall using that term, but I might have because Ernest May used it, or terms like it, to describe his concerns, and I shared those concerns, which are as follows. The concern was over the documentary record, and the dominance of Clarke's voice in it. The NSC documents consist, in essence, of Clarke writing to people who do not write back. So his voice is omnipresent. Thus it requires a conscious effort to keep remembering that Berger (or Steinberg) and Rice (and Hadley) and their respective Presidents were always running the show, filtering or amending Clarke's perspective for better or worse.

Then there is the fact that Bass concentrated on NSC records, which I had also reviewed. But I was also reading the records and work from State, CIA, Defense, Justice, and others involved in the policy process.

Then one also needs to think about the options that Clarke does not mention at all, that are therefore silent in the record. And I was doing this as someone who had been in the process and had also worked through such records in multiple administrations as a historian too. Hence the need to bring another set of judgments and integrative perspectives to all this.

But Bass understood much of this too; he didn't have tunnel vision. I recruited Bass to the staff because I was deeply impressed by his proven abilities and by his future promise, even though he had never worked in government. Bass vindicated that confidence. He was one of a number of vital forces on his team and on the staff, just as Alexis Albion was, in that same team, because of the extraordinary work she did in her slice of the CIA records. I often relied on Bass's work. He and I definitely argued at times, and sometimes when the arguments help push to 3 or 4 in the morning, time after time, with so many other things going on ... folks can get exasperated. That's the pressure cooker atmosphere at work. But there was hardly any way to avoid that, and it was healthy. As difficult as it was for me to go through all the wrangling, it was the right thing to do for several reasons. And it paid off. Bass pulled his weight.

8) Bass apparently marches into Dan Marcus's office at some point and threatens to resign because of your "interference" in his work and your efforts to demean

Clarke. Were you aware of that? Do you think it's true?

Don't know about that one. There were lots of ways people were blowing off steam ... including me.

9) Did you consider your relationship with Bass to be particularly rocky?

It was tougher because I had recruited him and respected him, yet he was outspoken and would argue at length over word after word in a situation of some pressure. Difficult, too, because his value was so great that we felt obliged to just work through it. And he was sometimes right (not always easy for me to admit in the heat of the moment).

10) Dan Marcus told me that after the commission learned about Dick Clarke's book, you had wanted to subpoena his publishers for a copy of it and that he (Marcus) had to talk you out of it as "crazy." Is that right? Did you contact The Free Press yourself at some point? The Free Press people say you threatened to seek an injunction to block publication altogether. Is that right?

“Crazy” is one of Dan’s favorite words. I definitely wanted to get his [Clarke’s] manuscript. Most investigators would feel the same way. We had asked him, under oath, about notes or records to describe his office’s work. He had not mentioned his book manuscript recounting his office’s work. I would have had the same view if we had learned of a Berger manuscript on our subject, a Rice manuscript, an Ashcroft manuscript, etc.

Second, we were getting commissioners ready to question Clarke about his views, and the manuscript where he had written them down was unavailable to us.

Third, and most important, Clarke presumably submitted his manuscript to the administration for prepublication review. What we wanted, above all, was that manuscript — the one before the redactions, which would have the fullest version of his description of his work. After all, we had the clearances to read the redacted material too. But it would have been inappropriate to try to go to the administration to get his manuscript. So I put the problem to Dan, and Dan didn’t like any of the options. So we effectively did nothing. We were able to get the book just before the hearing, but never saw the manuscript in its original form before the classification review.

I did not talk or write to Free Press. It would have been absurd to sue to block publication; there were no grounds or legal basis for that. We didn’t want to block publication. We wanted to get the information in a timely way for our investigation and our hearings.

I apologize for the tone of these questions, but I think it's fair to say that Dick Clarke is not a friend of yours.

Unsolicited, Clarke told me in 2004 that our staff statement recounting his efforts and work had been both fair and accurate. His comments on the report, at least back then, echoed that positive judgment, both in public and in private.

Thanks.

April 13, 2007

On 4/10/07 Philip Shenon wrote:

Thanks.

To follow-up on some of these answers:

1) But didn't you advise Rice during the transition that it was best to return Clarke to his traditional chain of command -- getting him out of his role on the PC [Principals Committee], having him report to Hadley and the DC [Deputies Committee] rather than to Rice and the PC? Didn't you support this?

The Commission report summarized this issue accurately on pp. 199-200. Those who wrote that material had complete access to everything I had written to Rice on this matter, and interviews with all the relevant participants.

There are two formal issues here, and a more important informal one.

First formal issue, reporting chain for the [sub-cabinet level] CSG [chaired by Clarke]. What I supported was to keep the CSG working just as described in the Clinton directive, PDD-62. At the time I was puzzled that PDD-62 said that Clarke's CSG would normally report through the Deputies Committee, yet Clarke told us that it did not. I reported this apparent anomaly without understanding it. Hadley and I recommended that the organizational [Bush 43 directive] NSPD-1 would regularize this in the normal pattern, also consistent with the previous administration's directive.

Later I learned how contentious this aspect of PDD-62 had been within the Clinton administration at the time, an argument Clarke lost on paper and then won back in practice. Didn't know that then.

Second formal issue, Clarke as a National CT Coordinator and a 'de facto' member of the PC. Not set up that way in PDD-62. Clarke was retained as the National CT Coordinator. He would not have been regarded as a principal on the PC, but would — and did — participate in any PC held on his subject. (He later would complain that such meetings were not held; but if they were held, he was there.) I don't recall taking any position on Clarke's relation to the PC.

This was also more complicated than I realized at that time. The relevant PC in the Clinton administration was not the Principals Committee. It was something known informally as the "Small Group," never formally established in writing. It had a different setup, with fewer participants and Clarke as about the only subcabinet official who could tell his counterparts what had happened. The Bush administration never recreated this "Small Group." It used the regular PC, supplemented by a variety of other informal gatherings of small sets of principals,

as in the PDB briefing sessions or the regular Rice-Tenet meetings.

The informal issue, and the heart of the matter, is that Clarke had a special relationship with Berger from eight years of working with him, and Berger had informally allowed Clarke to bypass the formal channels. Rice and Hadley had a very different managerial style, and a more formal relationship with Clarke.

Zelikow or no Zelikow, no NSC senior director, whatever his title or whatever the issue, was going to create an interagency process that could bypass Hadley's Deputies Committee and, as far as I know, none ever did. It was that change in 'feel' for Clarke, obliged to work with and through Hadley — who is Clarke's antithesis in almost every way — that I think played a big part in his sense of detachment or alienation.

2) And isn't that, effectively, a demotion?

Clarke felt it this way, we discovered. At the time I did not think Clarke was being demoted. If you'll check the report's footnotes for page 200, you'll see that one of Clarke's two main CT staffers at the time, Paul Kurtz, also saw no functional difference in the way things worked. I think this goes to my point, above, about the more informal core of this issue.

3) In light of all that happened, can you see how the restructuring of Clarke's chain of command in early 2001 was a mistake?

Mistakes are properly judged by what people knew, or reasonably could have known, at the time they made their choices.

But in this case, even with hindsight, I don't think a different organizational approach would have had any material effect on the policies that were adopted in 2001. I think that conclusion can be sustained if the record is examined, issue by issue. I am not arguing, one way or another, about the appropriateness or timeliness of the policies adopted, just that I don't think significantly different policies would have been adopted if the CSG had a different reporting chain.

For example, one reason the policies took more time was because the Bush administration linked a new CT policy to reevaluation of their general policies toward Pakistan and Afghanistan. The CSG never had primary responsibility for managing those relationships. So that would have gone through the Deputies Committee anyway. So

Or if one examines the detail on the Predator decisions closely, again the obstacles are not arising from the format of interagency consideration.

And, in the case of response by the agencies to the summer of threat, the CSG was the prime actor, under Clarke's leadership, and was the only entity given responsibility for convening the relevant domestic agencies.

Indeed, to a historian, the dominant point about the transition is unusual continuity, given the takeover by an administration from a different party, with essentially the same CT team kept in place at the NSC, at CIA, and at FBI. The Commission report rightly noted this point on p. 200.

3) I think Dan Marcus, as part of his review of your role for Kean and Hamilton, looked over the resume you submitted to the commission and found no reference to your work on the transition. Marcus became convinced and concerned that Kean and Hamilton had NOT known about your exact role on the transition. Do you remember discussing this issue in any detail with Kean and Hamilton?

Dan did not come on board until March 2003. Tom and Lee were well informed about my role in the transition. I had raised it with them myself, but they already knew about it. Lee, in particular, had vetted me with a number of people who were familiar with my role, such as Jim Steinberg, who had been Berger's longtime deputy and was one of the people we spent time with during that month. If Dan had asked Lee about this, I'm sure Lee would have told him.

4) Did anyone -- at Virginia, at Harvard, anywhere -- suggest that you NOT take the job on the commission given your ties to Rice and others on the administration Why bother to take a job in which you'll face endless questions about potential conflicts of interest?

I actually raised the issue with Tom and Lee as a significant factor they should consider, and a possible issue. They had considered it, and thought the quality of the work would have to answer them. I don't remember anyone at Virginia or Harvard suggesting this to me as a reason I should decline.

Though it is hard to recover how people felt back then, in January 2003, I don't think any of us fully foresaw that the information gathering process would be so politically charged. I thought the administration had reconciled itself to the Commission. I thought my election reform work, the Carter-Ford commission, had been much more politically charged than this would be — and that had turned out better than anyone had thought it could. But I did not anticipate that the administration would be so difficult, thereby inflaming everything else. If I had foreseen all that, that would have indeed given me pause.

5) *And again, did you and Clarke have a difficult relationship on the NSC during Bush 41?*

Clarke and I didn't serve on the NSC staff at the same time. He was still at State when I left the NSC staff in 1991 and returned to the State Department, then went to Harvard.

And on Rice,

6) *How did you and Rice develop such a strong friendship in Bush 41?*

We were colleagues at work. Back then my relationship with her was not markedly different than my relationship with a number of other colleagues. But I got to know her better after we decided to work together to complete the preparation of the Germany book. And, with my family, I spent a significant amount of time doing research at Stanford, in their archives, working on the book.

7) *What is it you so much admired about her?*

Back then this was two professors working together, collegially, on an extremely interesting subject — both thinking the other was making essential contributions to the work. We always liked and respected each other.

8) *There was widely held view in Charlottesville and D.C. that you expected to be offered a senior national-security job in the Bush 43 administration, possibly the job that went to Hadley. Did you expect such a job? Were you surprised, disappointed that it was not offered. (Andy Card told me that, to his knowledge, you weren't on the short list for any of the major national security jobs.)*

Card is quite right, and I knew it. Not a surprise. Others may have had their guesses, but they didn't know the situation.

9) *I've heard you say that you cut off relations with Rice during the commission's investigation, But you were apparently seen at a small lunch with her at the White House and there are phone logs suggesting other visits to Rice. Did these meetings occur?*

The only times I can recall meeting or lunching with her in person during the life

of the Commission was at the start, when I was deciding whether to take the job, having the introductory conversations where I was explaining the kind of cooperation I thought the Commission would need in order to be successful. I believe there were one or two meetings in January/February 2003. These were the discussions I described in one of our earlier exchanges, and I reported on them immediately to Tom and/or Lee. The issue of what we would need was then handed off to Gonzales, resulting in the meeting and results we have already reviewed.

The only other time I spoke with her during the next year and a half was in August or September 2003, as best I can recall. I think this was by phone but it could have been in person, and it was to seek her personal assistance with the Commission's upcoming investigative trip that I was leading to the Arabian peninsula, Pakistan, and Afghanistan. Specifically, I asked her to intercede directly with Prince Bandar, in facilitating Saudi cooperation with the Commission's upcoming investigative work in the Kingdom (in October). We intended to interrogate several Saudi citizens in person and we also needed other cooperation from their security and intelligence services. I asked her directly for that help, and explained what we wanted. I believe she did contact Prince Bandar on our behalf and helped secure appropriate Saudi cooperation. I then met with Prince Bandar myself to go over what we would need. Again, I kept Tom and Lee informed throughout. Chris Kojm was also in the loop, and was working this on his end too.

I don't have logs, so if you have more specific information, let me know.

10) If you do have this lunch with Condi at the White House and you have other meetings with her, what is discussed?

Discussed above.

April 19, 2007

On the question of when or why I spoke to Rice during 2003, I've followed up to check with old colleagues and see if they could recall anything.

First, everyone agrees that I spoke to and saw Rice in September 2003 in connection with the upcoming trip and the arrangements to facilitate Saudi cooperation. That is probably the lunch you heard of. The NSC staff's lawyer, John Bellinger, would have been present at any such meeting. A member of his staff, Dylan Cors, ultimately accompanied our group to most of our stops.

Second, we had discussions with Rice and with Gonzales in May 2003 at the same time and on the same matter [of accessing information about White House emergency plans, described below]. Tom and Lee certainly saw Gonzales in person, and I think I joined them (though I'm not sure). I think I spokewith Rice on the phone, not in person. Rice was involved because a key issue we were pressing at that time was our decision to work all the 'day of' issues at the White House and thus seek access to highly compartmented information about White House emergency procedures (continuity of government and continuity of operations). These discussions produced various briefings and other information during the summer.

Third, we all remember having conversations with everyone we knew at the White House in the middle of the summer, around July 2003, at the time we were debating the new document requests (EOP [Executive Office of the President Document Request] #2 and EOP #3), arguing how the White House and NSC could/should comply with them, and issuing our first big public report about this and other matters. I probably spoke to Rice then, but not in person.

After September 2003 no one can recall any occasion on which I spoke to Rice, either in person or over the phone during the remaining ten months of the Commission's life. Although I attended the Commission interview of her, and the hearing, I don't think I spoke to her on either occasion.

May 4, 2007

Sorry for the long delay. I've been preoccupied with an essay that may be of slight, related interest, on "Legal Policy for a Twilight War." A copy is attached and it is posted on the web at: <http://www.hjil.org/lecture/2007/lecture.pdf>. Answers to your questions below.

On 4/25/07 Philip Shenon wrote:

Thanks for the answers, and the follow-up.

As I think you know, the Rice contacts (and the contact with Rove) fed the staff conspiracy theories, especially among staff already suspicious of your past ties to the Bush administration. Your Rice and Rove contacts were a major topic of conversation and speculation on the staff, and not just among the more partisan Democratic staffers.

I think at various times, including in the KSG interviews, you've suggested that you cut off all ties with Rice and others in the White House to avoid the appearance of a conflict of interest. But obviously there were some contacts (for what you suggest here are completely legitimate reasons).

The conspiracy theorists found more to go on after it was widely reported among the staffers that you had ordered the secretarial staff to stop logging in your phone contacts at the White House. (Dan Marcus has told me that he was aware of that order -- he was alerted to it.)

So may we go through some of this?

(And again, pardon the tone of these questions, but they do reflect the passions of several of your former staff members on the commission.)

1. Several staffers have told me that they would have found it difficult, if not impossible, to have an honest conversation in your presence about Rice's performance at the NSC, given your past friendship. Especially on Team 3. I'm sure you feel they are overstating the case, but can you see how they might have felt that way?

If someone says they were reticent, and gives the reason, they are entitled to their opinion. But there were many wide-open discussions about the performance of all of the relevant principals, including Rice. Also, written drafts were exchanged many times on all these subjects (thus avoiding the need for direct conversation by people who felt shy).

You might wish to be sure the staffers making these assertions are the ones who were actually involved in those conversations, and that their information is firsthand — and this is certainly true if they say they are speaking for the rest of Team 3.

As usual when such assertions are made, it is useful to be specific, and look at the range of choice in interpreting the contested language or episode and then judge how we came down. When one drills down to the particular factual points where key judgments about Rice might be offered, the occasions are relatively few in number and were not as controversial among the staff as a number of other problems of interpretation.

The questions of how to describe the activities of Reno, Ashcroft, the FBI, Tenet, Clarke, Rumsfeld, Cohen, Albright, and more were all contested, arising out of particular episodes. And many of our staffers had worked closely with one or more of those people, so lots of feelings or connections had to be overlooked.

And then there were the commissioners, and their ability to suggest additions or subtractions of their own.

And in handling the transition of 2000-2001 I did not participate in the drafting process at all.

Your question does connect to some broader points:

1. People are supposed to do their job with integrity. If they feel they can't meet that standard, they should resign. Everyone at the Commission was a volunteer; none jeopardized any civil service status by coming or going.
2. Many people in public life carry their convictions into ideologies, then into the sectarian division of other Americans, including their colleagues, into right thinking/wrong thinking people — then into good/bad people. And they assume the folks on the other side are probably just like them. Since Tom and Lee did not want the Commission to become a partisan political operation, and we were working in a realm where factual details and professional judgments were vital, it is fortunate the Commission was not led by such sectarians and that its report was not decisively shaped by such attitudes. But, as in every public organization, the Commission had its share of people involved who see the world this way.
3. It is interesting that the publicized theories of malign influence (Zelikow & Rice, for example) tend to run only one way. I have not seen many printed allegations that the Commission softened its treatment of the Clinton administration, or Berger, or Reno, or Clarke, because key staff members were friends of those individuals or other high figures in that administration. I think the reasons for this tendency to run the argument one way, and not the other, are more about sociology and political currents than because the facts support one view and not the other.

I should note that there are actually some Republicans who say such things [accusing the Commission of being soft on Democrats]. But, if they talk to journalists at all, few if any of the journalists would dignify the allegations by printing them. The Gorelick slurs [accusations made against Gorelick] have gotten a little more ink. But again, though the particulars on that are more complex (beyond Ashcroft's shotgun charges) and, when one

gets to specifics, she did not prejudice our handling of the relevant issues.

4. In my case I had a pretty long, public, and published, track record (running through the Carter-Ford and Markle Foundation reports) from which one could judge my ability to play straight with facts and offer professional judgments. The Commission could have tried to choose an executive director who had few if any ties to any of the principal figures in the investigation. To get someone with sufficient qualifications, that could have proved rather difficult. Even when one looks at relevant academics.

5. But since the problem of perception is going to be there, you can't answer it with talk. You can only answer it in the work. That meant play it as straight as I could, neither shading for the administration, or displaying reverse prejudice against it to prove 'objectivity.' And it also underscored the importance of using collegial methods with plenty of peer comment.

By the way, this is true in almost any major analytical effort that claims to be authoritative. Even in writing about dead people, academics can form powerful, emotional, ties of vicarious allegiance (as on FDR and the New Deal, or many other subjects).

So when I had a point of view, I had to get in there with my colleagues and defend it, laying out my proposed language and my evidence and arguments for others. And they had to do the same. As you've heard, the arguments were often long and tough, but often around facts and interpretation, not on partisan lines. For me, it was not hard to apply the same standards in assessing the Clinton administration as the Bush administration — and many of the key issues and personalities transcended both. Then, of course, everything was opened up for the commissioners to review, line by line.

2) Can you see where even a few limited contacts with Rice, whatever the circumstances, created an appearance problem? Wouldn't it have been better to deal with Hadley or have someone else deal with Rice?

I dealt with Rice only if she was the person who needed to do what was sought. And, after September 2003, I didn't deal with her at all. You do have a point in that, if I had realized just how politicized the investigative process would become, I would have been warier about the optics from the start. (And I might not have taken the job in the first place.)

But I also knew that, for the people who had these suspicions, talking to Hadley — or anyone else in the administration — doesn't solve their problem. And, for those [suspicious] folks, it wouldn't have solved their problem even if I had never spoken to anyone, because their ad hominem argument doesn't rely on proof of scheming.

3) Judging by your last answer, there was a lunch at the White House with Rice and her staff in September 2003 (or thereabouts)?

I think so, shortly before I went overseas.

4) During the life of the commission, you and I talked about your contact with Rove – and how it involved Miller Center business. And I believe you suggested that you had cut off the contact with Rove after the first call and referred him to the Miller Center, to avoid any appearance of a conflict. But didn't your contacts with Rove continue over several months?

I think we talked at one point about the Bush Library and the competing institutions in Texas who wanted it. The competing institutions had contacted me at some point in my Miller Center capacity because they wanted to refer to a scholarly liaison with the Center as a selling point in their proposals. I wanted to make clear that we were standing clear of any of those institutions, but it wasn't because of any hostility to anyone. We just didn't want to take sides. This issue, and any issue of when/how the Miller Center would turn to the Bush 43 administration in its presidential oral history project, was then referred by me to other officials at the Center, and — on his [Rove's] side — to the White House Counsel's office.

Later there was this matter of his elderly friend who had these papers. It had no relation to contemporary problems; he was being gracious to someone. I handed that off to someone at Virginia who might be able to help.

It may help to understand that I had various conversations with Bruce Lindsay, and others close to President Clinton, in connection with my Miller Center work as well, since I had negotiated the Clinton project that we had just begun. Same goes for the Bush 41 project that was already well underway.

Also may help you to understand that Rove and I didn't really know each other. I don't recall ever meeting or speaking with him until he attended a meeting connected to the Carter-Ford election reform commission work during 2001. He made a good impression on me on that occasion, taking an apolitical stance on the issue at hand. After that he was a polite acquaintance, always courteous and friendly in his dealings with me. But I don't recall ever having an extended conversation with him, and certainly not about politics or the Commission.

5) As I understand it, Rove wanted to talk to you originally because he had a neighbor who had some valuable oral history material for the Miller Center. Is that right?

Discussed above.

6) I was told by a senior White House official that you had been aggressive in the early months of the Bush administration in urging Rove to designate the Miller Center as the repository for the Bush 43 oral history, or at least lay the groundwork for that. Is that right?

I don't remember actually making a pitch to Rove on this in a direct way at all, much less an aggressive one.

If the Center maintained its project work, it was certainly going to turn next to Bush 43, although we were preoccupied at that time with negotiations to do the 'life and times' oral history effort for Senator Edward Kennedy (this worked out and is now underway). And I certainly would have told them that we hoped to have their cooperation with that, when the time came, because that had proven to be extremely valuable in the Ford, Carter, Reagan, Bush 41, and Clinton projects. Andy Card knew this well, because he had been a key principal in setting up the Bush 41 project (after he had left office, during the late 1990s).

My preference was also for someone, either the Miller Center or anyone else, to start work on Bush 43 relatively soon — such as after the 2004 election, so that interviews could begin with ex-officials relatively soon after they left office. The Center had never interviewed sitting officials.

The Center also had no significant profit interest in the matter — it does not have publishing contracts or receive federal grants related to its oral history work.

7) I was told by the same senior official that there was some "innocuous" conversation between you and Rove about the work of the 9/11 commission during your phone contacts. Does that sound right?

It does not sound right. I don't recall ever discussing the 9/11 Commission's work with him.

8) As I noted above, Dan Marcus has told me that he was aware of your order to secretarial staff not to record White House calls in the phone logs. Why did you make that request? Can you tell me the circumstances of that request? (I believe it followed some of the initial press calls — perhaps even mine -- about the Rove contacts, which in turn were prompted by a couple of staff investigators catching a glimpse of the phone logs.)

I think this is recycled, garbled office gossip. I don't think my office kept phone logs and I don't believe my calls were systematically logged.

I got phone messages on pink message slips. Several people took messages for me, depending on who was on duty. And, as for the "order," neither I nor at least some of the people who answered my phone can remember either seeing such logs or hearing of the "order" you describe.

9) Can you see where your request to keep White House contacts out of the phone logs created additional suspicions among the staff about your motives?

I see the problem, but I don't think I'm the source of it. Strange flowers can bloom in a hothouse if people want to plant seeds and add enough fertilizer. I've seen such blossoms in many government offices.

10) My guess: You are a difficult, very demanding boss and you keep information to yourself, and this feeds conspiracy theories about you – theories that may have on basis in truth. (I see it in practice everyday at the NYT.) Does that sound right?

My guess is that you can find a spectrum of views on this, depending on the breadth and judgment of your sources!

Thanks again.

May 18, 2007

On 5/11/07 Philip Shenon wrote:

Dr. Zelikow,

Thanks again for your help.

Having watched George Tenet sell his book this month, ducking almost every question of significance, I now have a better understand of the commission's frustrations in dealing with him. This go-round about Perle -- the opening anecdote! -- was very telling.

On our issues, Tenet deserves more credit than the reviews have been giving to him. He was wrong on some key details about July 10, since we know that was not an impromptu meeting and we know what the agenda was for it and who attended it. He was then doubly wrong to use that supposed omission to jab at the Commission.

But put aside the particular date. Discount the possibility that he may be conflating more than one meeting (such as the one on May 29). With those caveats, the core substance of his account in the book is reasonably accurate. The headlines on the July 10 slides are in our report, as are headlines from a number of similar slides (he was getting these threat updates every day on these 'rolling' slides, incrementally updated with new information).

In other words, it's a polemical argument on the other side to just seize on his [Tenet's] sloppiness on details to discredit everything. Our report validated some of his core points, including the strenuous efforts CIA was making (more than anyone else) to stop an attack. Our concerns with his performance were different, and tended to relate more to broader issues of strategy, analysis, and management. George might have been an excellent Director of Operations at CIA.

Anyway....

Is it possible that there were phone logs that you weren't aware of?

I began my career at the NYT logging the phone calls of one of the columnists, and I couldn't have done it without a central notebook.

I was told that the story about your contacts with Rove and Rice spread throughout the staff because the log book was left open on the administrative assistant's desk and a couple of staffers saw it sitting there and paged through it.

1) Whatever the case, was there some directive you gave to staff that might have been taken as an order not to record certain types of phone calls (perhaps not to

record certain calls on pink phone slips)?

2) Again, I was told that the "order" created alarm on the staff, which is why Dan Marcus was alerted to it. Can you shed any light on that?

On these points:

1. There were no phone logs kept for my office.
2. At least two people who took my phone messages don't recall any order of this kind.
3. Dan says he has no firsthand knowledge about this either, but that someone else told him this story. He told me that he asked that person if the matter should be called to my attention. The person declined.
4. I don't know what lies underneath this garble. But since my office was not private, and was used occasionally by visiting commissioners, I needed to take some care about what papers or messages were left lying around and so may have said something connected to that. That might have been misunderstood or garbled in retellings — anyway, that's my best guess about how this game of telephone got started.
5. As for the staffers paging through the papers left on my administrative assistant's desk, I'm not sure that more transparency would have helped them. They might have then just assumed that this was another clever ruse ...

On other subjects,

[Richard] Ben Veniste....

3) There was obviously very bad blood at the end of the investigation between you and Ben Veniste, much of it spilled over the question of the Aug. 6 PDB and its authors. I am told that Ben Veniste was alarmed to discover in June or July that no one had interviewed the authors of the Aug. 6 PDB. He becomes angry from you over this and confronts you, demanding that he be allowed to interview them. You resist. Is any of that correct?

4) Ben Veniste becomes convinced that the Aug. 6 PDB was not the product of a request from the president, as Rice and others said repeatedly. Ben Veniste believes it was generated internally within the CIA, possibly as a last-minute effort to warn the president that domestic terrorist threats were not receiving proper attention. Did you think Ben Veniste's question was legitimate, significant?

5) I am told you were overheard on K Street making a phone call – on the secure phone – to the CIA, interviewing one of the Aug. 6 PDB authors, apparently in response to this flap with Ben Veniste. The staff is alarmed by this, if only because it seems to be a

violation of the commission's investigative rules (perhaps a rule requiring two staffers to be involved in an interview of such significance?). Do you remember this phone call? Can you shed any more light on this?

Fortunately I remember this reasonably well, and all of this was well documented at the time and is in our files, because we were constantly updating Tom and Lee, and the rest of the commissioners.

1. Before Ben-Veniste's efforts, we felt we had a good understanding of the circumstances surrounding this PDB. We had a written statement from Tenet on this; we had already interviewed some of the CTC analysts involved in preparing the document.
2. In addition, we had access to substantial work that the CIA's Inspector General had done on this topic, interviewing the people involved in preparing and presenting this PDB. The CIA had initially refused to give us access to the IG's draft work because the report was not yet formally complete and approved, and because the interviewees had not known that people outside CIA might have access to their statements. We negotiated terms of access to this material, on condition that we not cite this still-incomplete report as a source in our report, and that we keep our access to it as confidential as possible.
3. Tom and Lee were aware of all of this. When Ben-Veniste pressed to interview, or reinterview, all involved, we disclosed this information to all commissioners. We — everyone in the front office — were reluctant to do this because we thought it was unnecessary and because CIA was pleading with us not to do this, since the career people involved in preparing and presenting PDBs would be intimidated, disrupting the sense of confidentiality and candor they considered essential to the PDB process (not just for the President, but for the other cabinet-level recipients).
4. As I was preparing a summary of what we already knew for commissioners, I called one of the analysts involved on a secure line. If we had sought to arrange a personal interview, it would have taken time to schedule it, and aggravated the above concerns, so CIA folks suggested the phone call for this discussion. It is not technically feasible to conduct multiparty conference calls on the secure telephones we used. Your mention of "the staff" is inaccurate — the key staffers involved in the PDB work were aware of and understood what was going on, and helped prepare our internal written summaries of the evidence.
5. The commissioners then joined us in weighing these costs and benefits for further interviews. The matter was hotly debated. The decision was to go forward and schedule at least some of the interviews that Ben-Veniste requested, with other commissioners insisting on being present to insure that the questioning was conducted appropriately.
6. We then conducted further interviews (with Barbara S., for example, whom we had already interviewed in April). They were useful, of course, but did not alter the

description or judgments you will find in the report (on p. 260), including on the issue of how the [PDB] item originated.

6) About the Aug. 6 PDB, Rice (and the president) repeatedly referred to it as "historical." In her testimony before the commission in April 2004, she said it "did not warn of attacks inside the United States. It was historical information based on old reporting. There was no new threat information, and it did not, in fact, warn of any coming attacks inside the United States." Given what's at the bottom of the PDB, the material about ongoing FBI investigations and the surveillance of buildings in Manhattan, hijacking preparations, etc., can you see why Rice's statement was seen by Ben Veniste and others as misleading, inaccurate?

To be sure the record was clear, we went into detail about the origin and character of every assertion referenced in the last part of the PDB. See note 37 on p. 535 [of the Report]. You will see why we found that this reference did not veil any new, credible threat information. And we discovered the origin of the hijacking information referenced earlier in the PDB, referring to the 1998 threat which we describe in detail elsewhere in the report (including reprinting that PDB).

But, to be fair to him, it is possible that Ben-Veniste did not know or understand these details, especially since we had not yet assembled all this information at the time of Rice's public testimony. So Ben-Veniste may well have believed in good faith that Rice's statements were misleading.

The controversy over the PDB is a bit misleading, though, because the current threat information was abundant and frequently briefed to the President (especially in May, June, and July [2001]) -- and everyone always thought and agreed that UBL would want to attack the United States anywhere he could, including inside the USA. The CIA analysts wanted to use the August PDB to underscore that point, but they were pushing on an open door.

It then comes back to the issue of domestic response to the earlier 'strategic' warning of a coming attack, the warnings of late spring and early summer. But you can also see our puzzlement when, despite that strategic warning, no one seemed to link those warnings to the August news (internally) about Moussaoui's arrest and the realization that the 'Kuala Lumpur' duo were inside the United States.

Dana Lesemann

7) I understand she was fired because had improperly obtained a copy of the (in)famous 28 pages of the joint inquiry. There was a feeling on the part of some

staffers that this was a misdemeanor that did not deserve such harsh punishment. (I believe Dan Marcus and others felt the punishment was deserved.) Do you have any regrets about the way this was handled?

8) She apparently felt that you were out to get her from early days. I understand from others that she could be difficult. But she felt you were severely limiting her ability to carry out the investigation of the F.B.I. – cutting back her document request and interview requests dramatically and without explanation. Is there any truth in that?

9) Did you make the decision not to announce the reasons for her departure to the staff? Should this have been handled differently? (Her abrupt, unexplained departure obviously created a chill on the staff, a feeling that you were trying to send a "message" – don't cross me. Or so I'm told.)

One irony in this reported complaint: I handpicked Lesemann to be one of the former Joint Inquiry staffers to whom we would make an offer, and I recruited her personally to take the job. I knew about her work for the JI and how she was regarded there.

I was not directly involved in vetting Lesemann's document or interview requests. Marcus and Dunne would have worked with her team's leader, using general guidance we agreed upon together. The best measure of this complaint would be in our subsequent work. On the topics she was covering, we eventually had to reinvestigate every aspect from scratch, and took the investigation much further than the Joint Inquiry had found possible. We eventually obtained very wide access to relevant documents, especially at the FBI. If there are shortcomings in that work, I don't think they are attributable to our failure to seek out needed USG documents.

[Two sentences at this point summarized the reasons for Lesemann's dismissal.] Further, we had informed every incoming staffer that we would have a zero-tolerance policy on the handling of classified information. That was partly because we were pressing the administration very hard to give us unprecedented, wideranging access to government secrets, and the administration and press would have seized upon any negligence on our part in discharging that trust.

Under the circumstances, all of the Commission leadership — in the staff front office as well as Tom and Lee — thought we needed to act firmly and promptly.

Out of respect for Lesemann and her privacy interests, including related legal issues, we could not detail the reasons for our action to the rest of the staff, and I cannot go into more detail about them now.

Recusal

10) May I revisit this? My impression on the basis of additional reporting is that the recusal on you – regarding the transition, participation in interviews with Bush 43 NSC officials, etc – became effective at the end of 2003, after you asked to be a "witness" and were questioned in October by Dan Marcus and others. Is that right? There was no recusal on you at the beginning of the investigation, was there?

I was never recused from participation in interviews of officials in either administration. I did not actively participate in the interviews of Rice and Hadley. But I actively participated — and often led — interviews of other senior officials in both administrations, including most of the cabinet officials and President Clinton. If the Commission had regarded me as unable to work with integrity on either of the administrations being investigated, they would have had to replace me. The same would be true for any leading member of the staff — front office or team leaders.

I recused myself from work on issues in which I had personally been involved, namely the NSC transition activities between December 2000 and January 2001. And I did not work on those issues at any time during my service, except to help others in their investigation.

Thanks.

September 20, 2007

On 9/20/07 Philip Shenon wrote:

Dr. Zelikow,

I'm sorry about the long delay since my last set of questions. I spent much of the summer writing. I'm now back at my day job at the NYT and trying to do some final reporting for the book.

As you may have heard, I was at the State Department a couple weeks back for the book. You have many admirers there. Given the state of the world, I think they would like you back. Your intervention of the detainee policy is remembered with gratitude.

I'm hoping you have time for some additional questions:

1) Secretary Rice's office says it came up with a final total of contacts between you and her during the course of the 9/11 commission investigation: four. That would have been face-to-face contacts, as opposed to telephone calls (if there were any). Does that sound right? (By the way, Lee Hamilton confirms that he was aware of your contacts with Rice as they happened and raised no objections to them.)

That could well be right. I've already told you all I can recall about this, and though I wasn't keeping a tally sheet, this information sounds consistent with what I told you.

2) The final report makes no judgment as to whether 9/11 could have been prevented (although both Kean and Hamilton made such a statement publicly). Was that a conscious decision? Did you support it?

I remember shying away from too-catchy or misleading soundbites, but I don't remember a particular debate about it. But the textbox [on pp. 355-356 of the Report] summarizing ten critical operational miscues was my idea, and I think I drafted that particular synthesis ... and that got pretty close. It is probably what lies behind the Kean-Hamilton statements.

Here's a bit more of an explanation of my thinking on this very important and volatile question. Four observations:

1. One can note various systemic flaws, but the causal chains get too attenuated to

make a big claim.

2. The high policy issues are fundamental. The window to stop 9/11 through a different 'high policy' probably closes by about January 2001, because of the operational progress of the plot. Yet an effort to focus on high policy attention in that way would also have been unfair, not just because it points more at one administration but also because again the causal conjectures are too attenuated.

3. The most critical operational miscues have clearer causal connections and the causal links are more proximate. That's why we broke them out and listed them.

4. One of the most neglected observations in the report was in our section comparing the Millenium period (end 1999) with the 'summer of threat' in 2001.

We there made the point (in a subsection principally drafted by May) that the main driver in all the attention in the earlier period was the massive publicity surrounding the Ressaam arrest. We contrasted that with the muffling secrecy of Summer 2001. Imagine what might have happened if the Moussaoui arrest had gotten the kind of publicity and extended coverage that accompanied the Ressaam arrest. Perhaps someone might even have asked themselves whether there might be some connection between that arrest and the volumes of threat reports pouring in. And we had evidence from KSM that, had he known of the Moussaoui arrest, he might have cancelled the operation.

3) I know Team 3 wanted to include a passage in the final report that compared the public records of Bush and Clinton regarding the number of public statements each had made about terrorism. I was told that you felt very strongly that this was unfair, because Bush had been in office only eight months before 9/11, and should not be included. I'm told that Albion, Bass and Marcus all felt strongly that it should be included, and there's quite a debate. At your insistence, the commissioners agree to remove the passage. Is that correct?

You are right that such a passage was proposed. I recall only one member of Team 3 defending it. I don't believe Marcus agreed. And both Kojm and I disagreed. I'm not sure that the issue ever came before commissioners. It was a misleading data point, not just because of time in office but -- more importantly -- because of the substance of the public statements. Clinton tended to call attention to terrorism in a different context that didn't necessarily relate to Bin Ladin or al Qaeda. If we thought we could prove a significant difference in administration policies, let's just say and prove that rather than look to make debating points.

4) You'll recall this business, at the end of the investigation, with Ben Veniste and the authors of the Aug. 6 PDB. Ben Veniste has left me with the impression that while at least one of the authors (Barbara S.) had been interviewed earlier in the investigation, she was not interviewed in any detail about the Aug. 6 PDB until he

intervened. Does that sound right?

I think I discussed this earlier. We had looked into it ourselves. We also had access to the CIA IG work & interviews on this as well (a point we softpedaled, because the circumstances of our gaining this access were so sensitive). So we felt we understood this well.

But, on the other hand, if Richard believes that, having fought to do more, he contributed more to our understanding. I'm happy to go along. These are matters of judgment. Our records on this point are good, since I summarized the state of our knowledge on this matter in writing for commissioners, and others can eventually come to their own conclusions.

5) You'll recall the dispute over Scott Allan's staff statement and Iraq and this brief passage that you inserted. May I be sure I understand this? The passage you inserted (two sentences, you say) was very similar to the wording that appeared in the final report – namely, that there had been contacts over the years between Iraq and Al Qaeda. Your passage then did not address the question, resolved later, over whether there had been a "collaborative relationship," simply that there had been contacts. Is that right?

6) Team 3 members describe this as an important dispute. They feel that if the commission had made a statement at that point suggesting any sort of relationship between Iraq and Al Qaeda, there would have been headlines ("Commission staff finds Iraq-Qaeda link" or some such) that would have been seized on by the White House to justify the Iraq invasion. I'm sure you feel this is overblown. But were you aware of their fears? Was there any justification for their fears?

5 & 6 together. It may help to go over this in more detail.

We proposed adding two or three sentences on both Iraq and Iran to the Team 3 staff statement. The language had been drafted by Team 1, principally by MacEachin. Team 3 objected. I think Scott [Allan] and Warren [Bass], at least, had the concern about giving credence to a side in the Iraq war debate. Others, including [team leader Michael] Hurley, emphasized that the material came from another team and was beyond the scope of their statement.

Why had we sought to include it? Because it related to the issue of state-sponsored terrorism, and the thready links of those two states to al Qaeda in the early years. In addition to the material from the early 1990s, we may also have referred to the Clarke material pointing a finger at Iraq in 1998 and 1999 (this also ended up in the report). So there was a logical argument for putting it in the foreign policy statement.

I was indeed argumentative about this, since I resented any implication of

political motive (which was denied).

To be fair to the staff members, they came from a different background and mindset. They had little experience with me. There was more inherent suspicion there than I had realized.

I did know that the Iraq debate was a lightning rod. I had taken care never to discuss my views about the Iraq war with anyone on the Commission. In fact, though I thought some strong action on Iraq was needed in the fall of 2002 (joining the general international consensus), I have never publicly discussed what I thought at the time or since about the decision to go beyond the UN consensus and invade Iraq at that time and under those circumstances. (This has been the subject of a misunderstanding in a different context, but I won't bore you with that.)

So I was probably too defensive about the matter, and I was defensive on behalf of MacEachin too, since I have a high regard for his integrity. But, on reflection, I concluded then and still believe that Hurley's argument was right. Kojm and Marcus thought so too, and they too were right. It was a Team 3 staff statement. Adding the material could have been too eye-catching, and only later would we be offering the full verdict on Iraq and 9/11. As for whether all this really seems important now, since we ended up using the material anyway in a different and more understandable context, you can judge.

But you'll note the material dealt with both Iran and Iraq. We ended up handling both matters in the Team 1 staff statement which we issued in May 2004. The Iraq-9/11 verdict then so aroused the ire of the Vice President and Bill Safire, among others. Little note has been taken so far of what we said in the report about Iran.

7) There's a wonderful scene described to me by other staff members in which Doug MacEachin goes before the commissioners and fools them by announcing that he has found an important, overlooked 1997 intelligence report that pulls together all known intelligence on Al Qaeda. It turns out, of course, that there was no such report. He is trying to make the point that the CIA had plenty of information about Al Qaeda but never pulled together a comprehensive analysis, the (limited) 1995 and 1997 NIEs notwithstanding. Do you remember this?

Yes. I don't remember whether he actually tried to fool the commissioners with a pretend report, but I do remember that he offered commissioners an elaborate demonstration of the contrast. (It is one of the reasons why the CIA IG, when they asked two referees -- both intel veterans -- to provide peer review of their conclusions on the quality of CIA's analytical product, they all came in with the same conclusions. Doug is an exemplar for the old-fashioned analytical standards.)

8) Members of the "plot" team say they opposed many of the changes made by [team leader] Dieter Snell in the wording of the passages in the final report about San Diego and the possibility of a Saudi/Arab support network. Lehman, in particular, has told me that he was concerned that Dieter was much too cautious, especially when it came to the potentially explosive revelations about San Diego. Did you share that concern about Dieter?

There was a split in Team 1A on some of these issues, but the specifics are important. On the particular matters that I think bothered Lehman, which I think had to do with a couple of the Saudi individuals, I thought Dieter and his team were right. John [Lehman] also was a longstanding advocate of the Prague meeting [allegedly between Mohammed Atta and an Iraqi intelligence officer] (having heard arguments being made on this by Edward Jay Epstein and others) and the possible 9/11 Iraq connection. There Dieter and his team were united.

There was an especially tough problem that did split the team in handling the southern California material, but it had a healthy outcome. We sat down together, hashed it out, and decided just to lay out what we knew and didn't know, being honest in presenting it. Both sides agreed the final way we put it together adequately captured their views. If you go back, you'll be able to tell which passage I mean.

Incidentally, Dieter was rarely if ever the only one in his team who held a particular view. And I came to admire his care and professionalism. He was slow to judgment, but his judgments were reliable.

There were other loose threads with San Diego where we were a bit frustrated, but on some of those I don't think the team was divided. To this day, we are surprised the public has not noticed some of the material on people like our favorite imam [Anwar Aulaqi], who shows up again in Falls Church, or on Mohdar Abdullah, and on what happened to those people. These are mainly Yemeni connections and we could not find the evidence to chase the trails to their end. Mohdar was sent home while we were working this. The imam, who was a dual citizen (US-Yemeni), has been active in recent years.

9) I've read and reread Professor May's New Republic piece about the commission. He does write about weaknesses in the final report, including its failure to make a judgment in the Clarke-Rice disputes (he seems to side with Clarke). How did you feel about that piece? Did you share his concerns about the report's weaknesses. Were you surprised that he backed Clarke?

I thought the New Republic piece was generally right, aside from a couple of

quibbles.

I think you have misjudged Ernest's views on Clarke-Rice. His views and mine are similar, though we tend to talk about different aspects of them.

Ernest and I thought Clarke really had sounded the alarm; he really was seized with these issues and had done much to keep them afloat. Neither of us had as much use for his bureaucratic complaints, which had so much to do with the adjustment in the way two very different staffs were run, one where he had an inside track to a friend and protector and one that was much more formal and bureaucratic. And Clarke also had trouble building coalitions on either policy or implementation among the main executive departments (State, Defense, Main Justice) in either administration. He was effective as an advocate and bureaucratic fighter, less so as a coordinator of national policy.

Ernest thought the Commission could have said tougher things about both the Clinton and Bush administrations. He is right about that. Ernest had drafted the toughest material on the Clinton administration (taken out mainly at the staff level before it ever reached commissioners) and he had reworked the Bush material too. Ernest thought the Clarke "important, but not urgent" line was true. But Ernest thought that verdict should have been levied against both administrations.

A key point: The language scrubbed out was almost always interpretive. Where we fought tooth and nail was to keep commissioners from abridging or inappropriately amending any factual description. We had the evidence to back up our statements and fought successfully to keep them. A good example of this was our detailed description of the decisionmaking after the Cole bombing in October 2000. Our solace was that, if we lay out the record, people are always able to make their own interpretations of it. And on some issues, like the covert action findings in 1998-1999, the hardest part of the job -- the part others later might find impossible to reconstruct -- was just to piece together what had happened.

We had harder language on both administrations in one of our summing up chapters [, language] that was taken out by commissioners on both sides.

Someday some persistent and hopefully conscientious researcher can unearth our original drafts, and Ernest did quite a bit of work on the Bush administration period, and judge for themselves.

Check with Ernest on this. I asked him last month whether he had spoken with you. He said you had left a message and he had been negligent in responding to it. I urged him to be helpful. So you might try again.

10) I've read your letter in response to [Richard] Falkenrath's criticism in International Security. He is obviously very critical of the commission's final

report. I see Falkenrath was a colleague of yours (and May's) at Harvard. Did you have any background with him that might explain the tone of that article?

Falkenrath and I both thought this was a reasonably friendly essay! So I guess you see the kind of give and take we're used to .

We do know each other. I like and respect him. He was actually very kind about much of the report. He was in the administration when the report came out, and I think his essay reflects the more thoughtful and considerate end of the spectrum among some folks who were on the receiving end of our ideas. And where Falkenrath's concerns are right, we didn't try to argue with him.

Reflecting more broadly, I think our particular judgments are holding up. Even on the DNI point, where I was a little slower [to become a] convert, the evidence is starting to mount. Just last week I asked a senior figure in the community, an old CIA hand, whether he was nostalgic for any of the old management structure. He was emphatic: No! I think that's because this is finally taking off, now that the leadership of the whole intelligence community has been very deliberately reshuffled and now that Rumsfeld has gone. McConnell refused to take the job until after Rumsfeld left. You've been following some of what's happened at Justice. Much has happened just in the last nine months. EO 12333 is being rewritten even as I write this.

But the organization issues have always gotten too much attention in comparison to the fundamental shift in consciousness and strategy. That large ship started turning a few years ago, and it still needs to turn some more. We [the USG] had built and launched it rather hurriedly, as happens in such cases. But the fundamental direction is now more promising, and I think the Commission's basic ideas about the past and future are part of the explanation for that.

Thank you.

September 27, 2007

On 9/22/07 Philip Shenon wrote:

Thanks, as always, for the quick response.

Just for the record. I did talk with Professor May's office back in the spring and got an email reply from him, saying he wanted to answer questions by email. I then forwarded some questions to my by email.-- this was in early April -- and did not hear back. I then contacted his office again to make sure that my questions were received, told yes, and still did not hear back. So I assumed he chose not to participate. Luckily, he did have that extraordinarily detailed piece in TNR.

Some follow-up on May:

1) There is this passage in the May's piece: "Passages in the report dealing with the Bush administration can be read as preoccupied with avoiding even implicit endorsement of Clarke's public charge that the president and his aides 'considered terrorism an important issue but not an urgent issue.' I think myself that the charge is manifestly true -- for both administrations." He then refer to the language in the report "that shields Bush's advisers."

Would you support those statements?

I would not have used the phrase "shields Bush's advisers" anymore than, in a different context, I would have used a term like "shields Clinton's advisers." Phrases like that can so easily be quoted out of context. But I think his particular, substantive statement is fair.

To be even more specific, we could have written a detailed critique of the interagency process and how it worked on these issues in both administrations.

The NSC systems were very different, almost opposites -- the strengths of one were weaknesses of the other and vice versa. But the kind of detailed subjective interpretation to offer that point of view would not have got through the staff (we tried some initial versions of this) and probably would not have made it by commissioners as well. Somewhat narrower versions of these critiques were drafted, and screened out by commissioner edits that effectively cancelled each other out. Again, our focus was to lay out the facts, empowering readers to make their better informed interpretive judgments of their own.

2) And on Falkenrath, maybe I should focus on his response to your letter to International Security. He wrote, in response, about the report's "imprecise, anodyne and impersonal assignment of responsibility for the U.S. government's failure to prevent the 9/11 attacks." He is specifically critical of the lack of

personal accountability in the report. "I am disappointed that May and Zelikow continue to defend this approach, not because of any zeal on my part to blame anyone in particular for the government's failure to prevent 9/11 but because it is exactly the wrong message to send to future government officials." The closing line of his response: "The 9/11 commission instead focused on a handful of amorphous, impersonal causal factors, none of which is nearly as compelling as the notion that an identifiable set of government officials made bad decisions about where to apply their energies and, as a result, failed to do the job that the American people and the right to expect them to do."

That struck me as pretty harsh criticism of the report. Not you?

Seems pretty tame compared to some charges I've heard.

More seriously, I don't think Richard was aware of or was following the IG work being done at both CIA and Justice that covered most of the individuals that could have been spotlighted at the operational level. But we were aware of that work.

Again, we laid out the facts, including on individuals. We sometimes used pseudonyms either to protect classified identities or to avoid spotlighting working-level individuals in potentially tragic ways. Reflect a little on what would happen to a working-level official, living in a community, who is suddenly spotlighted in a national report in a way that the media might play up as a 'culprit' for an attack that killed 3000 people. Think about what happens to that person, how that person deals with that. We did. And we knew what the IGs were doing.

At the higher policy level, we did name names. And, at that level, which is what I think Richard is talking about -- at least in part -- I can guess how Richard would have filled out at least some of that indictment. I think many staff members and commissioners would not have concurred with his bill of particulars.

There are many people who wish we had slammed someone harder -- usually they have some particular people in mind and usually there would not have been consensus agreement on saying what they wanted to say. So again we came back to arming people with the facts to convene, if they wish, their own little grand juries.

3) Can you tell me if you have any particular memory of the Rice public hearing?

I remember it pretty well. A welter of images and fragments.

4) Were you upset when Kerrey asked his question about Rice's relationship with you?

Bob said something to me, either before or after, to indicate that he thought that, by asking that question, he would just get the issue in the open as a way of protecting me. He gave me advice on where I should sit ... again to the same effect. He has a distinctive way of handling issues. Though it's always awkward to be spotlighted on TV in such a way, I understood what he was trying to do and saw no trace of meanness in it.

5) What did you think of Ben Veniste's tone in questioning Rice?

I used to be a trial lawyer, and I have different views about the most effective ways to cross-examine witnesses one regards as hostile. My view of Richard's performance in this case is that, except for the partisans already on his side, his approach became counterproductive as it went on -- in relation to his own goals.

6) Do you think Rice was filibustering -- intentionally running out the clock?

At the time I wasn't focusing on that. There is a way to cross-examine a witness in order to manage that concern. It turns on very careful preparation of the questions, and sequencing. In Congress, Carl Levin is a master at this. And you'll have noticed that some commissioners were very good at this too, when they wished.

7) There was apparently exchange between you and Raj De, who was doing some research during that hearing on behalf of Ben Veniste. Supposedly you angrily tell De: "This isn't the DNC." Do you remember anything like?

I do remember it. Richard [Ben-Veniste] had placed Raj in a totally inappropriate position. To understand why, it helps to understand more about our procedures. We had a process to help commissioners prepare for hearings. For the Rice hearing, key figures in the prep were the members of Team 3, since they were most familiar with the relevant records and had prepared the briefing materials.

What Richard did was to go outside the designated staff support, pick a young staffer who hadn't worked on those records at all and ask him to become a personal 'oppo' researcher for his cross-examination. (Hence the DNC or RNC analogy, where they hire 'oppo' research staffs.) I made the decision to hire Raj and I don't regret it. He did a superb job. He's so good that someday he may be in a position like the one I held, and then he can reflect back on this again. Richard placed Raj in a bad position. The staffer is reluctant to say no, mindful of professional futures. Maybe the staffer agrees with the commissioner's politics and wants to help. Either case is very, very dangerous for the commission.

This particular case was raised with the rest of the front office right away, and

even with Tom and Lee. Because once this starts happening, every commissioner then finds their 'simpatico' staffer, regardless of their formal responsibilities for the witness, and presses them into service. Then the notion of the nonpartisan, unified staff -- always under inherent stress -- really fractures. Because other staffers know what is going on ... they react ... you can play it out.

So, as a manager, it is my duty to stop this sort of thing right away and urge commissioners to work through the designated support staff (and in this case, surely Richard could not complain that they would not be helpful or objective). And I would have done (and may in fact have done) the same thing in the case of a Republican commissioner conscripting a personal staffer, on an unconnected team, for cross-examination of a Clinton administration witness.

September 27, 2007

On 9/22/07 Philip Shenon wrote:

Sorry, my email system went down, so I didn't finish out the questions.....

8) You'll recall during the Clarke hearing that there was discussion of this "background" briefing that Clarke had given to reporters in defense of Bush's anti-terrorism planning. Did you know anything about the briefing transcript before it was publicized by Fox that morning? Did you think it raised legitimate questions about Clarke's credibility? A member of Team 3 told me that you appeared pleased by the disclosure.

I did not know anything about the transcript before it came out. I didn't even know the [Fox News transcript of reporter Jim Angle interviewing Clarke] document existed.

This sort of 'he appeared pleased' stuff ... really.

Substantively it was an interesting document. For instance, the March 2001 point that Ernest mentions in his TNR article -- he is referencing that transcript.

The basic issues for Clarke's credibility were already raised by other documents. More important than that piece was Clarke's sworn, classified testimony to the Joint Inquiry. Folks had access to some of that but couldn't refer publicly to what was said in it. The basic issue was still: You said nice things about them then; why are you attacking them now. And Clarke has his answer to that. Etc.

9) About Rice. Is it fair to assume that your first discussions with Rice about joining the administration did not occur until after the final report was issued?

(You won't be surprised to hear that the conspiracy theorists assume otherwise.)

Later than that. I assumed, with reason, that my commission service had burned whatever bridges I had left, and so did not expect to go back into government anytime soon. Others gossiped of course, but I thought I knew better.

The first inkling that I might be asked in came after the November [2004] election, and after the President announced that he would nominate Rice to replace Powell. (From what I read in Woodward, etc., it's not clear that even she expected to be offered this job, and [she] may have been planning to leave govt.) And the question for me was tightly connected to the offer to [Robert] Zoellick to be her deputy and to [Nicholas] Burns to become the undersecretary for political affairs, both people I knew very well. Folks then explained that I might be part of this new, interesting team that would try to do some new things.

10) Was there some sort of security-breach investigation -- misuse of classified documents, I think -- towards the end of the investigation? I know no details about this at all (the very first I heard of this was on Thursday of this week).

I'm not sure I know what your source was talking about.

Thank you.

October 2, 2007

On 10/1/07 Philip Shenon wrote:

Dr. Zelikow,

Thanks again for your quick response.

Here's what I understand about this DOJ/FBI investigation. (And again, I'm sorry to get around to this issue so late in the reporting for my book. But I did hear about this for the first time only in the last two weeks).

First things first, I understand that the investigation ended inconclusively.

But at some point towards the end of the commission's investigation, a third agency -- I suspect it was your adversaries at the CIA, but I don't know that -- made a referral to the DOJ/FBI about potential mishandling of classified information. It apparently related to your email traffic, the allegation being that you disclosed classified information in emails. I don't know if it was any broader than that.

I understand that the commission was alerted to the probe and urged that it be shut down -- that if there was any security breach, it was inadvertent. I do not know if the commissioners were aware of this.

Obviously there was no finding of wrongdoing, since you go to work in a sensitive post at State several months later.

Does any of this sound familiar?

Not familiar at all. The surprise is it sounds as if I was the target of these allegations. I don't recall being informed about any such allegations or serious concerns.

I had a good relationship with the Commission's security officer and was always ready to accept any of his suggestions for improvement in our information security procedures.

The more I think about this, the more I believe you may have stumbled across some spillover from the running arguments we had with the administration in 2004 about our approach to handling and prepublication review of our staff statements and, later, the report itself. This was not really about me personally; it was about the general approach of the staff in the preparation of staff statements and the report, and I was on point in this argument.

The argument seems arcane but in fact was extremely important. So it is worth taking some time to explain it in detail. I had various occasions over the years to study the

various ways government information is handled and released (including service on the State Department's Historical Advisory Commission during Albright's tenure as Secretary of State).

As a legal matter, the issue of whether a document is unclassified yet submittable to prepublication review or classified and subject to declassification review turns, in my view, on its origination and the purposes and methods of the document's creator. In the case of our staff statements and report, we were creating documents written from the start for public release and written in a way we believed avoided disclosure of information that would harm the nation's security. Because we drew upon classified information in writing the document, we were properly obligated to ask agencies to verify our judgment of releasability through a prepublication review process.

The strategy I developed early in our work, and then adopted by our front office, was to treat our staff statements under the same rules applied to memoirs (like Bob Gates' memoir or the Bush/Scowcroft memoir or my own manuscript with Condi on German unification, etc.) That approach is that they were presumptively unclassified but, to comply with our security agreements, they were submitted to agency review prior to public release. Then in that process agencies could claim that certain lines or words couldnot be released and we would have a discussion about that.

The view of some in the agencies was that our staff statements should be treated as classified documents from the moment they were first created in draft. Thus instead of a prepublication review process (our approach), the draft staff statements would be handled only via classified channels and would be handled as a declassification review process.

This seemingly semantic detail was an absolutely vital distinction for our work. In the first process, we basically own the material, having written it in a way we presume to be unclassified -- that is we believed in good faith that the present disclosure of this information would not harm the nation's security. The burden is effectively on the agency to assert the claim to prevent publication. So, for instance, draft memoirs are often handled in normal communication channels (e.g., shared with publishers, etc.).

In the second process, the agency owns the information from the start. The statement would then be theirs to control, not ours. All the burdens and presumptions shift. We could only then release what they clear for release.

The Joint Inquiry had an experience like this, with results you can see.

But to adopt a different approach one must shoulder the burden of deliberately writing, from the start, for public release, writing in a way that could credibly be argued as presumptively unclassified. If you write a classified document then of course it will need to go through declassification review if you seek to release all or part of it.

Early on I explained and insisted that we had to adopt the first process or else our staff statement process would rapidly founder. Since the staff statement process was the wedge I had proposed to use for breaking down the classification barriers for the whole report, the issue was of the utmost significance.

The conflict became engaged before the first hearing with staff statements, with especially strong arguments over Staff Statement #2. Those escalated to the point that I worked the concerns on that statement out directly with Mike Hayden (then directing NSA). At our level we had no problems, because he and I had a good common understanding of what really was and was not a valid concern and we were able to find workable formulations.

The intelligence community, especially CIA, then argued that all of our work should be communicated only through secure communication channels. By doing this they were trying to win the concession that the staff statements were presumptively classified and thus could only be released through a process of declassification review, which they and the White House would control. Thus they would win the process argument mentioned above. A series of arguments ensued that were finally resolved by an agreement to disagree. We would undertake to use secure classification channels out of respect for their concerns while insisting firmly that we were not obligated to do so.

Both the staff statements and the report itself, in our view, would be handled in a prepublication review process.

Though this procedural issue was temporarily managed, the arguments over what could be released continued. The administration used this approach as a tactic to win its exaggerated claims on executive privilege as well. On the Team 3 staff statement, for example, the confrontation escalated to the point that I threatened to deliver the statement with large blocs of missing text to indicate what material had been excised unjustifiably in our view so the public could see. I prepared a sample of how the statement would look if we proceeded in this way and gave it to administration representatives, so they could see we meant it. The administration finally backed down, literally on the eve of the hearing.

Then the battle shifted to the treatment of the report. Again the administration view was that any draft material for the report was a classified document. This was a critical issue. Imagine what would happen if all drafts of the report were treated as classified documents. That would mean commissioners could only access or review the drafts if they were physically present in our SCIF to do it. This would have made it effectively impossible for the out of town commissioners, like Kean himself, to play a meaningful role. It would have even severely handicapped commissioners who were in town, like Gorelick, who wanted to review each of the many drafts with care. I explained repeatedly to commissioners what we were doing and why. They heartily approved. Some of the commissioners will certainly remember the issue. Hence we continued to insist on this point and did so, successfully, to the end -- while taking measures to make sure the drafts were handled in a careful, sensitive way.

What you may have discovered is an effort by CIA to play hardball by trying to criminalize this dispute and target me in the process. If that is what this is, I was unaware of it at the time, though I was all too aware of the intensity of the dispute.

The business of a SCIF in Charlottesville is related to this. At the point we agreed to use classified communication channels for draft staff statements, this created some additional personal hardship for me. I dealt with that by arranging to work on such material on weekends from a SCIF in Charlottesville (which happens to be the headquarters for the Army's intelligence center). I had used this center (whose whole building is essentially a SCIF) before in PFIAB and other duties and was just borrowing these facilities on weekends when the usual staff was not around and I wasn't in anyone's way.

Looking back, I believe our view of the correct approach was vindicated. No one has credibly alleged that there were any leaks of genuinely classifiable information from the Commission as a result of these practices.

And, as you mention, in 2005 my security clearances were renewed at the highest levels of clearance. And with no indication of any concern or issue that needed to be cleared up.

There was apparently also some security concern much earlier in the commission's work that involved the commission's security office and you. It had something to do with the use or transmission of classified information when you were on the road. Apparently as a result of this concern, a SCIF was made available to in Charlottesville.

See above.

Any help you can give on these issues would be appreciated.

Was there any concern on your part that you might have mishandled classified information inadvertently?

I worked hard to protect any classified information entrusted to my care. You are already aware of our readiness to address, fast and hard, genuine concerns about leakage of classified material. Kean stressed to everyone in some of the earliest meetings that the Commission's enemies would be eager to use allegations of this kind against us.

Thanks.

October 3, 2007 (Shenon)

Subject: Re: Replies to Oct 1 questions

Dr. Zelikow,

Thanks again.

After your last set of answers, I went back to my original sources. It does sound like at least several commission staffers were aware of this DOJ/FBI investigation (and some indeed felt that it might be some sort of CIA "hardball" to intimidate you at the end of the commission's work).

But I was struck by the phrasing of this passage in your last set of answers:

"What you may have discovered is an effort by CIA to play hardball by trying to criminalize this dispute and target me in the process. If that is what this is, I was unaware of it at the time, though I was all too aware of the intensity of the dispute."

With the understanding that you weren't aware of any DOJ/FBI investigation "at the time," does that suggest that you learned of it later? (I would have thought that you might be asked about it when you got your State Department clearances....)

I am told more authoritatively that it was the CIA that made the referral.

Thanks.

October 4, 2007

No, I was not informed about this later. And I was never asked about any such issue in connection with the later renewal (and enlargement) of my clearances.

Though my guess is still that all this is related to the underlying battle over handling of commission staff statements or drafts of our report, your inquiry was my first clue that the other side may have escalated that fight to go after me (and the commission) in this way.

October 4, 2007 (Shenon)

Dr. Zelikow,

Thanks.

Here's what more I know (from conversations today):

1) The referral did not begin at the CIA. It began at the commission. Apparently at least two commission staffers -- and I do not know they are -- sent a written statement to CIA saying they were concerned about your handling of classified material and asked that it be investigated. This apparently referred specifically to an open email that you had sent to a location abroad -- perhaps to Doug MacEachin in France. (I'm wondering if the complaint came from the commission's security officer.)

2) The CIA, which had been struggling with you for months over issues of classified material, forwarded the report to the criminal division at DOJ.

3) The investigation, such as it was, was handled by the counterespionage section at the criminal division. I have no sense that it was pursued aggressively. (I have no information that it finished up with the FBI, for instance.)

I know you know nothing about this (and that there is an Alice in Wonderland sense to all this).

But given that the referral began at the commission, not at the CIA, would that change your view that the CIA was playing hardball? I'm wondering if they had much choice but to refer it to DOJ, given that the complaint was coming from within the commission itself? Do you have any sense who on the commission might have made the complaint?

All very strange.

Thanks.

October 4, 2007

No idea at all. You know much more about this than I ever did.

But I am sure that I never sent a genuinely classified govt document (not one of our own presumptively unclas drafts) to anyone over an open email system. It would be physically impossible to do so, given the storage of clas material on separate hard drives, etc.

No one ever thought this was serious enough even to ask me about it.

October 16, 2007

On 10/16/07 Philip Shenon wrote:

Dr., Zelikow,

I'm coming to the end of this, and I appreciate your patience.

I have nothing further on this DOJ inquiry, which obviously petered out. It's a useful vehicle for me to explain how your ingenious efforts to force information into the staff statements and final report angered the CIA and the White House (apparently to the point of referring you to DOJ!).

There's a strong irony. There were obviously people on the commission's staff (and on the commission itself) who were always suspicious of your ties to the Bush administration, especially to Condi Rice, and thought you were suppressing information that might embarrass the administration, especially on the Rice-Clarke debate. As we've discussed, your contacts with Rove and Rice, no matter how innocent, created a real furor within a portion of the staff. I believe the problem with "optics," as you described it, was a serious one.

Surely you're not surprised that some members of the staff of this (or any) substantial organization in a pressure cooker might voice concerns like these. But as you weigh how to lay all of this out, you might also reflect on two things ...

1. My guess is that these complaints run mainly or only one way. It's worth reflecting on this, in evaluating your sources.

For instance, the leader of our policy team, Mike Hurley, had actually worked on the NSC staff for Berger and Clarke. During the Commission's work he had a number of direct contacts with Berger, Clarke, and other former colleagues. Dan Marcus had been the #3 official in Reno's Justice Department and in the Commission's work he was significantly involved in work on Justice topics for the Clinton as well as Bush administrations, with many contacts with former colleagues, friends, etc. So did you also hear complaints about them or others that were analogous to the concerns voiced about me?

Now one easy answer is that the comparison is invalid because my role is more visible and powerful. But -- depending on the portion of the report -- my role was not necessarily more formative. The fundamental investigative and drafting choices are actually less visible than what I would do in editing the work, which was evident to all concerned. And any drafting I did was also exposed to peer review.

My guess is that you hear complaints based less on an objective standard (can't work on areas of former work or contact former bosses or colleagues) and are

instead complaints oriented around preferred results ... a part of the report doesn't say what someone wanted it to say. Or a source is suspicious about contacts with officials the source dislikes or distrusts, but the source doesn't complain about contacts whom the source likes better. Even in my case, I talked a lot more with, say, Bruce Lindsay than with Karl Rove, and talked to Lindsay about Commission issues. And I knew Lindsay personally better than I knew Rove. But, based on your questions, no one cares about that. Nor should they. The contacts were appropriate.

So you have to figure out how to filter this. One way is to look hard at reporting of objective facts, not preferred interpretations. So if you find evidence that bad factual information was actually whitewashed out on one side, but left in on the other ... ok then. I don't think the documentary record will sustain such a charge, but that would be fair.

Just yesterday, for other reasons, I was reading about how FDR had to intervene in 1938 in a huge dispute among the leaders of the TVA (Arthur Morgan vs David Lilienthal). And FDR actually held his own hearing for six hours and here's the way he explained his approach, at the time: "I will say to Morgan, 'Now I don't want any opinions and I don't want any speeches. I want the cold facts.' And when he starts going off into his usual harangue and personalities, I will just stop him and say, 'I don't want that -- I want the facts.'" And that is what FDR did. And then he simply made the record of the proceedings public, and it was obvious to those who read it that Morgan's charges were pretty thin, and Morgan had to resign.

Chris and I thought a lot about this problem early on. Because we needed a way to think about what I should do, or Kojm, or Marcus, or Hurley, or MacEachin, or a dozen others. If we set a rule barring contacts with former colleagues, etc., across the board, or barring senior staff or team leaders from working on Bush or on Clinton, the situation would quickly become untenable up and down the staff. We would be back in the model of hiring partisan, warring staffs rather than the unitary model we considered essential.

So then how do we manage the downside dangers of this approach? We talked about this a lot. Our solution was: (a) get people -- especially in leadership positions -- who we believed could manage their preconceptions and shoot straight. In other words, don't hire people who seem or are known to be highly partisan or political. When we hired someone like Dana Hyde, who was very well connected in Democratic political circles, I made a judgment, for example, that she could nonetheless be relied on to play it straight. These are difficult, subjective judgments. Chris and I would talk about these things. Dana not only met our expectations; she exceeded them. I personally came to rely heavily on her work and her judgment on some very difficult and politically sensitive investigative issues.

And then also, (b) we had to design a kind of peer review process in drafting, time-consuming and contentious as that would be, that forced everyone -- very much including the executive director -- to expose their drafts to that rough and tumble before it went to commissioners. You already know a lot about this.

2. My particular problem.

Here you now know enough to be able to put yourself in my place. It's also worth recalling how the negative feelings about the Bush administration and its top officials so intensified from, say, January 2003 through the course of that year and into 2004. And this was redoubled for the Commission by the surprisingly (to me) obstinate White House stance on so many process issues ... and then the confrontation with Clarke, which (having read his earlier Joint Inquiry testimony) I had not foreseen. And there was probably some fallout from this for me.

As the Commission staff was being stood up and the work was getting fully underway, in mid-2003 and later, the accusations against me intensified. You have some sense of my role in the Commission's work at that stage, and in executing a certain conception for what the Commission could accomplish. And you see the way we had thought through this problem for all of the senior staffers. So the only way through this that made sense was just to play it as straight as I could, exposing my choices to constant peer review in the front office or among concerned teams. Playing it straight also means not playing the game of ostentatiously joining in criticisms that I thought were unfounded in order to score points with staffers who had a different view. That becomes a dishonest affectation of another kind.

At the same time, you are the champion of forcing (potentially) embarrassing classified information into the report, to the point where people at the CIA and White House were furious with you.

And many of these fights were over enlarging access to NSC records in both the Bush and Clinton administrations.

I did talk with a senior administration official (who will be on the record in the book) who described how angry the White House was with you because of your repeated -- and admirable -- demands for access to documents and people on behalf of the commission. I was told you had yelling matches with Bellinger and others. This official, who is ultimately an admirer of yours, offered this information to me because he wanted to knock down any sense that you were a White House "plant."

Anyway,

1) The Kean/Hamilton book described your 2003 efforts (with Ernie May) to prepare an outline of the report. I was given two copies of the outline and they are identical, except for the handwriting on the scanned version. (I attach it.) Is the handwriting yours?

Send me the one with the handwriting on it! [He did; it was not my handwriting.]

2) The belated release of the outline to the staff created some anger among them. Why was it withheld?

Two main reasons: (1) it kept evolving; and (2) it would trigger lots of new discussions about what staff material would be selected for inclusion, who would do drafting within teams, etc. So it was good to keep the monographs and their structure in the foreground as long as we could. And that might also produce good secondary benefits, if the monographs themselves were publishable -- as a few of them were.

3) The outline suggests that the events of 9/11 would not be described until the middle of the report. In hindsight, do you think the restructuring to move up 9/11 was a good one?

Actually we did a later outline that moved it up. The standard story (which Ernie tells in his essay) is partly right. The later outline had in it a "Prologue" or "Introduction" that would start with the morning of 9/11 and get the attacks into motion. Set the scene. Then Roemer and others came in and said, in effect, why not just move the whole chapter up front? And that made sense. I was already having trouble figuring out how to delineate what went in the Prologue vs what would go in the later chapter.

4) There's a reference in the outline to subchapters, in what would have been Chapter X, entitled "The blinding effects of hindsight" and "Finding fair verdicts." What did those refer to?

That's not in the document you sent. But there were much more elaborate outlines, more fully broken out this way. The two ideas you mention were early flags for substantive material you can now find in chapter 11. I originally wanted to say more about how to render post facto judgments on accountability, and address some of the common fallacies, but this fell away during the staff discussions.

5) May we revisit, one more time, this business with Ben Veniste and the Aug. 6 PDB and your call on the K Street secure phone to the CIA analyst? Ben Veniste

and some of the staff saw that call as a violation of the commission's internal rules on conducting interviews. Weren't all interviews supposed to be conducted by at least two commission staffers? Can you see where this created another optics problem?

This was not so uncommon; a number of staffers made follow up calls to subjects in order to chase particular facts, etc. We wouldn't ordinarily do this for a full-blown detailed interview ... this was a short conversation, a follow up, to track some very specific points down. The formal interview process could have gotten us into another PDB-related fight with the White House and the CIA, helping them run out the clock. So those are the kind of issues to be weighed in making a judgment call.

This telephone interview was a follow-up because the person involved, who was not a senior official and had a limited role in this story, had -- as best I can recall -- already been interviewed on these matters on two prior occasions, by the JI and by the CIA IG.

For these and other reasons, I don't think the staffers who were actually responsible for investigating this particular subject had the concerns you cite. But if they did, Chris and I would have taken another look at this.

6) Another old subject: Iraq. There were four events -- Abe Sofaer's testimony, Mylorie's testimony, the dispute over the "Diplomacy" staff statement, the discovery in 2004 that you were the author of the so-called preemptive war strategy paper -- that led staffers to suspect you were trying to use the commission to promote an Iraq-Qaeda tie. Obviously at the end of the investigation, the commission (and you) find no collaborative tie. But again, can you see where this is an optics problem?

No one on the staff had any evidence to believe I had staked out a position on the merits of the Bush administration approach to going to war with Iraq. There had been a loud public debate in 2002 about war vs sanctions/threat of war. I hadn't participated in that debate.

And no one had any evidence to believe I had a preconceived position on an Iraq-Qaeda tie to 9/11. I had never said any such thing. As others in the front office knew, because we discussed it, inviting Mylorie to testify had not even been my idea, though it was a fair suggestion at that stage to put her out there and let her tell her story. If we had not let someone like her or Stephen Hayes say their piece, we would be accused of refusing to let commissioners hear any witness who had a different view. So, if folks will cool off and reflect on this for a few minutes, they might see that this approach thereby actually strengthened the credibility of our ultimate finding.

At some point it's hard to keep second-guessing other people's preconceptions and suspicions. We had a lot of real work to do.

7) Another brass tacks issue. I've hinted at this before, but I should be more clear. Blunt, even. People routinely refer to you as brilliant. But you are also routinely referred to, even by friends and admirers, as arrogant, obnoxious, downright mean. I've heard one than one comparison between you and Larry Summers - brilliant but oblivious to the feelings of others. Kean told me he hired you even though he knew your personality meant that you would "break china" that he would have to pick up. In his new book, Glenn Kessler refers to your "limited interpersonal skills." Do you have a sense of this about yourself? It's important, because I do wonder how often people associated with the commission were willing to accept the worst (that you were a White House "mole," most importantly) because they simply didn't like you or were frightened of you.

You can talk to Kessler about what he had in mind. But also talk to one or two other reporters who covered the Department. Or, better yet, talk to some of my coworkers there.

I have often seen these descriptors used, in political history, in military history, in management studies, about managers who are 'change agents' or who have to drive an institution or set of issues very hard. Zoellick is another person who always gets this rap. And he's now off to a terrific start at the World Bank.

If you think about everything we had to do, you may agree that -- on several different levels -- to succeed this Commission needed high intensity, high energy staff leadership.

But there are tradeoffs in such an approach. There are problems that go with a readiness to mix it up that, in my case, comes from years as a trial lawyer and other experiences. And it is a constant challenge to combine drive, in highly stressful conditions, with the desire to build consensus and keep almost everyone happy and motivated. I'm very conscious of my many weaknesses. So I keep trying to reflect on experiences and learn lessons from some of my mistakes -- including the work with the 9/11 Commission. There are many very particular things I would do differently.

But I do take a little pride that, with relatively few exceptions, we (including my front office teammates and many others) were able to instill a fantastic work ethic and sense of pride in the Commission staff. People accomplished things they would not have thought they could accomplish. And under pretty demanding conditions.

If you look at my record, you might also notice that much of my work has been collegial, not solo acts. Three major bipartisan commissions, and those involved

can tell you if they are regarded as successful. Co-authored books. So whatever results I've achieved professionally have tended to be in settings where there is a lot of shared power and compromise required to get results, reconciling a variety of personalities and views in many directions. I'll let you figure out how to reconcile that record with these reported descriptions

And in foreign policy, I prefer coalition politics!

Three crazily big questions, but here goes:

8) What would you have done differently on the commission?

Too big. And some of the lessons for me come in reflecting on concerns you're hearing and asking myself whether there were better ways to address those concerns and still accomplish the staff's objectives.

9) Is there anything important that the commission got "wrong" in its final report?

We have at least one incorrect footnote (blaming the Washington Times for a leak in a case where that's what we were told but we didn't check it out enough).

Otherwise I can't yet identify any important sentences that I wish I could rewrite at this point, about three years out.

There are plenty of things we could have added ... but you've covered some of that in earlier questions.

But, even as to 'wrong' statements, I think this situation will change. More and better evidence will come out ... perhaps from al Qaeda trials, disclosures in memoirs, etc. We always expected the Commission report to provide a solid foundation for understanding, not the last word. You can also see how Lawrence Wright, Steve Coll, and others have used the Commission's work to open up narratives they have capably explored with much more detail and color.

10) It's January 2003, and Kean and Hamilton are offering you the job again. Knowing what you know now, do you accept?

As an opportunity for public service, the question becomes: If someone else, among plausible alternative candidates, had taken the job, would the net results in the various dimensions have been about as good for the country? Or better?

Thank you.

October 18, 2007

On 10/18/07 Philip Shenon wrote:

Thanks again.

A few other loose ends.

1) Were you surprised by the degree of praise for the final report? Do you remember your reaction to the Updike quote (the finest collaborative effort since the King James Bible)? Did you remember your reaction to the National Book Award nomination? Did you think some of it was over the top?

The praise was gratifying. I especially remember a critique by Philip Kennecott in the Washington Post, who put the report in context with some other analogous reports and provided some thoughtful comments.

More gratifying than the praise, though, was the reaction from people around the country. It was obvious that not only were millions of people buying or downloading the report, they were actually reading it, and reading it through -- a very different matter! In dozens of public talks, you can pretty quickly tell whether people were really reading the book. And I believe it is this widespread depth of interest, as well as the breadth, that helps explain the strength of the White House and congressional response to the report.

As you know, we had developed a theory about how to prepare the report and put it out and then worked hard to execute the design. So the reaction was akin to that of the scientist who designs a pathbreaking experiment, expecting certain results, but feels pretty gratified when the thing actually works ...

The National Book Award actually began with a nomination (about which we knew nothing) and then the selection from among the various nominees as a finalist. First word about any of it was when they called to let me know we were a finalist.

2) I've had conversations with John Farmer, especially about the decision to seek subpoenas on FAA and NORAD. John says there was an argument in your office -- you, Farmer, Dana Hyde -- in which Farmer and Hyde express their concern that you are trying to block the NORAD subpoena. Farmer wants to make the argument for the subpoena before the commissioners, and you say no. Is that right? Did you think the NORAD subpoena was a bad idea? (Apparently you were traveling abroad at the time of the FAA subpoena.)

You should check with Dan Marcus about this; he was a key figure in all discussions about when/whether to file a subpoena. In general I preferred that

either Dan or I present these issues to commissioners. Key point: Dan was the person actually conducting the negotiations with the agency lawyers.

On NORAD, I completely shared the Team's concerns, and the records will bear this out. We had concerns about tactics and timing, keeping in mind a number of issues that were also in play at the same time -- which that team couldn't see. And my views were developed in conjunction with, and then represented, the views also held of Chris Kojm and Dan Marcus, which in turn were informed by the preferences of Kean and Hamilton. Though other staff did not always see this, I was often the 'hawk' in debates about these matters in debates within the front office. But sometimes my approach might have been too combative. We worked on it and then it was my job to then represent the consensus view of the moment, whatever it was.

The team did excellent work. Their concerns were well founded. Tension was building to a breaking point. The situation did require immediate escalatory action of some kind. The subpoenas turned out to be salutary.

What you are seeing is a healthy dynamic. In a prosecutor's office, for instance, you often have the AUSA's heatedly arguing with the US Attorney for approval for this or that move. Then you have to make judgment calls on the best tactical move for that particular day.

3) Did you arrange the meeting before the vote for Hamilton and Gorton with Rumsfeld? (Marcus and others think you did, probably through Cambone.....)

I don't think I arranged this meeting. I think I had already left the country. This may be a case where Rumsfeld's office reached out directly to Hamilton.

4) At the end of all of this, I am left with the clear sense that there was some sort of support network in San Diego to support Hamzi and Midhar and that it involved Saudi government "agents" (the bumbling Baymoui and the less bumbling Thumairy). Jacobson's team, except for Dieter, was obviously convinced of this. Yet the commission makes no such judgment, and the Saudi embassy – on its website, to this day – describes the report as an exoneration. Do you worry that, because of Dieter's caution, the commission got this wrong? (I've asked a variation of this before, I know.)

I don't agree. And I think this is not an accurate characterization of the team's views, which were more complex and divided than you allow. The evidence is very clearly laid out in the report for and against this theory, in a description that everyone agreed was fair.

As for my own views, I took part in interviewing Bayoumi. I don't believe he was

a "Saudi government agent" working to help terrorists.

Thumairy is a more difficult case, but one that is also embroiled in complex internecine politics within the Saudi expat community and within the relevant Saudi ministry, politics which folks who haven't spent much time in the region might not understand and which are, in any case, very difficult for any outsider to understand. Some of the information about him was colored by people who were involved in those factional arguments. The evidence on Thumairy is sufficient to feature him in the report and obviously take the allegation seriously. Yet the actual evidence for the underlying charge was still thin -- especially to support such explosive charges (accessory to mass murder). I have no brief to sustain or "exonerate" the charges. But, to sustain charges of that kind, stronger evidence is needed. What we had is laid out in the report.

It is a useful check to use the 'golden rule' in a case like this. If Americans were the suspects, what standard would we apply? Not the Richard Jewell standard.

Yet there is persuasive evidence of a possible support network. We did not find evidence to make the case that it involved "Saudi government agents," a case that is politically popular to make. The Saudi govt did have other better-evidenced concerns it needed to address. But it is troubling to me that, in the zeal to make one case -- so alluring to reporters, folks just don't bother to comment much on the more substantial evidence about people like Mohdar Abdullah, Anwar Aulaqi, and Eyad al Rebabbah (people who also do not link up in an evident way with Thumairy, and certainly not with Bayoumi). You can see some of the very carefully chosen phrases we use in discussing these suspicions, carefully chosen because we understood the gravity of making such statements about any individual.

5) John Bellinger, a admirer of yours, said there were a number of violent arguments between you and him over document access, interviews, etc. Do you remember raising your voice? Do you remember him raising his voice?

Yes.

6) A very old subject: Karl Rove. I was told by a former senior White House official that you had pressed Rove early in the administration for a commitment for the Miller Center for the Bush 43 oral history project. I think you've suggested previously that was not the case. Did you press, aggressively, non-aggressively, for such a commitment?

My earlier answer to you on this had everything that I can recall. We were pulled into this by others, in the advocacy for a Bush Library, who were trying to include a Miller Center linkup in their presentations/advocacy to get the Library. (Because

the Center was already deeply involved in the Bush 41 and Clinton projects, had completed or was completing the Carter and Reagan projects, and thus had established a reputation.) I was declaring our neutrality.

7) There's a perception among the staff that you and Gorelick had a particularly valuable partnership on the PDBs – that you had special respect for her intelligence and even temper? Does that sound right? (It's offered to me as a counterpart to your sometimes stormy relationship with RBV and Roemer.)

Yes.

8) My research assistant was double-checking some material about your background. What was this craziness with your comments in Japan about Hiroshima and Nagasaki? There was some sort of sit-in protest? Were you surprised by that?

This was in 1991. I had taken the position, in Hiroshima, that citizens could find some consolation for their loss in the knowledge that the horror of what happened there might have helped prevent operations which, in any likely scenario (either invasion or continued fire bombing & blockade to starvation), would have cost many, many Japanese lives. And, I added, the horrifying example of what had happened in Hiroshima had played an important role in discouraging any later use of nuclear weapons. Thus the terrible loss of lives might not have been in vain.

Though these positions are not terribly controversial among historians, they are positions that at the time were controversial in Japan. This has moved somewhat since, as exemplified by the work of leading Japanese scholars like Asada Sadao that came out later in the 1990s.

9) You are routinely described as indefatigable, able to work nonstop for days on end. Do you require little sleep? Has that always been true?

No. I have no special strength in this regard. This was a very demanding task and was very, very wearing. If occasionally I was a bit short with people, it might be because I'm just as human as they are.

10) Kean and Hamilton (and others) describe you as genuinely alarmed by the level of criticism that was directed at you, especially by the families. Is that true? Did you lose any of the little sleep you apparently allow yourself? Was it difficult at times to concentrate?

No. It was really just one more issue to be reckoned with and another source of

stress. My way to manage that is to stay focused on the tasks and not get consumed by second-guessing yourself or fretting. Take in the problem, think hard about how to address it, get advice from others, do the best you can, and move on to the next one.

Thanks.

October 19, 2007

On 10/18/07 Philip Shenon wrote:

Thanks again.

After your answers yesterday, I went back to John Farmer and John Azzarello to talk about the Norad business.

Azzarello, who had not given me an extended interview on these issues before, did yesterday, and unfortunately it raises a series of additional questions for you. And I'm sorry to impose upon you again. But....

Azzarello says that the team was convinced that you a) did not want a subpoena on Norad and b) did not want an investigation of the apparently false statements made by Norad generals and FAA officials.

He says that Farmer drafted a memo (in March 2004?) that outlined the conflicting accounts provided by Norad officials about the events of the morning of Sept. 11 and urged that something be done – possibility a referral to DOJ. The memo was intended to be passed onto the commissioners.

But Azzarello says that the front office "sat" on the memo and refused to turn it over to the commissioners. Azzarello says he and the team confronted you, and your response was that the question of the truthfulness (perjury/false statements) of Norad and FAA officials went beyond the "mandate" of the commission.

He says that in the face of this protest, you eventually agreed to provide a watered-down version of Farmer's memo to the commissioners, albeit buried in the larger briefing book ahead of the final Norad hearing.

- 1) Does any of this sound familiar?*
- 2) Did you oppose a referral to DOJ?*
- 3) Did you play any role in the decision to refer to the IGs rather than DOJ?*

Thanks

I'll answer all of these together. John Azzarello was an excellent, hard-working staffer. But his recollections on this, at least as you report them in your question, are mistaken. My views on these issues, especially the referral, were well documented at the time in Commission records.

On the NORAD subpoena, I did wish to escalate the issue and get what we needed. Azzarello was not part of most discussions on this, so I'm puzzled that he says he knew my views. As I said in my earlier message, the question of how and when to escalate was worked out among Dan, Chris, and me, consulting with Tom and especially with Lee. Dan and Steve Dunne were in turn having most of the discussions of the problem directly with the team.

Before I left the country [in October 2003] the decision reached was not to go with the subpoena, at that point. Instead apparently Lee tried to work this directly with Rumsfeld. I was not a party to that discussion nor, as best I can recall, was I involved in arranging it. And apparently that approach was unsatisfactory. So, while I was in later stops on the same trip, in Afghanistan or Pakistan, I got word that the Commission had moved forward with subpoenas, which worked well.

Dan (or Steve Dunne) is probably the best source on all this.

On the later [2004] question of a later criminal or IG referral of NORAD and FAA, there was indeed a dispute on how to handle these issues between the team and Dan & Steve. So they [the team] did have a dispute with "the front office." [Marcus & Dunne were part of the 'front office'] I later deduced that this dispute had been percolating for a while, building up some tension and perhaps also some misunderstanding.

The issue was then bumped up to me, hitting me for the first time as I returned to DC from a trip out of town. I well remember being startled when I came back and read a message on this, addressed or cc'd to me for the first time, in which emotions were already riding pretty high and people were mistakenly assuming that I'd been involved in this seemingly long-running dispute all along. So I quickly tried to collect everyone, clear the air, and start working this. If Azzarello said that I thought this issue "was beyond the mandate of the Commission," he is incorrect, at least in attributing such a position to me. The Commission could not conduct its own criminal investigation of alleged misconduct (and perhaps this is the source of the misunderstanding), but the Commission could obviously make a referral to those who can. So the issue became one of referral. There are various messages and memos I wrote at the time at least to John Farmer, to Dan and Chris, to Tom and Lee, and later to commissioners.

I had a great deal of respect for Farmer's judgment. He was quite concerned. So I got quite concerned. With Farmer's patient help, I took a lot of time to walk through the evidence of possible wrongdoing. I later tried to master it by working it through in writing, again with Farmer's help.

Three basic options emerged: criminal referral to DOJ, referral to the IGs (with a possible criminal referral as a follow-on to that), or proceed with our investigation without further action.

You should also explore this issue with Dan. He was obviously a key player. Especially given his DOJ background, his views on this question were also entitled to great weight. Azzarello was a party to relatively few of the conversations or email exchanges on this. So on this issue, and perhaps some others, he may have misunderstood or not been directly aware of my actual role and views. But I frequently discussed the problem with John Farmer, relying on Farmer to coordinate the views among his team, which included a spectrum of opinions on this issue ...

I spent a good deal of time considering the options, and working their comparative merits. Once I had worked through the evidence and felt I understood it, I concluded that the evidence was serious enough that we needed to make a referral, either criminal or to the IGs. I was then, and remain to this day, deeply disturbed about the apparent conduct of certain officials, especially some particular USAF officers assigned to NORAD. I joined the written recommendation for commissioners, as Executive Director, and became an advocate for it.

Strongly tempted by the possible need for a criminal referral, I worked with Dan and others to play out how that would work and the sequence that would follow. We ultimately decided to do the referral to the IGs, who could in turn recommend criminal referral. The arguments among these options, pro and con, were detailed and were articulated in writing at the time.

Having decided with Farmer to recommend a referral to the IGs, itself a significant move, I worked with Farmer to sharpen and strengthen the draft referral. Sometimes tightly written statements are more powerful. The referral was very detailed. (Again, if they wish, someday folks can compare the respective drafts and see the contrast for themselves.)

Farmer and I, with Dan's help, also worked on a memo that would present the issue to all the commissioners for their consideration. Azzarello does not appear to recall this at all, if he knew about it. This became a specific agenda item for Commission discussion and decision, handled after some other business was done. My recollection is that Farmer was present when commissioners discussed this issue and played an important part in that discussion. Either he or Dan may remember this better than I do.

Farmer joined in the staff recommendation; the action document was a joint memo to the Commission, specifically on this issue, from both of us. We told commissioners about how we had worked through the options, including the possibility of a criminal referral to DOJ. And in that session, as in prior ones within the front office and in bringing the issue to Tom and Lee, I argued for referral.

Commissioners considered and discussed this issue. They unanimously approved

our recommendation and made the referral.

###