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CHAPTER SIX

(U) THE PREDICATE

Questions Presented:

Question One: ^(2U) ~~(S/NF)~~ Did the DOE Kindred Spirit Analytical Group (KSAG) assess that Secret Restricted Data was compromised to the Chinese?

Question Two: ^(2U) ~~(S/NF)~~ Did KSAG eliminate indigenous development as a possible explanation for the advancements achieved by the Chinese nuclear weapons program?

Question Three: ^(2U) ~~(S/NF)~~ Did KSAG assess [REDACTED]

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Question Four: ^(2U) ~~(S/NF)~~ Was the KSAG assessment accurately communicated to the FBI by DOE?

Question Five: ^(2U) ~~(S)~~ What was the scope of the compromise communicated to the FBI by DOE?

Question Six: ^(2U) ~~(S)~~ Were there opportunities when the FBI could have recognized that the KSAG assessment had been inaccurately communicated to the FBI by DOE?

(U) *PFIAB QUESTION #9: Whether the FBI appropriately relied on technical opinions provided by the DOE?*

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A (U) Introduction

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(S) [REDACTED] (Id.)

(S) [REDACTED] This group was called the Kindred Spirit Analytical Group (KSAG):

(S/NEARBY/OC) KSAG concluded their review in September 1995 and produced a two-page summary of their assessment. This concise summary, comprising a series of bullets, contained the assessment of these prominent nuclear weapons designers and definitively answered the question they were assembled to address.

[REDACTED] Nor was there any dispute that this compromise had aided the Chinese nuclear weapons program by helping to establish what were attainable achievements and to

(U) Modern nuclear warheads consist of a primary and secondary nuclear device, the first acting as a trigger for the second.

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avoid blind alleys in their own research and development program. What KSAG concluded, however, and what the FBI would be *told* these DOE experts concluded, were two different matters. [REDACTED]

(S/NF/OC/RD) KSAG's assessment would never be provided to the FBI. In its place the FBI was told [REDACTED]

[REDACTED] This inaccurate communication of the predicate resulted in the FBI spending years investigating the wrong crime.

(S/NF/OC/RD) The FBI received several summaries purporting to represent DOE experts' conclusions. The FBI was told [REDACTED]

[REDACTED] Each of these representations inaccurately reflected the conclusions of KSAG.

(S/NF/OC/RD) On September 25, 1995, after the KSAG working group's assessment was completed, DOE told the FBI [REDACTED]

[REDACTED] (AQI 2984-2985 at 84) On May 28, 1996, OEI released to the FBI a report of the Administrative Inquiry (AI) into this matter. It stated [REDACTED]

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[REDACTED] (AI at 3; FBI 00527) Each of these representations also inaccurately reflected the conclusions of KSAG.

(S//~~FOUO~~) KSAG clearly concluded [REDACTED]

[REDACTED]

That investigation, which is underway today, should have been begun in 1995, not 1999.

(S//~~FOUO~~) OEI controlled the message that was communicated to the FBI and is responsible for the inaccurate representations given to the FBI. The consequences for the investigation caused by the inaccurate representations were profound. [REDACTED]

[REDACTED] Responsibility for this massive failure rests with both OEI, for failing to accurately communicate the KSAG assessment, and with the FBI, for failing to become thoroughly familiar with the predicate for such an important investigation. As demonstrated below, a thorough examination of the investigation's predicate would have alerted the FBI to the inaccurate assessment communicated to them by OEI.

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(u)
13. (S/AF) OI's initial concern that the Chinese were achieving rapid progress in their nuclear weapons program

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(u)
1. (S) The April 25, 1995 [REDACTED] memorandum

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(S) [REDACTED]

(S) [REDACTED]

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(S) [REDACTED]

(S) [REDACTED]

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DOE b6, b7C 2. ^(u) ~~(S)~~ The May 25, 1995 [REDACTED] memorandum

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~~(S)~~ [REDACTED] Trulock invited [REDACTED] to join [REDACTED] Trulock asked [REDACTED] to review the intelligence and determine whether he concurred in their assessment. Prior to becoming the Director of OBI, Trulock had been an intelligence analyst at LANL. At LANL he developed relationships with [REDACTED] Trulock respected [REDACTED]

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^(u) ~~(S)~~ [REDACTED] detailed to OBI, was the [REDACTED] for the information relating to the investigation, code named Kindred Spirit. The OBI Kindred Spirit chronology (FBI 674-680; DOE 1865-1869; DOE 2038-2042) inaccurately identifies the date of this memorandum as April 21, 1995. The undated memorandum has a routing sheet reflecting the April 25, 1995 date. (DOE 1847) In addition, [REDACTED] and [REDACTED] subsequent memorandum references their previous memorandum "transmitted 25 April 1995." (DOE 1852)

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judgment in the area of nuclear weapons design. This enlarged group produced a second EYES ONLY memorandum, dated May 25, 1995, to Trulock and [REDACTED]. The memorandum [REDACTED]

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[REDACTED] (DOE
1850-1852 at 52)

(S)

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[REDACTED]

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[REDACTED]

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[REDACTED]

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[REDACTED]

(CPS) [REDACTED] (DOE 1852) (emphasis added)

(CPS) [REDACTED] The authors maintained their original assessment that espionage had occurred. [REDACTED] (DOE 1852)

(CPS) [REDACTED]

[REDACTED]

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(S) [REDACTED]

(S) [REDACTED]

3. (u) (S) OEI reacts to the [REDACTED] memorandum

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(S/NF/OC/RD) [REDACTED] On June 6, 1995, Notra Trulock met with [REDACTED] and [REDACTED] Counterintelligence Division, to discuss "possible espionage related to China and U.S. nuclear weapon information." (FBI 680; DOE 1865, 2038) Two pages of handwritten notes, dated June 6, 1995, appear to have been generated during this meeting.³⁵⁸ (DOB 1853-54) [REDACTED]

³⁵⁷(S) [REDACTED]

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³⁵⁸(S/NF/RD/OC) [REDACTED] eliminated [REDACTED] and Trulock as the author of these notes. [REDACTED] also could not identify the handwriting. [REDACTED] (2/23/00) [REDACTED]

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[REDACTED]
(DOE 1849)

(SANT)

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[REDACTED]
(FBI 680; DOE 1865, 2038)

~~(SANT)~~ The OEI Kindred Spirit chronology reflects two meetings between OEI and the FBI to alert them to the possible compromise of classified information. A June 23, 1995, entry records that Trulock and McIntyre met with John Lewis, Deputy Assistant Director, National Security Division, FBI, to discuss "potential espionage involving nuclear weapons data." (FBI 680; DOE 1865, 2038) This meeting between Trulock and Lewis is not memorialized in any FBI or DOE document and cannot be verified. The chronology reflects a second entry, dated July 13, 1995, when Trulock met

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[REDACTED] The second page identifies several scientists from LANL and Lawrence Livermore National Laboratory (LLNL), an upcoming July 12/13 briefing to [REDACTED] and the notation "- X-6 - Li/Lee/Le + wife." (DOE 1854) This notation indicates a discussion of Wen Ho Lee occurred on June 6, 1995 within OEI. This discussion included Lee's name, his wife and his section at LANL. This discussion preceded the formation of KSAG, the first notification of the FBI and the receipt of the walk-in document.

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^(u)~~(S)~~ The OEI Kindred Spirit chronology was written by [REDACTED] with Trulock's encouragement. Trulock directed [REDACTED] to track important developments in this matter for OEI. Many entries were based on Trulock's own description of events to [REDACTED] who was not always present. [REDACTED]

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with DAD Lewis to provide a preliminary briefing on the "Chinese having [REDACTED] from the U.S." (AQI 1053) This meeting, unlike the earlier entry, is documented in the FBI's files.

C. ^(u) ~~(S)~~ OEI'S formation of a working group to evaluate the Chinese intelligence and assess whether United States nuclear information had been compromised

^(u) ~~(S)~~ By July 1995, OEI formed a working group to examine the PRC's nuclear weapons program and determine whether United States classified nuclear information had been compromised. This working group consisted of experts from LANL, Lawrence Livermore National Laboratory (LLNL), Sandia National Laboratory (SNL), CIA, Defense Intelligence Agency (DIA) and OEI. The OEI working group was called the Kindred Spirit Analytical Group or KSAG. (Trulock 10/12/99) The members of KSAG were not familiar with that title and simply referred to themselves as the working group.

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[REDACTED]

^(u) ~~(S)~~ [REDACTED] recalls recommending that Trulock assemble a group of experts to review and validate the conclusions reached by [REDACTED] [REDACTED] 8/4/99; [REDACTED] 8/10/99) In a document entitled "Investigative Planning: Kindred Spirit," bearing a handwritten date of June 28, 1995, [REDACTED] wrote, under a section entitled "Initial Investigative Considerations," the following:

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~~(S)~~ [REDACTED]

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(FBI 00336-37 at 36) This document was shared with the FBI by July 6, 1995, when [REDACTED] briefed Supervisory Special Agent (SSA) [REDACTED] on Kindred Spirit.³⁶⁰

(S//RDA//FOUO) [REDACTED] planning document reflects his understanding of the [REDACTED] assessment of the compromise to the Chinese.
[REDACTED]

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³⁶⁰(S//NF//O//CRD) Both [REDACTED] and SSA [REDACTED] described having a good working relationship. [REDACTED] provided early notice to SSA [REDACTED] of ongoing matters within DOE. [REDACTED] specifically recalled apprising SSA [REDACTED] of the working group and their agenda.
[REDACTED]

(AQI 02935-37 at 36) Two years later, SSA [REDACTED] summarized the early stages of the Kindred Spirit investigation.

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(S//NF//O//CRD) [REDACTED]

(FBI 00812) This summary reflects the FBI Headquarters SSA's understanding of what DOE sought to accomplish by assembling KSAG.

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[REDACTED] (FBI 00336) It is unclear why [REDACTED] does not track the analysts' language precisely. The FBI never received either the April 25, 1995 or May 25, 1995 memoranda and relied on this summary of the initial DOE assessment.

(u)
(S//FOUO) [REDACTED] investigative plan identifies five specific requirements for the working group to address. He characterizes it as "important" to "assist in the development of a logical investigative effort" to accomplish each of these five requirements.

- Establish a chronology of the stages of development of the US weapons design information allegedly copied by the PRC. It would assist ECI's [Energy Counterintelligence] investigative planning efforts to know for example, that US Weapons Laboratory "X" developed stage "A" of the weapons design in question during the period 19xx-19xx. In turn, US Weapons Lab "Y" piggy-backed on stage "A" to develop stage "B" of the design during the period 19xx-19xx, etc.

- Identify specific documents that contain the compromised warhead data;

- Determine which program staff at each US Weapons Laboratory worked on specific portions of the design in question[;]

- Determine which laboratories and specific employees eventually had access to the completed weapons design data in question;

- Brief the Federal Bureau of Investigation (FBI) on the results of the intelligence assessment and obtain their concurrence for ECI to initiate

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and discreetly conduct an Administrative Inquiry (AI).³⁶¹ This AI will follow the guidelines set forth in the following Investigative Plan. (The FBI will be continually updated on the results of the AI).

(FBI 00336)

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(S/NF) Trulock initially contemplated forming only a LANL team, with CIA [REDACTED] participation, to validate the initial assessment.³⁶² "[Trulock] directed that the following actions be initiated . . . establish a damage assessment team from LANL to review [REDACTED] (DOE 3473-3477 at 76) (McIntyre memorandum to the file dated June 23, 1995). This expanded to include LLNL, SNL and DIA. The specific composition of the KSAG was largely a product of selection by the initial members of the working group. The initial members were already assisting DOE Headquarters review intelligence reporting. Trulock personally selected [REDACTED] and then [REDACTED] to examine the [REDACTED] reporting.

(u)

(S/NF) Trulock approached and selected [REDACTED] to chair the KSAG during his trip to LANL in June 1995.³⁶³ [REDACTED] selection represented a

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³⁶¹(S/NF/PD) This is the first time DOE indicated its intention to conduct an Administrative Inquiry (AI). [REDACTED]

[REDACTED] investigative plan also foresaw KSAG [REDACTED]

(S/NF/PD)

³⁶³(S/NF/PD) Trulock personally visited LANL to brief Director Hecker on Kindred Spirit and invite [REDACTED] to chair KSAG. The FBI field office in Albuquerque, New Mexico (FBI-AQ) learned of this visit from [REDACTED] LANL Counterintelligence (CI) Office. On July 5, 1995, the field office sent a communication to FBI Headquarters concerning Trulock's June 28, 1995, visit to LANL. [REDACTED]

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[REDACTED] No additional information is provided.

recognition that someone with the necessary "horsepower" was needed to manage this group of experts assembled from the national laboratories and intelligence agencies.

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[REDACTED] of LANL's X Division (responsible for nuclear weapons design), was ideal. [REDACTED] reputation was as a fair, unbiased scientist who could draw a consensus, if one could be drawn, from a group of nuclear weapons experts. [REDACTED] the most forceful advocate of the Chinese espionage of United States nuclear weapons information, did not object to [REDACTED] selection. [REDACTED] believes [REDACTED] suggested [REDACTED] to Trulock. [REDACTED] (11/9/99) [REDACTED] assumed Director Hecker had made the suggestion when he was briefed by Trulock on June 28, 1995.³⁶⁴ [REDACTED]

(S/NF) KSAG included nuclear design experts in recognition of the complex scientific issues involved in assessing the Chinese nuclear weapons program and China's ability to achieve such progress [REDACTED].³⁶⁵ KSAG consisted of two very

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but the implication is, since information is classified and not transferable, an unidentified employee or someone associated with LANL illegally provided the information to representatives of the PRC." (AQI 2932-2934 at 33) When interviewed [REDACTED] claimed [REDACTED] him only a cursory briefing while at LANL. It is not clear whether [REDACTED] was subsequently briefed by Director Hecker. ([REDACTED] 9/15/99) [REDACTED] had briefed [REDACTED] via STU III on Kindred Spirit on June 23, 1995. (FBI 680; DOE 1865, 2038)

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³⁶⁴(U) When [REDACTED] first saw Trulock's name on his schedule, he assumed Trulock was coming have his detail to DOE Headquarters renewed, since Trulock was technically with [REDACTED] Division at LANL. [REDACTED]

³⁶⁵(S/NF) Trulock broadened the small group of analysts he had previously asked to examine the intelligence within OEL. [REDACTED] not nuclear weapons designers. Trulock first added [REDACTED] from LANL, a nuclear weapons designer whose judgment Trulock trusted. After receiving the second memorandum confirming the analysts' initial conclusion, Trulock further expanded the group to include a broader collection of nuclear weapons designers from the national laboratories. This expansion sought to definitively confirm whether advancements in the Chinese nuclear program necessarily indicated a loss of United States nuclear weapons

different groups, pure analysts³⁶⁶ and nuclear scientists.³⁶⁷ The analysts were familiar with the intelligence reporting while the scientists had designed and tested dozens of nuclear warheads. [REDACTED] described the difference as "voting members and tire kickers" - the latter group composed of OEI members who sat in chairs away from the table and never spoke. [REDACTED]

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information. This broad based inquiry generated an assessment which has survived the test of time.

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³⁶⁶(S) The assembled analysts often claimed to have a scientific background and were often incorrectly described to the FBI as scientific experts. One scientist, hearing that [REDACTED] was being held out as a LANL scientist by OEI, laughed, stating [REDACTED] was a [REDACTED] not a nuclear designer. KSAG's [REDACTED] claimed that [REDACTED] would not recognize a nuclear warhead's primary from his ass." [REDACTED]

³⁶⁷(S,AF,TKD) [REDACTED]

[REDACTED]

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This crowd was enchanted by [REDACTED] and his conviction and chose to ignore the consensus of the assembled scientific experts. [REDACTED] and [REDACTED] were all analysts. [REDACTED] believes [REDACTED] did not have a hidden agenda. [REDACTED] during later discussions with [REDACTED] clearly misreclected KSAG's consensus. [REDACTED] cited this misrecollection as an example of this "N" personality type, that they become convinced of their position to the exclusion of the conclusions of others. [REDACTED] shared a similar misrecollection when interviewed by the AGRT. [REDACTED]

[REDACTED] This does not accurately reflect KSAG's assessment. [REDACTED]

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[REDACTED] The analysts began with the advantage because they were familiar with the intelligence traffic, but as the scientists became familiar with the same intelligence reporting, this initial advantage dissipated. The scientific portion of the working group came to control the group's ultimate assessment, an assessment that the analysts, with the sole exception of [REDACTED] could not and did not challenge directly. However, once the scientific experts returned to their national laboratories, the analysts remained in Washington. The analysts then reverted to their original assessment of the intelligence, to the exclusion of the scientific evaluation which they dismissed as simply identifying possibilities and ignoring probabilities. [REDACTED]

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D. ^(u) ~~(S)~~ KSAG's review of the Chinese nuclear weapons program

1. ^(u) ~~(S)~~ The July 10, 1995 KSAG meeting

^(u) ~~(S)~~ KSAG first met on July 10, 1995, in the Forrestal Building's SCIF. [REDACTED] chaired this meeting. Present at this initial KSAG meeting were "people from [OEI], LANL, LLNL, SNL, and CIA. [REDACTED]" This included [REDACTED]

(CIA. [REDACTED] . It also presumably included [REDACTED]

[REDACTED] This working group met to "outline a plan to review the Chinese nuclear weapons program status." (DOE 1856, 4272) Trulock addressed the group and asked them to review and evaluate the available intelligence to determine whether they could eliminate espionage as a probable source for the advancement in the Chinese nuclear weapons program. [REDACTED] Trulock outlined a series of key questions for the working group [REDACTED]

[REDACTED] Id. From this initial KSAG meeting, the assembled participants quickly recognized the need for weapons designers to accurately gauge the Chinese nuclear weapons program.

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[REDACTED]

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(S//NF) [REDACTED] record of this meeting reflects three assignments given to

[REDACTED]

(Id.) From these assignments grew the need to invite nuclear weapons designers to evaluate the Kindred Spirit material. This recognition reflects the limitations of analysts evaluating nuclear weapons intelligence without the scientific expertise to weigh the associated design and development difficulties. The group also recognized a need to determine whether [REDACTED] compromised³⁶⁸ the classified nuclear information.³⁶⁹ This first KSAG meeting was largely organizational and the group's composition had not yet been finalized. KSAG was not fully constituted until the following meeting scheduled for July 26, 1995.

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(S//NF)

[REDACTED] believed the intelligence information was compelling to anyone who reviewed it. Having convinced [REDACTED] and [REDACTED] did not anticipate any problem convincing KSAG. He believed the assembled group would be readily persuaded by the clear implications of the intelligence. [REDACTED] did not oppose the composition of the group or [REDACTED] leadership. [REDACTED] Indeed, [REDACTED] designer from LLNL, had previously written a paper with [REDACTED] on nuclear weapons development by the Chinese. (Id.) Only after the KSAG began discussing the intelligence, did [REDACTED] develop very strong opinions about other members of the group.

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(S//NF) [REDACTED]

³⁶⁸ (S//NF) [REDACTED] is the codename used to describe an FBI FCI investigation

[REDACTED]

³⁶⁹ (S//NF) Kenneth Baker, Acting Director, Office of Nonproliferation and National Security, DOE wrote John F. Lewis, Deputy Assistant Director in Charge - Operations, FBI-HQ on July 18, 1995, seeking access to the FBI's [REDACTED] investigative file because these documents "may be of significant value to the OBI Damage Assessment Team supporting the "KINDRED SPIRIT" inquiry." (AQI 02938)

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[REDACTED]

(S/NP/OCTD) [REDACTED] recalled one or two members of KSAG initially making very drastic assumptions [REDACTED] one member, [REDACTED] still believes his assumption valid today). [REDACTED] emphasized that from a group of fifteen members, only one member ultimately maintained such an extreme position.³⁷¹ The group also looked closely at [REDACTED] to determine whether that could account for the compromise. It was the group's belief that [REDACTED] which compromised some important information, did not compromise [REDACTED] [REDACTED] did not still have access [REDACTED]

(PS) [REDACTED] felt strongly that there never was a designer versus non-designer split within the KSAG.

[REDACTED]

³⁷⁰ (PS) [REDACTED] reviewed [REDACTED]

³⁷¹ (S/NP/OCTD) The "walk-in document," described below, did form a consensus among the group [REDACTED]

Without the walk-in document, in [REDACTED] judgment, there would have been no consensus among the KSAG.

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[REDACTED]

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2. (U) A round of briefings

(S//~~FOUO~~) In the week following the first KSAG meeting, OEI briefed DOE management and the CIA of their concerns over the implications of [REDACTED]

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On July 13, 1995, [REDACTED] and [REDACTED] briefed [REDACTED] CIA [REDACTED] on Kindred Spirit. On July 19, 1995, [REDACTED] briefed a CIA official from [REDACTED] and some of his staff.

[REDACTED]

(FBI 677; DOE 1868, 2041) Sometime

372 (S) [REDACTED]

373 (S) [REDACTED]

374 (S//~~FOUO~~) [REDACTED]

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~~TOP SECRET~~ [REDACTED]

between July 14, 1995 and July 18, 1995, according to the OEI's own chronology, Trulock briefed DOE Secretary Hazel O'Leary, Deputy Secretary Charles Curtis and Ken Baker on Kindred Spirit. Secretary O'Leary in turn briefed the White House and Deputy Secretary Curtis briefed CIA Director Deutch. (FBI 677, DOE 1868, 2041) (Deputy Secretary Curtis 1/14/00)

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(S/NF/OC/RD) Also following KSAG's first meeting, OEI briefed the FBI of their concern [REDACTED] On July 13, 1995, Trulock briefed John Lewis, Deputy Assistant Director (DAD), National Security Division (NSD), FBI, on [REDACTED] This briefing was documented by the FBI. The meeting included Trulock and Kenneth E. Baker, Acting Director, Office of Nonproliferation and National Security from DOE, DAD Lewis, and [REDACTED] Section Chief [REDACTED]

[REDACTED]

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(AQI 02936) This briefing essentially tracks the memorandum dated May 25, 1995.³⁷⁵ [REDACTED]

375 [REDACTED]

(S/NF) The CIA failed to immediately provide the FBI with the walk-in document. The CIA faxed the walk-in document to DOE on [REDACTED] but did not provide the FBI a copy of it until [REDACTED] (FBI 417) The failure of the CIA to notify the FBI directly of this information apparently prompted DAD John Lewis to

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adopted [redacted] assessment of the intelligence and communicated those conclusions to the FBI. [redacted] DOE b6, b7C

3. (u) (8) The July 26, 1995 KSAG meeting

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(S/N/P/O/C) On July 26, 1995, [redacted] chaired his first KSAG meeting. This was the second of four KSAG meetings. [redacted] prepared the minutes of this meeting which he circulated within KSAG before the members returned to their respective labs and agencies. (EAT 00367-00369) The assembled group included a number of observers from OEL. Those in attendance included: (1) from OEL: [redacted]

Donald McIntyre

(2) from the CIA

(3) from the DIA:

(4) from SNL:

(5) from LANL:

and (6) from LLNL:

Among those who were absent were [redacted]

(EAT 369) (sign-in sheet); see also DOE 3465

It was at this KSAG meeting that [redacted] became spokesmen for opposing positions!

raise a question at a [redacted] meeting between the FBI and DOE [redacted] (FBI 364, 378)

(u) (S/N/P) The delay in notifying the FBI of the walk-in document may have been inconsistent with the requirements of Section 811 of the Intelligence Authorization Act for 1995, entitled Coordination of Counterintelligence Activities. Section 811 (o)(1)(A) states "the Federal Bureau of Investigation is advised immediately of any information, regardless of origin, which indicates that classified information is being, or may have been, disclosed in an unauthorized manner to a foreign power or an agent of a foreign power." This simply did not occur.

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(S) [REDACTED] KSAG reviewed and approved [REDACTED] minutes of this meeting. These minutes represent a dramatic shift from [REDACTED] earlier assessment [REDACTED]

[REDACTED]

Otherwise, the information is a verification of previous assessments." (Id.)

(S/AF/ID)

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[REDACTED] found these telephone calls irritating since he had taken the time to have KSAG review the minutes as a group prior to concluding each meeting. These telephone calls reflected [REDACTED] subsequently changing their mind. An example of a footnote occurred after the July 26, 1995 meeting. This footnote, drafted by [REDACTED] and supported by [REDACTED] stated:

²⁷⁶(U) A footnote captures a dissenting opinion in an analytical work. An effort is made to minimize footnotes and to form a consensus where possible.

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(S/N/W/D)

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(EAT 414; DOE 4286) [REDACTED] chronology summarizes the July 26, 1995 meeting and incorporates this footnote. "The group agreed to minutes of the meeting prepared by [REDACTED] LANL later took a footnote after further review of information." (DOE 1867, 2040); (FBI 00678-FBI 00679) [REDACTED] minutes for the next KSAG meeting note that [REDACTED] discussed the report from the last meeting and suggested a footnote which we accepted." (EAT 00370-00371 at 70)

(S/N/W/D) There are two important themes in this footnote. First, the characterization of "LANL spokesmen" in the footnote and "LANL" in the OEI chronology inaccurately implies LANL uniformly supported the footnote. Of the assembled experts, both [REDACTED] supported the original minutes as written and agreed to at the July 26, 1995 meeting. [REDACTED] Although [REDACTED] who was not present during the July 26, 1995 meeting, did support this footnote, he made it clear when interviewed that he fully supported the KSAG bullets written just weeks thereafter which did not adopt [REDACTED] view. This mis-characterization had no impact, because the assembled experts understood who noted this footnote. Second, this footnote suggests the formation of a subgroup within KSAG. Each expert believed [REDACTED] to a lesser extent, gave significant deference to [REDACTED] This subgroup initially included [REDACTED] one author of the May 25, 1995 memorandum to Trulock. [REDACTED]

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[REDACTED]

(u) [REDACTED] were both KSAG participants. These [REDACTED] represented KSAG's connection to OEI and to Trulock. [REDACTED] and maintained each meeting's minutes and any written materials that were generated because of the sensitivity of this material. None of the material could leave Washington, D.C. due to security concerns. When the assembled scientists returned to their respective national laboratories in New Mexico and California, it was [REDACTED] who remained in Washington and would become the working group's spokesmen. The scientists all understood this dynamic. OEI was structured to control the dissemination of intelligence information within DOE.

(S) [REDACTED]

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the FBI on the conclusions drawn from [REDACTED] assessment on

(u) [REDACTED]

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(DOB 1867, 2040; FBI 678)

July 13, 1995. The second KSAG meeting reached a much different assessment, one that [REDACTED]

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4. ^(u) ~~(S//NF)~~ The August 16, 1995 KSAG meeting and the walk-in document

~~(S//NF)~~ During the week of August 7, 1995, KSAG representatives reviewed the FBI's [REDACTED] file. (DOE 3435) The material was reviewed at LLNL by [REDACTED]

DOE
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b7c

[REDACTED]

~~(S//RDAE//OC)~~ While KSAG reviewed the [REDACTED] file, [REDACTED]

DOE
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[REDACTED]

~~(S//RDAE//OC)~~ It is important to understand what the walk-in document is and what it is not. [REDACTED]

[REDACTED]

~~TOP SECRET~~

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[REDACTED]

(S//NF//OC//RD) The walk-in document contained

[REDACTED]

³⁷⁸ (S//NF//OC//RD)

[REDACTED]

This similarity was only recently recognized and was unknown to KSAG.

³⁷⁹ (S//NF//OC//RD) It should be emphasized here

[REDACTED]

That is what the FBI is now doing. It is sufficient for our purposes to note

[REDACTED]

~~TOP SECRET~~

[REDACTED]

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~~TOP SECRET~~ [REDACTED]

[REDACTED]

(S/NF/OERD)

[REDACTED]

(S/NF/OERD)

[REDACTED]

~~TOP SECRET~~ [REDACTED]

[REDACTED]

(S//NF//OC//RD) The analysts who saw a broad compromise had the support of [REDACTED]. Prior to the walk-in document, [REDACTED] believed the Chinese had penetrated a national laboratory. [REDACTED] McIntyre summarized a briefing he received from [REDACTED] advised that it was clear to him that [REDACTED] collection activities may have led to passage of design information to the PRC by a lab person or persons unknown." (DOE 3473-3477 at 76) (emphasis added). After receiving the walk-in document, [REDACTED] wrote [REDACTED]

[REDACTED] (DOE 3434) [REDACTED] was sufficiently convinced by the walk-in document's information to recommend KSAG be dissolved. "We believe it prudent, therefore, to conclude the damage assessment effort involving laboratory scientists which has been analyzing the intelligence to determine if the information had to have come from secret U.S. information. . . . We propose to go forward with a very close hold CI investigation to attempt to come up with possible names." (DOE 3340)

also wrote [REDACTED]

(DOE 3436-3440 at 40)

(S//NF//OC//RD)

[REDACTED]

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DOE
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[REDACTED]

(S//NF//OC//RD) Although the compromised W-88 information was not thought to be public, it was believed to have been widely disseminated within this country's nuclear weapons infrastructure. [REDACTED] recalls thinking, [REDACTED]

DOE
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b7C

[REDACTED] While KSAG may have recognized this broad dissemination, [REDACTED] did not. This distinction would prove to be a major failure within OEI.

(S//NF//OC//RD) The KSAG minutes from the August 16, 1995 meeting reflect the assessment [REDACTED]

It also reflected KSAG's assessment [REDACTED]

[REDACTED] The information could not have come from [REDACTED] or from unclassified sources. Therefore, [REDACTED]

DOE
b6, b7C

[REDACTED] (EAT 00370) There was also further debate within KSAG over [REDACTED]

³⁴⁰(S//NF//OC//RD) The KSAG meeting notes from September 7, 1995, reflect this debate [REDACTED]

DOE
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b7C

[REDACTED] (DOE 3431-

3433 at 32)

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[REDACTED] (Id.) KSAG would revise this assessment at their next meeting and in the final bullets."³¹¹

- 5. (S) The September 7, 1995 final KSAG meeting and the September 8, 1995 bullets

DOE
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(U)
(S/AF) The fourth and final meeting of KSAG (and the third meeting chaired by [REDACTED] occurred on September 7, 1995. Although the previous meeting's minutes articulated an intention to "draft a report," EAT 00371, no such report was ever written. Instead, a series of bullets were drafted by the assembled experts capturing their collective assessment of the Chinese nuclear weapons program and the possible compromise of United States classified information. This two-page document, dated September 8, 1995, represents the conclusions reached by the assembled nuclear weapons experts. This brief document was carefully written. The experts recalled significant debate over the use of each particular word and phrase. [REDACTED] was able to draw a consensus among the nuclear experts with only [REDACTED] dissent to two of the nine bullets. No other document was produced by the KSAG nor blessed by the

DOE
b6, b7C

³¹¹(S/NR/OCARD) The final bullets state:

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b7C

[REDACTED]

(DOE 4636) (SC-255-

0025/96)

collective experts³²² These nine bullets represent the only written conclusion produced by the group. The bullets were maintained in DOE's Headquarters inside OEI and were distributed only to the CIA. The FBI never received a copy of the document³²³

(S//NF//OC//RD) KSAG's bullets, if shared with the FBI, could have prevented the misdirection of the FBI's counterintelligence investigation in this case.

See KSAG's second bullet, which states

(EAT 373-374 at 73) (emphasis added).

(S//NF//OC//RD)

³²²(U) KSAG reformed on May 16 and 17, 1996, to brief Deputy Secretary Curtis on their assessment. This later meeting generated a series of slides for use in briefing the Deputy Secretary. KSAG reaffirmed their September 8, 1995 written assessment at this subsequent meeting.

³²³(U) The FBI has only recently become aware of this document as a result of the AGRT's review of KSAG. The AGRT's review of FBI-AQ's files confirm the document was not received in the field. The walk-in document was not shared with the field until 1999. [redacted] and was present during the FBI's October 31, 1995 briefing, did not believe that KSAG's bullets were ever shared with the FBI. [redacted]

DOE
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[REDACTED]

(S//NF//RD)

[REDACTED] the FBI has been investigating a crime which was never established to have occurred [REDACTED]

[REDACTED] DOE's own experts, the nuclear weapons designers themselves, after reviewing the available intelligence, did not make this assessment. Having been inaccurately briefed, the FBI failed to identify those documents which contained the compromised information [REDACTED]. Similarly, they failed to identify those individuals with access to this more limited information.

[REDACTED] The far more limited group identified to the FBI *could have* been the source of this compromise, but a much larger group, including contractors, Department of Defense employees and other DOE employees located at numerous sites across the United States, could have *just as likely* been the source of this compromise. This larger group was not identified to the FBI [REDACTED]

(S//NF//CRD)

[REDACTED]

(S//NF//RD)

[REDACTED]

DOE
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b7C

~~TOP SECRET~~

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[REDACTED] They disregarded KSAG's assessment and in its place briefed to the FBI their personal assessment. This assessment, misrepresented to the FBI as KSAG's assessment [REDACTED]

(S//NF//RD) The earlier [REDACTED] conclusion [REDACTED]

DOE
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b7C

[REDACTED] (EAT 374) who previously had supported [REDACTED] initial assessment, sided with KSAG's consensus by September 8, 1995. When KSAG wrote its nine bullets, only [REDACTED] remained vocal in opposition to this consensus.

(S//NF//RD) Similarly, the footnote to the July 26, 1995 KSAG minutes, written by [REDACTED] joined by [REDACTED] was largely rejected in KSAG's final assessment. This shift reflects the eroding support for [REDACTED] personal assessment. [REDACTED]

(Id.)

(S//NF//RD) [REDACTED]

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[REDACTED]

(Id.)

(emphasis added).

DOE
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(S) The bullets were adopted against only [REDACTED] dissent which was noted in two of the nine bullets. Otherwise the bullets generated by KSAG were uniformly supported then and today by the assembled experts. The AGRT interviewed every major participant in KSAG. No one disputes that the bullets represented the assessment of the experts asked to evaluate the Chinese nuclear weapons program. Every member refers to the bullets as the final word in KSAG's assessment. The bullets represented the working group's final assessment. There was no fragmentation among the national laboratories. The bullets were unanimous but for [REDACTED] dissent. The OEI liaison [REDACTED] raised no objection. When interviewed, both [REDACTED] recall joining the majority and supporting the bullets written on September 8, 1995. [REDACTED] personally gave KSAG's bullets to Trulock. [REDACTED] maintained the bullets and [REDACTED].

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(S)

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[REDACTED]

(u)

E. (S) OEI's inaccurate portrayal of the working group's conclusions to the FBI

(u)

1. (S) OEI's reaction to the KSAG bullets

(u)

(S) The assembled experts returned to their respective laboratories believing their services were no longer needed. They were unaware of the FBI's interest or earlier briefing [REDACTED] on [REDACTED] conclusions. The experts were unaware that the FBI would be briefed on the assembled experts' assessment. Not one of the nuclear weapons designers were asked to participate in this briefing. The [REDACTED] was not aware that such a briefing had ever occurred. Instead, on October 31, 1995, [REDACTED] joined by [REDACTED] briefed the FBI on DOE's assessment of the Chinese nuclear weapons program. This briefing was billed as the working group's assessment. The FBI understood this briefing to summarize the assembled experts' assessment of the available intelligence. The briefing did not include the written bullets and no weapons designer was present.

DOE
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(S) (u) (R) (D)

There are indications that [REDACTED] KSAG's assessment of the available intelligence. First, the OEI chronology mischaracterizes the final KSAG meeting, inaccurately suggesting a split between LANL and OEI versus LLNL and the CIA. Second, [REDACTED] describes [REDACTED] dismissing the KSAG and [REDACTED]. The AGRT assembled the most complete set of FBI records on the Kindred Spirit investigation, from multiple field offices and Headquarters. No copy of KSAG's bullets has been located among the FBI's files.³⁶ Third, [REDACTED] comments to [REDACTED] capture his concerns with the bullets. Finally, [REDACTED] briefed the FBI on October 31, 1995, inviting only [REDACTED].

(u)

[REDACTED] the custodian for KSAG's bullets. [REDACTED] They were not disseminated to the national laboratories. No bigot list was maintained on [REDACTED] [REDACTED] was not aware of the bullets having been given to the FBI, and explained that it was not his responsibility to have provided them. [REDACTED]

b1

to assist him.³¹⁷ The FBI left this briefing believing [redacted] (AQI 2984-2985 at 84)

(U) (S/NF) The OEI Kindred Spirit Chronology makes a significant misstatement of KSAG's assessment.³¹⁸ Noting that this was KSAG's final meeting, the entry observes:

(S/NF) A set of bullets were developed by the group that included LANL, LLNL, SNL, CIA, DIA, and NN-30. [redacted]

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[redacted]

(DOE 1868, 2041; FBI 678)³¹⁹ This inaccurate characterization captures [redacted] KSAG

DOE
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b7C

(U) ³¹⁷(S) [redacted] absence is curious, but may be explained by [redacted]

(U) ³¹⁸(S) The entry is dated September 7, 1995, the last day the KSAG met. The bullets were actually finalized on Friday morning, September 8, 1995.

³¹⁹(S/NF) A similar representation would be made to Deputy Secretary Charles Curtis [redacted] on November 15, 1995, when he inquired about the process used to reach "the conclusion that there is sufficient evidence to deserve a conclusion that there has been an act of espionage." Deputy Secretary Curtis was told that there was "no disagreement among representatives from the three laboratories, including weapons designers who are not in the intelligence field element but cleared for intelligence information." [redacted]

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[redacted] (DOE 3337-3339 at 38)

OOE
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spoke with one voice in its final assessment, yet OEI fragmented that uniformity in an effort to change the message. Rather than accept KSAG's assessment, [redacted] accepted [redacted] judgment to the exclusion of every nuclear weapons designer who had been brought to Washington over several months to evaluate the material.³⁹⁰ When questioned as to the clear discrepancy between the chronology's entry and the bullets themselves, [redacted] explained the bullets speak for themselves and [redacted] [redacted] conceded that this summary of the final KSAG meeting "may have been influenced by [redacted] [redacted]. The error serves to capture the OEI reaction to the KSAG bullets. NN-30 management and staff and LANL presumably refers to [redacted] [redacted]. This completely ignores the fact that [redacted] KSAG and that [redacted] in adopting the final bullets. It further ignores that [redacted] all from LANL, fully supported the bullets. It suggests a fragmentation among the assembled experts that simply was not present.

(S//NF//RD)

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[redacted] told the assembled experts that when his position was vindicated, he would be the [redacted] had accurately assessed the intelligence. During a break [redacted] told [redacted] he was wavering. [redacted] was becoming convinced - again - in the accuracy of [redacted]

³⁹⁰(S//NF//RD)

[redacted] provided the FBI with this chronology on September 16, 1996, [redacted] This chronology was only provided when the FBI made a specific request for it. [redacted] would later, on September 30, 1997, tell the FBI [redacted]

(FBI 20855-20857 at 56)

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[redacted] use of the word "split" tracks the chronology's own misstatement. The chronology elevates [redacted] to a split and then adopts [redacted] position to the exclusion of over a dozen nuclear design experts representing several national laboratories, including the majority of the experts from LANL.

DOE
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position. [redacted] and voiced their concern that the KSAG would not validate [redacted] position as they had previously anticipated. [redacted] told them he would [redacted] According to [redacted] "not to worry about it, [redacted] recalls [redacted] the working group's bullets which described as an effort to downplay the problem. [redacted] conceded that [redacted] was a very persuasive and effective [redacted] He formed an almost unanimous consensus among the experts and ultimately produced the bullets. However, [redacted] recalled learning from [redacted] that [redacted] but later [redacted]

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(S/OCANT/RD) [redacted]

DOE
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(S/OCANT/RD) [redacted] the final bullets, captured in a memorandum to [redacted] raise several questions. [redacted] did not recall any significant questions from [redacted] Three days later, on September 11, 1995, [redacted]

(u) (S) KSAG's membership told the AGRT that they had no imposed deadline during their evaluation and [redacted] additional work by the group.

chairman.³⁹²

[REDACTED] Trulock wrote
"Thank you for your efforts on this project. After reading the memo several times, I find that I still have several questions or areas for clarification."

(DOB 1859)

(S/OCAP/RO)

(U)
392 (S)

³⁹³ [REDACTED] reference to those "who have reviewed the original materials" suggests that only [REDACTED] and the other authors of the May 25, 1995 memorandum reviewed the sensitive material. This assumption is inaccurate. KSAG had access to [REDACTED] the relevant documents provided by the CIA to DOB.

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DOE
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b7C

DOE
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b7C

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DOE
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[REDACTED] The question reveals
[REDACTED] full appreciation of the KSAG assessment.
[REDACTED]

[REDACTED] EAT 04302.
[REDACTED] six-page report expands on KSAG's bullets, but is careful to repeat each bullet
itself word-for-word. [REDACTED] recalls that [REDACTED] report
and, [REDACTED] themselves, it was never circulated. [REDACTED] concluded that KSAG's
bullets, despite [REDACTED] spoke for themselves unless the
entire KSAG were reassembled.³⁹⁵ [REDACTED]

³⁹⁴ (S) [REDACTED]
[REDACTED]
(Id.)

³⁹⁵ (S) [REDACTED] report included each bullet verbatim and distinguished his own
explanation in *italics* to clearly distinguish his writing from KSAG's assessment.
However, [REDACTED] report basically repeated the same KSAG assessment that had troubled
[REDACTED] initially. It was [REDACTED] sense that "I think [REDACTED] would like to have
changed them." "The bullets had to stand unless the group was reassembled." [REDACTED]

(U) 2. (S) OEI's September 13, 1995 meeting with the FBI

(S) [REDACTED] met with DAD Lewis and Section Chief [REDACTED] NSD, FBI-HQ on September 13, 1995, [REDACTED]

The FBI summary of this meeting reflects that [REDACTED]

[REDACTED] initially by [REDACTED] the FBI on the [REDACTED] assessment and [REDACTED] that assessment to KSAG. "On September 13, 1995, [REDACTED] met with the FBIHQ management and verbally advised [REDACTED]"

DOE
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[REDACTED] (AQI 1218-1222 at 18; see also FBI 378)

(S) [REDACTED]
[REDACTED]

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(U) 3. (S) DOE's September 25, 1995 letter to the FBI

(S) On September 25, 1995, Kenneth Baker, Acting Director, Office of Nonproliferation and National Security, DOE wrote a one-page letter to AD Robert Bryant. This letter sought the temporary assignment of an FBI Special Agent to assist with an AI or preliminary investigation "to determine the facts and circumstances relative to the loss of the W-88 weapon[']s design information." (FBI 375,13045; AQI 2960) The letter summarizes the completed KSAG review:

(S) At my direction, an Office of Energy Intelligence, (OEI) working group, consisting of nuclear weapons experts and counterintelligence (CI) officers conducted an in-depth review of available intelligence [REDACTED] to determine if US nuclear warhead design information had been compromised to the People's Republic of China (PRC). [REDACTED]

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[REDACTED] The W-88

warhead was developed at the Los Alamos National Laboratory, Los Alamos, NM, in 1984. This design information was subsequently provided to Lawrence Livermore National Laboratory, Livermore, CA and the Pantex Plant, Amarillo, TX.

(Id.) (emphasis added). This letter repeats a conclusion generated by OEI, but inaccurately attributes it to KSAG.³⁹⁶

(S/NF) KSAG, in clear and unequivocal language, had only concluded that

[REDACTED]

The description of the compromise in the September 25, 1995 letter is not an accurate reflection of KSAG's findings but, rather, [REDACTED]

(S/NF) The origin of the "high probability" phrase can be traced to July 6, 1995. The phrase actually preceded the formation of KSAG. On July 6, 1995, [REDACTED] Investigations & Special Programs, OEI, DOE, wrote [REDACTED]

(U) DOE's copy of this letter, in CID's Kindred Spirit case file, reflects that it was initialed to indicate their concurrence, by both [REDACTED] (September 22, 1995), [REDACTED] and [REDACTED] (September 21, 1995). (DOE 170)

[REDACTED]

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DOE
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FBI /
b6, b7c

his preliminary briefing to the FBI on Kindred Spirit. "SSA [redacted] completely supported OEI's initial requirement to conduct a Damage Assessment to determine, to the extent possible, that the Peoples' Republic of China (PRC), had obtained access to US warhead design information or that there was at least, a high probability that they had accessed said information. (S) SSA [redacted] stated that at this point, there was insufficient evidence to warrant the initiation of an FBI full field investigation. (U)" (DOE 3487) (emphasis added). Also on July 6, 1995, Donald McIntyre, Director, CID, wrote Trulock summarizing McIntyre's conversation with Michael Waguespack, Director, National Counterintelligence (NACIC). "With regard to briefing FBI, John Lewis, he thought that it would be better to have the DOE assessment in hand showing that DOE's position was that there was a high likelihood [redacted]

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[redacted] (DOE 3445-3448 at 47) (emphasis added). These early conversations became a self-fulfilling prophecy. The language used in the September 25, 1995 letter is not from KSAG but that language which the FBI, in effect, told DOE it needed to see in order to trigger a full investigation.

(S/NF/RD)

[redacted] (AQI 2981-2983 at 82)³⁹⁷

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³⁹⁷(S/NF/RD) [redacted] the DOE AI report, provided to the FBI on May 28, 1996. "[A]n Office of Energy Intelligence (OEI) working group, consisting of nuclear weapons experts and counterintelligence (CI) officers conducted an in-depth review of available intelligence [redacted]

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concluding "that during the period [redacted] the People's Republic of China (PRC) may have illegally acquired detailed information concerning the W-88 thermonuclear warhead. (S)(X-1)" (AI at 2; FBI 00526) (emphasis added) [redacted]

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[redacted] (AI at 3; FBI 527)
The message to the FBI was that KSAG had concluded [redacted]

Such an assessment was never made by KSAG. There is no basis to make such a determination from the walk-in document. Instead, [REDACTED] and [REDACTED] for DOE. [REDACTED]

4. (S) ^(u) OEI's October 31, 1995 briefing to the FBI

^(u) (S) On October 31, 1995, OEI formally briefed the FBI on KSAG's conclusions. The FBI attendees were Special Agent (SA) [REDACTED] from Tampa, Florida (selected as the detailed agent for the AI), SSA [REDACTED] Unit Chief [REDACTED] from FBI-HQ and SA [REDACTED] from FBI-AQ. OEI's representatives were [REDACTED]. None of the source documents were shown to the FBI at this briefing. [REDACTED] No one from OEI took any notes of this briefing. (Id.) However, SSA [REDACTED] did take notes and several agents later summarized this briefing.³⁹⁹ It is clear that the briefing given to the FBI did not reflect KSAG's assessment, but rather [REDACTED]. [REDACTED]

FBI
DOE
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^(u) (S) (S) (U) On November 3, 1995, SSA [REDACTED] summarized the October 31, 1995 briefing by OEI:

(S) (U) (S) (U) The FBI representatives were first cleared for and then briefed on [REDACTED]

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[REDACTED] but that assessment was not briefed to the FBI.

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^(u) (S) [REDACTED] had written the original investigative plan for Kindred Spirit and briefly attended portions of KSAG's meetings. [REDACTED]

^(u) (S) (U) In addition to reviewing the written summaries prepared by the FBI and of this briefing, the AGRT interviewed all nine individuals in attendance (SA [REDACTED] SSA [REDACTED] SA [REDACTED] Unit Chief [REDACTED])

FBI
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[REDACTED]

(S)⁴⁰⁰

AQI 2982.⁴⁰¹ A copy of this FBI summary was shared with DOE on November 21, 1995. (DOE 158-60) It was located in OEI's Counterintelligence Division's (CID) Kindred Spirit case file. [REDACTED] recalled an emphasis on the limited number of nuclear weapons tests conducted by the Chinese in contrast to the United States at this briefing. The implication drawn from this comparison was that espionage had clearly occurred. [REDACTED]

DOE
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b7C

⁴⁰⁰(S) [REDACTED] By memorandum dated October 13, 1995, [REDACTED] "coordinated with [REDACTED] and the FBI to have the appropriate clearances . . . passed to insure SSAs [REDACTED] and [REDACTED] may have access to [REDACTED] [REDACTED] (DOE 2424) SA [REDACTED] did not sign the bigot or access list for [REDACTED] reporting until December 19, 1995 and SSA [REDACTED] never saw that [REDACTED] reporting according to DOE's access lists.

FBI
DOE
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⁴⁰¹(S) In the same memorandum, SSA [REDACTED] identifies [REDACTED] as the [REDACTED] [REDACTED] (AQI 2982) The FBI left this briefing with both an inaccurate description of the predicate and an inaccurate understanding of who the experts were who conducted the evaluation. KSAG's scientists described [REDACTED] The FBI believed [REDACTED] were the nuclear experts. No weapons designers were present at this briefing and the FBI failed to appreciate that [REDACTED] were only analysts.

~~TOP SECRET~~

[REDACTED] characterized these comments as an "extrapolation beyond what the group did."⁴⁰² [REDACTED]

(PS)

[REDACTED]

(Id.)

FBI
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(M)
(SAP/TKD) SA [REDACTED] upon returning to Sante Fe, New Mexico, recorded this summary of the October 31, 1995 briefing. By electronic communication (EC) dated November 7, 1995, he noted:

(SAP/TKD) Participants were briefed by [REDACTED] who did the [REDACTED] concerning this matter for LANL. The upshot from this briefing was [REDACTED]

⁴⁰²(SAP/TKD) The FBI included these representations in both their mail cover application to the Attorney General and their FISA application to OIPR. [REDACTED]

(FBI 04332, 04336, 04345)

⁴⁰³(SAP/TKD)

[REDACTED]

⁴⁰⁴(CDE) [REDACTED] In fact, only one FBI agent ever signed DOE's bigot list for access to [REDACTED] Prior to 1999, no other FBI agent has ever reviewed these documents at DOE.

~~TOP SECRET~~

(AQI 2984-2985 at 84) SA [redacted] continued that [redacted] in a separate meeting with SSA [redacted] and SAs [redacted] advised [redacted]

[redacted] (S)⁴⁰⁵ (Id. at 85) This last statement, which is itself inaccurate, reinforced the earlier briefing given the FBI,

(S)⁴⁰⁵ (AQI 970) Like SSA [redacted] SA [redacted] believed that [redacted] was the expert who conducted the evaluation of the Chinese nuclear weapons program. The FBI left the October 31, 1995 brief believing they had spoken with the experts.

(S/NE/OC/RO) SA [redacted] in a communication dated December 13, 1995,⁴⁰⁶ summarized his understanding of the October 31, 1995 briefing.

⁴⁰⁵(S/NE/OC/RO) SA [redacted] understanding that [redacted] Whether [redacted] made this error or whether he simply recorded [redacted] is unclear.

⁽⁷¹⁾(S/NE/OC) SA [redacted] is the only FBI agent to be shown the material by DOE. He reviewed this material on December 19, 1995, and therefore was relying solely upon the October 31, 1995 briefing when this communication was written.

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(S//FOUO)



FBI
DOE
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407(U) [redacted] recalled that [redacted] conducted this briefing.

[redacted] Unit Chief [redacted] recalls [redacted] did most of the talking. (12/29/99) The FBI's records suggest [redacted] did the talking, since both SSA [redacted] and SA [redacted] cite him as the source of various statements. SA [redacted] however, told the DOE IG that the briefing was led by [redacted] interviewed on July 21, 1999. (DOE 2722-2724 at 23)

(U) Of course, [redacted] also had concurred with the KSAG bullets, which made no such judgment. Once the KSAG disbanded, however, their views

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[REDACTED]

F. ^(u) ~~(S)~~ OEI'S own counterintelligence section received the same inaccurate briefing on the KSAG's conclusions

^(u) ~~(S)~~ The FBI did not participate in the KSAG nor did they receive the group's written assessment of the Chinese nuclear weapons program. Instead, they received the October 31, 1995 briefing. Understanding the importance of this briefing, the FBI brought not only the detailed agent for DOE's AI, but also the assigned agent from FBI-HQ's China desk and his supervisor and even flew in the potential case agent from FBI-AQ. This briefing represented the foundation not only of the FBI's understanding of

reverted to a far more expansive perception of the compromise's scope.

DOE
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⁴⁰⁹ ~~(S)~~ Both [REDACTED] have changed their assessment of the compromise's scope today. [REDACTED] has adopted a position entirely consistent with KSAG's bullets, to which he frequently referred when interviewed. [REDACTED]

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[REDACTED] agreed [REDACTED] position has changed more dramatically than his own since 1995, to the point where [REDACTED] today has adopted an entirely different position. [REDACTED]

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[REDACTED]

(DOE 4631) (SC-255-0025/96)

DOE
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b7C

this case, but also the foundation of DOE's own CI investigation, done by [REDACTED]
Because [REDACTED] an
independent understanding of that group's assessment. Like the FBI, [REDACTED] relied upon
this briefing to answer those questions raised [REDACTED]

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(S//NF//FOUO) The FBI was not alone in leaving the October 31, 1995 briefing with
the understanding [REDACTED]
[REDACTED] was also present for the briefing. [REDACTED] was
tasked with conducting the AI for DOE.⁴¹⁰ [REDACTED] wrote: [REDACTED]

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[REDACTED] (AI at 1;
FBI 525) [REDACTED] summarized this briefing in language virtually identical to that used by
the FBI. This briefing, conducted by [REDACTED] on October 31, 1995,
gave the same inaccurate representations to both the FBI and DOE. Instead of providing
the written bullets from DOE's own experts,⁴¹¹ [REDACTED] disseminated a much
different assessment, misrepresenting their own assessment as the working group's
conclusion. This briefing presented the combined OEI/FBI investigators the view of
KSAG's dissent, representing [REDACTED] view as the unanimous assessment of the
assembled experts.

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(S//NF//FOUO) When [REDACTED] report he repeated the OEI's inaccurate
briefing. The final AI report, [REDACTED]
simply reaffirmed the inaccurate assessment previously provided to the FBI and [REDACTED]

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[REDACTED]

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^(u)
⁴¹⁰(S) Unlike the FBI, [REDACTED] some KSAG
meetings. However, his [REDACTED] hence his need to receive the same
briefing provided to the FBI on October 31, 1995. [REDACTED] 8/4/99; [REDACTED] 8/10/99); also
see KSAG interviews generally (noting [REDACTED] infrequent attendance).

^(u)
⁴¹¹(S) [REDACTED] has never seen the KSAG bullets. [REDACTED] 3/21/00)

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[redacted] (AI at 2; FBI 526) KSAG never reached such a judgment. Moreover, the FBI understood this statement to refer to the walk-in document, [redacted]

[redacted]

(u)
(S//NF//RD) Similarly, the final AI report contains this section:

(S//NF//RD) [redacted]

• (S//NF//RD) [redacted]

• (S//NF//RD) [redacted]

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(u)
(S) This paragraph was taken, with minor changes, from SA [redacted] investigative comments provided by SA [redacted] (FBI 526)

(u) (S//NF//OC//RD) The document states: [redacted]

(FBI 00430)

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(S//NF//RD)

(S//NF//RD)

(S//NF//RD)

(AI at 2-3; FBI 526-527) (emphasis added)

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^(u)
“(S) Portions of this quotation actually originate from SA [redacted] investigative comments which [redacted] incorporated into the AI report. See FBI 15868 and FBI 19296. The fact that [redacted] expands upon SA [redacted] comments demonstrates his similar understanding of the October 31, 1995 briefing received from [redacted]”

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KSAG concluded the advancement observed in the Chinese nuclear weapons program may have occurred indigenously. KSAG assessed [REDACTED]

[REDACTED] (EAT 373) who first reviewed these portions of the AI at the request of the AGRT, conceded it was "overstated" and the working group would not have agreed with it. [REDACTED] observed that [REDACTED]

(u) [REDACTED] and the FBI heard only [REDACTED] assessment, elevated by OEI to represent the unanimous assessment of KSAG. This briefing, [REDACTED] ensured that DOE itself would investigate the wrong crime during their own AI. The inaccurate predicate inherent in DOE's own investigation would be relied upon by the FBI during their subsequent investigation. The error would not be recognized until 1999.⁴⁶ Little, if any, oversight was exercised over [REDACTED] the FBI. [REDACTED] September 25, 1995 letter to the FBI was [REDACTED] Deputy Secretary Curtis, who personally briefed the CIA, [REDACTED] concerning the FBI. (Deputy Secretary Curtis 1/24/00) [REDACTED]

⁴⁵(S/RD) A Kindred Spirit time line, classified by [REDACTED] records the working group's conclusion much differently. [REDACTED] (DOE 3466-3468 at 67) This simply was not KSAG's conclusion.

⁴⁶(S/RD/DF/OE) The FBI was absolutely convinced it accurately understood the experts' assessment. The FBI submitted a summary of its own Kindred Spirit investigation as an appendix to a September 1997 CIA position paper. The FBI summary stated, [REDACTED]

[REDACTED] (FBI 12360-12390 at 71, 85, 90) As late as November 27, 1998, the First Annual DOE Threat Assessment Report repeated this inaccurate summary of KSAG's assessment. [REDACTED]

[REDACTED] (FBI 6503-6537 at 15)

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[REDACTED]

(S//NF) [REDACTED] were each familiar with KSAG's assessment. [REDACTED]

[REDACTED] Together all [REDACTED] were aware of KSAG's concise assessment of the Chinese nuclear weapons program. [REDACTED]

[REDACTED] Instead, these [REDACTED] and the FBI on a much broader compromise than found by KSAG. [REDACTED]

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(S//NF) When asked by the AGRT about the inaccurate predicate in the final AI report, [REDACTED]

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[REDACTED]

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[REDACTED] Similarly, [REDACTED] attendance at KSAG meetings was fragmentary at best. [REDACTED] depended upon [REDACTED] October 31, 1995 briefing to understand KSAG's assessment. He based [REDACTED] upon this [REDACTED] was

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[REDACTED] surprised that the FBI would have paid attention to that portion of the AI report discussing the investigation's predicate. [REDACTED] 10/12/99)

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(S//NF) SA [REDACTED] when questioned by the FBI on September 1, 1999, was not aware of any "dissenting opinions" within DOE's assembled experts. [REDACTED]

DOE b6, b7C

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[REDACTED] (DOE 2377)

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~~TOP SECRET~~ [REDACTED]

[REDACTED] (DAG 1180-1184 at 81) SA [REDACTED] repeated the same understanding when interviewed by the AGRT. [REDACTED] 12/14/99) The FBI and DOE investigators left the OEI briefing [REDACTED]

[REDACTED]

(u)
G. (S) DOE's investigative plan and OEI's misrepresentation of KSAG's conclusions

(S) The DOE AI was the product of DOE's counterintelligence entity, [REDACTED]. The AI was the product of a single [REDACTED] with the assistance of a single detailed FBI agent, SA [REDACTED] traveled from Tampa, Florida just four times in support of this investigation. [REDACTED] stressed to the AGRT that SA [REDACTED] only spent "two weeks" on this preliminary investigation within DOE.⁴¹⁹ [REDACTED] 8/4/99; [REDACTED] 8/10/99; [REDACTED] 10/26/99) The inquiry sought to identify PRC visitors to DOE facilities which worked on the W-88 and DOE employees from these same facilities who traveled to the PRC during [REDACTED] (AI at 4; FBI 525-577 at 28) OEI requested an

⁴¹⁸ (S) SA [REDACTED] both told the AGRT [REDACTED]

(u)
⁴¹⁹ (S) These four trips consisted of two trips to Washington, D.C., to attend the October 31, 1995 briefing and to review documents in DOE's SCIF on December 19, 1995; one trip to LLNL in December 1995 and one two-week trip to New Mexico, split between LANL and DOE's Albuquerque Operations Office (AL) reviewing personnel records. SA [REDACTED] indicates he spent about five weeks on the AI. [REDACTED] 12/14/99)

~~TOP SECRET~~ [REDACTED]

FBI agent be detailed in support of this preliminary investigation by letter dated September 25, 1995. (FBI 375) The final AI report was provided to the FBI on May 28, 1996.⁴²⁰ The FBI opened a full investigation on May 30, 1996.

DOE
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(S/NP/RO) [REDACTED] developed an investigative plan for DOE AI in June 1995. This plan was shared with the FBI-HQ.⁴²¹ (FBI 336-337) [REDACTED]

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[REDACTED] (Id. at 36) This well conceived plan was not followed. KSAG never assessed [REDACTED]

[REDACTED] The OEI briefing, however, did provide answers to the satisfaction of both [REDACTED] and the FBI. The OEI briefing indicated [REDACTED]

[REDACTED] Although purporting to speak for KSAG, neither conclusion was reached by the working group. Relying upon this briefing, [REDACTED] began tasking LANL and LLNL to assemble their records of PRC visitors and laboratory personnel travel records for future review.

FBI
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⁴²⁰(U) The final and draft AIs are very poorly written. Lacking any effective structure and utilizing horribly inexact language, both are often impossible to understand or follow. Assertions are made without explanation or apparent support. While both the draft and final AIs identify [REDACTED]

[REDACTED] the final AI was never reviewed nor approved by SA [REDACTED]. The unfinished draft AI reviewed and approved by SA [REDACTED] was subjected to [REDACTED]. These changes were not subsequently shown to SA [REDACTED]. Amazingly, the FBI never shared the final AI with SA [REDACTED] nor was he consulted further by either FBI-HQ nor FBI-AQ. SA [REDACTED] assumed the draft he approved was the version provided to the FBI. The FBI assumed the version they received was the same as the one approved by SA [REDACTED]. Neither assumption was correct.

DOE b6, b7c

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⁴²¹(S) A copy of [REDACTED] investigative plan was located in the FBI-HQ's case file

(S//NF//OC//RD) [REDACTED] identified five specific requirements⁴²² to enable him to pursue logical leads and narrow the inquiry. These requirements were not addressed by the working group. Instead, [REDACTED] developed answers to guide the AI. These answers tracked [REDACTED] description of the compromise's scope. For example, [REDACTED] first requirement identified a need for a chronology tracking the development history for the compromised United States weapons design information. [REDACTED]

DOE
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[REDACTED]²³ This requirement alone might have avoided the inaccurate assumptions made during the AI. [REDACTED] received an incomplete oral chronology of the W-88's development. Citing [REDACTED] as the source of this information, the final AI report states:

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(S//NF//OC//RD) [REDACTED]

⁴²²(S//NF//OC) These requirements were written prior to the first KSAG meeting. [REDACTED] plan. In its place, several participants recall [REDACTED] who chaired this initial meeting, listed "Key Questions" presented by [REDACTED] in the minutes. These four questions are:

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[REDACTED] (DOB 4272-4273 at 72) [REDACTED]

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⁴²³(S//NF//OC//RD) [REDACTED]

(AI at 3; FBI 00525-00577 at 27)⁴²⁴ The AI developed a window within which the compromise occurred.

[REDACTED]

(S/NE/OC/RS)

[REDACTED]

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⁴²⁴(S/PR/D) Although the AI report cites [REDACTED] for this information, it lacks a date. It is unclear whether this information came from the October 31, 1995 briefing, or from an earlier or later briefing. Further confusing the matter is that [REDACTED] much of this language from SA [REDACTED] investigative comments.

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[REDACTED]

(FBI 19296-19299 at 96) (underlined language borrowed by [REDACTED] SA [REDACTED] attributes his investigative comment to [REDACTED] (ANL). [REDACTED] paraphrasing the comment, attributes it to [REDACTED]. The difference is important. [REDACTED] was not a participant in KSAG and never reviewed any of the underlying intelligence. [REDACTED] depended upon the investigators to define the compromise's scope. [REDACTED]

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[REDACTED]

(EAT 237-242 at 41)

This is an example where the walk-in document acted as a mirror, reflecting what the analysts already expected to see.

(S//NF//OC//RD)

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[REDACTED]

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(U)

(S//NF) The OEI working group did not "identify the specific documents that contain the compromised data." (FBI 336-337) This failure is significant because had KSAG searched for such documents, and had the results of that search been communicated to [REDACTED] and SA [REDACTED] the investigators would have appreciated the broad dissemination of the compromised information.⁴²⁵

(S//NF//OC//RD)

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[REDACTED]

(S//NF//OC)

b1

[REDACTED]

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~~TOP SECRET~~

[REDACTED]

(S//NF//RD)

(FBI 336-337 at 36) Again, KSAG never addressed this requirement. [REDACTED] identified the individuals and locations with access to the compromised W-88 information. [REDACTED]

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(S//NF//RD)

[REDACTED]

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(S//NF//RD)

[REDACTED]

(AI at 4; FBI 525-77 at 28)^{CS}

[REDACTED]

^{CS}(S//NF//RD)

[REDACTED]

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(S//NF) It is true that LANL was not the only DOE location mentioned in the AI, but LANL was clearly emphasized as the likely location of the compromise by the Chinese. In the final report, LANL is subdivided into individual groups and offices, while the other locations are not subdivided.⁴²⁷ The report breaks LLNL into three divisions (A, B and W), but they are all eliminated in the final report.

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[REDACTED]⁴²⁸ (AI at 39; FBI 563) Other locations were either ignored entirely (Defense Program elements) or the AI simply records that no records were located.⁴²⁹

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(S//NF) [REDACTED]
[REDACTED] LANL became the focus as a direct result of how [REDACTED] defined the scope of the compromise. [REDACTED]

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⁴²⁷(U) The language identifying various locations of the compromise comes from SA [REDACTED] investigative plan for the subsequent full investigation by [REDACTED] and placed in the final AI report. Although not taken verbatim, [REDACTED] selected portions, deleted others and attributed the source for the information to [REDACTED]

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⁴²⁸(S//NF) [REDACTED]
[REDACTED] (AI at 35; FBI 00559)

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⁴²⁹(S) [REDACTED] requested the Office of International Technology Cooperation, DOE, to assemble all DOE Headquarters and field personnel's travel records. "The Foreign Travel Management System (FTMS), which identifies DOE Federal/Contractors traveling to foreign countries did not exist during the period [REDACTED] Further, during the period in question there was no specific DOE requirement to document and permanently retain such information." (AI at 5; FBI 529) Thirty-one pages later, [REDACTED] records a similar response for Rocky Flats. (AI at 36; FBI 560) Neither location is identified in the final report as requiring further investigation.

[REDACTED]

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It was [REDACTED] impression that some of KSAG's members from LANL, including [REDACTED] thought LANL was the probable site of the compromise. Every time the discussion would move away from LANL, these members would bring it back to LANL. That focus didn't make sense to [REDACTED]

[REDACTED]

(S//D//NF)

[REDACTED]

The FBI readily accepted both this predicate and abbreviated suspect list and, until December 1998, never questioned the accuracy of the briefing or final AI report. Had the investigators been accurately briefed, they could have begun to identify the documents which were the likely source of this compromise. The current investigation, begun only recently, may be able to identify the documents which were compromised. This investigation, deferred for three years due to an inaccurate briefing, now must occur with the associated publicity and still greater passage of time. KSAG deserves recognition for rapidly evaluating the available intelligence and producing a one and one-half page assessment which has survived the test of time.

Unfortunately, because KSAG's assessment conflicted with [REDACTED] it was never disseminated.⁴⁰ The briefing given to the investigators has not survived the test of time.

(u)
H. (S) Missed opportunities to discover the inaccuracies in the OEI briefing

(SAP) There were a number of occasions when the investigators might have realized that the OEI briefing was inaccurate.⁴¹ Five missed opportunities occurred prior to the AI's completion. The first missed opportunity occurred in August 1995, when the LANL liaison FBI agent learned of and reported to FBI-HQ the debate within KSAG. The second missed opportunity occurred when the investigators visited LLNL on December 4-7, 1995, and spoke with [REDACTED] briefed KSAG on the particulars of [REDACTED] and was aware of [REDACTED] in the walk-in document. The third missed opportunity was when SA [REDACTED] reviewed the supporting intelligence for the predicate on December 19, 1995. The fourth opportunity occurred when the FBI received the walk-in document [REDACTED]. The fifth opportunity occurred when [REDACTED] at LANL, sought access to the walk-in document in conjunction with the investigators' visit to LANL in February 1996. During this visit, at [REDACTED] suggestion, the investigators and future case agent were briefed by [REDACTED] concerning the dissemination of W-88 information.

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(SAP) [REDACTED] KSAG's briefing to Deputy Secretary Charles Curtis on May 17, 1996, also never left DOE. Deputy Secretary Curtis could not recall why the FBI were not at the briefing. (Deputy Secretary Curtis 1/24/00)

(SAP) This section should not be understood to shift responsibility from OEI, which ultimately is accountable for inaccurately briefing the investigators as to the compromise's scope. [REDACTED]

1. (U) Missed opportunity #1

FBI
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(SANT) SA [REDACTED] the FBI's liaison to LANL, based in Sante Fe, New Mexico, became aware of the debate within KSAG during a telephone conversation with a LANL counterintelligence officer on August 10, 1995. This source repeated information obtained from Diane Soran, deceased, who was then the supervisor of many LANL employees detailed to the OEI working group, KSAG. SA [REDACTED] repeated this information in a communication to FBI-HQ on August 22, 1995. "Lawrence Livermore National Laboratory (LLNL) individuals (NFI) and CIA personnel (NFI) familiar with the information which initiated DOE efforts in Kindred Spirit believe it is not unreasonable for the PRC, on its own, to do what was claimed in the document in the possession of the CIA. LANL individuals involved in the DOE damage assessment do not feel this way, and want to do more assessment. LLNL and the CIA believe DOE is dealing with a non-issue, and the CIA has told this to DOE HQ." (AQI 2944-2946 at 45, AGO 191-193) The cable continues: "The issue is whether the PRC could have arrived at the information, as contained within the document in CIA possession, on its own without outside help, [REDACTED] (Id.) The communication repeats hearsay and contains several errors. However, it does place the FBI on notice that there are conflicting opinions among the experts reviewing the intelligence. It identifies [REDACTED] and also identifies [REDACTED] although

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[REDACTED] confusing his role [REDACTED] work.⁴² (Id. at 46)

^(U)
^(S) DOE's Office of Counterintelligence has recently noted that this cable was never provided to DOE prior to late 1999. (FBI 19224-19233)

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(U)
(S/NF) SA [REDACTED] followed his August 22, 1995 cable with another dated October 10, 1995. This second communication again relied upon the LANL counterintelligence officer repeating information learned from Soran.⁴³ Written a month after KSAG had provided its written assessment [REDACTED] it states that:

1. (U)
(S/NF) The damage assessment report is complete, and somewhat of a consensus was reached. The report was provided to [REDACTED]
2. (U)
(S/NF) The bottom line is the PRC possibly could have come up with the information in question without help, but such possibility is not probable.
3. (U)
(S/NF) If information were provided to the PRC, the time period is such that a leak cannot be limited to any particular laboratory or organization.

DOE
b6, b7C (AOI 2964-2965 at 65) Soran revealed that the KSAG report was provided [REDACTED], although no specific individual is identified and this cannot be verified.

(U)
(S/NF) Thus, by October 10, 1995, the FBI had in its files, at both Headquarters and in the field, communications raising a number of very important leads. They identified a "damage assessment report" that was never given to the FBI; provided the names of two prominent weapons designers who participated in KSAG; identified the wide dissemination of the leaked information ("the time period is such that a leak cannot be limited to any particular laboratory or organization"); suggested the CIA and LLNL did not agree with DOE HQ or LANL and suggested that the PRC might have accomplished their achievements indigenously. Had these leads been pursued by the FBI, the problems identified in this report could have been avoided.

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DOE
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⁴³(U) Unfortunately, because Soran is deceased, we are unable to determine the source of her information. Soran related these facts to [REDACTED] at LANL. It was [REDACTED] who repeated them to SA [REDACTED] to keep him apprised of the progress in DOE's evaluation of the intelligence in Washington.

2. (U) Missed opportunity #2

(u)

(8) The second missed opportunity occurred at LLNL. During the AI, the investigators made trips to LLNL and LANL to review PRC visitor records, employee travel records and to identify employees with access to the W-88 design. The week of December 4, 1995, [REDACTED] (OE/CID) and SA [REDACTED] (FBI) met with [REDACTED] at LLNL to begin this process. The investigators identified records they wanted assembled for their review during a later trip⁴³ and generally discussed their investigative plan. (DAG 808 [REDACTED] LLNL, where he has been employed for [REDACTED]. He is a [REDACTED] expertise in weapons design and testing.⁴³

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DOE
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⁴⁴(8) [REDACTED] would make this return trip on April 9 to 18, 1996, without SA [REDACTED] who had been given a new assignment by FBI-HQ. [REDACTED] had decided against delaying the trip to LLNL until June when SA [REDACTED] would return and made the trip alone. On April 9, 1996, [REDACTED] interviewed [REDACTED] to obtain the "salient information" captured in the AI. See AI at 18, FBI 00542. [REDACTED]

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b6, b7C

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(AI at 39)

⁴⁵(S.A.T.F.) While investigating [REDACTED] prior to their retirement from the FBI, [REDACTED] utilize [REDACTED] to assess the scientific information in the case. [REDACTED] upon retiring from the FBI and assuming counterintelligence responsibilities at LLNL, brought [REDACTED] into the office to assist them with both the science and institutional history. This association reflects the effective utilization by [REDACTED] of a scientist to guide and inform an investigation at a national laboratory. There would not be any parallel in the Wen Ho Lee investigation at LANL. This vacuum impacted the FBI investigation of Wen Ho Lee in a number of significant ways, including explaining LANL's computer system, questioning the assumptions associated with the predicate, and identifying other scientists who could assist the investigation.

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~~TOP SECRET~~ [REDACTED]

(S//NF//OC//RD) [REDACTED]

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[REDACTED]

(S//NF//OC//RD) [REDACTED]

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[REDACTED]

⁰⁶(U) This review occurred in early August 1995. (FBI 00678)

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⁰⁷(S) The scope of this search was problematic since [REDACTED] only reviewed a single vault in the "A" Division at LLNL. There are numerous other vaults at LLNL with a variety of W-88 documents. When interviewed [REDACTED] estimated there would be over a hundred thousand documents in LLNL's vaults. He alone examined one vault and never represented to [REDACTED] that there were no other W-88 documents at LLNL. He was asked to conduct a discreet search, which he conducted in the vault he thought most likely to have the material. [REDACTED]

~~TOP SECRET~~ [REDACTED]

[REDACTED] (AI at 35; FBI 559) This was the only time a scientist who had seen the walk-in document and not associated with Trulock's staff, was interviewed during the AI.

[REDACTED] It underscores the importance of accurately briefing the investigators initially, because security concerns combined with the discreet approach adopted during the AI severely limited the possibility that [REDACTED] and SA [REDACTED] would identify the flawed predicate.

DOE
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3. (U) Missed opportunity #3

(S//~~FOUO~~) The third missed opportunity to identify the inaccurate OEI briefing occurred when SA [REDACTED] returned to Washington to get a DOE badge to allow access to DOE facilities. While in Washington, SA [REDACTED] visited the Forrestal Building's SCIF to personally review the underlying intelligence reporting. SA [REDACTED] a former FBI-HQ Unit Chief managing the [REDACTED] program, with extensive experience in [REDACTED] was an experienced agent well suited for the particular concerns present in this investigation. SA [REDACTED] made no notes of his review of this material and when initially interviewed by the AGRT, had forgotten his return trip to Washington just before Christmas to review the supporting intelligence. SA [REDACTED] did recall the trip when shown [REDACTED] memorandum to Trulock, dated December 19, 1995, which stated "[o]n December 19, 1995, SSA [REDACTED] visited NN-30 and reviewed the appropriate [intelligence] data salient to this inquiry."

[REDACTED] (DAG 809) [REDACTED]
12/14/99)

(S//~~FOUO~~) SA [REDACTED] review of the supporting intelligence included [REDACTED]. There is no record of any additional material he reviewed on December 19, 1995.

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[REDACTED]

This review had no appreciable impact on his understanding of the compromise's scope. When questioned about [REDACTED] in the walk-in document, SA [REDACTED] had no recall of seeing the [REDACTED] SA [REDACTED] explained that he accepted the OBI briefing's exclusive focus on the W-88. He could not explain why the [REDACTED] because he could not, when interviewed, recall any discussion of them. [REDACTED] (7/26/99; [REDACTED] 12/14/99) The intelligence, read alone, made little sense to SA [REDACTED]. He saw nothing within the document that he felt could meaningfully contribute to the AI investigation or suggest additional leads.

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(S//NF//OC//RD)

[REDACTED]

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This review did not impact upon the AI. SA [REDACTED] was certain he never reviewed the KSAG bullets. When shown the two-page document, SA [REDACTED] quickly understood the impact of KSAG's inability to eliminate indigenous development. His own investigative comments, written several months later, identified this as a major outstanding issue.

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[REDACTED] (FBI 2853) SA [REDACTED] review of the supporting intelligence

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(S) DOE's version was received prior to formal dissemination by the CIA,

[REDACTED]

represented the FBI's only access to the raw materials in this investigation.

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The FBI never received access to KSAG's written bullets.

4. (U) Missed opportunity #4

(S//NF//OC//RD) The fourth missed opportunity during the AI occurred when the FBI received a copy of the walk-in document.

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FBI

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SSA [redacted] conceded as much from his own review of the document. (12/15/99) Nevertheless, the FBI uncritically accepted SSA [redacted] explained that the FBI presumed that DOE had the appropriate expertise, not readily available anywhere else in the country, to assess the implications of this intelligence. The FBI was no more prepared to go behind the predicate for this investigation [redacted]

(S//NF//OC//RD) It was a grave mistake for the FBI not to insist upon a detailed explanation of the underlying intelligence for such an important FCI investigation.

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Nevertheless, despite little prior experience working FCI cases with OEI, the FBI was prepared to accept the OEI evaluation of the intelligence and was not about to test that assessment. This failure to insist upon a complete understanding of the investigation's predicate at its inception cost the FBI years while they pursued an inaccurate predicate. More importantly, it cost the FBI the opportunity to investigate this crime without the publicity that is now irrevocably associated with this matter. This impact cannot be undone regardless of the resources devoted to the case today.

FBI
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(U) SSA [redacted] believes he saw a copy of the walk-in document before its official dissemination to the FBI, but could provide no further information. (12/15/99)

5. (U) Missed opportunity #5

(U)

(S/NF) The fifth missed opportunity to understand the inaccuracies in OEI's briefing occurred when the investigators visited LANL in February 1996. [REDACTED] was concerned that the investigators were not aware of the broad dissemination of data that occurred during a warhead's development in Phase III.⁴⁴⁰ [REDACTED] suggested that the investigators speak with [REDACTED] in an effort to better understand the dissemination of W-88 warhead design information. [REDACTED] who had previously worked with [REDACTED] was generally familiar with both the W-88 and LANL's archives. On February 14, 1996, [REDACTED] discussed Phase III for the W-88 and roughly outlined the possible locations which would have design information. [REDACTED] nor was he briefed by any member of KSAG as to the group's assessment of the Chinese compromise.

FBI
DOE
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(S/NF/OC) Prior to [REDACTED] briefing, the investigators met with [REDACTED] and SA [REDACTED] (FBI Sante Fe) on February 13, 1996. SA [REDACTED] notes of this meeting reflect the discussion included the walk-in document. [REDACTED]

[REDACTED] (FBI 15869) sought the OEI's permission to use the walk-in document at this meeting. (FBI 677) [REDACTED] if [REDACTED] report could be discussed with [REDACTED] at LANL tomorrow. [REDACTED] talked to [REDACTED] and the conclusion was that [REDACTED] do not need to read the report, but it is alright for [REDACTED] to discuss the necessary information.⁴⁴¹

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⁴⁴⁰(U) There were seven phases in a warhead's development prior to the nuclear weapons test ban. These phases began with competitive design concepts by LLNL and LANL to fulfill an articulated need from the Department of Defense and ended with deactivation of a warhead. Phase III represented the point at which the winning concept had been selected and tested and was moving to development. It is the point at which numerous contractors begin to see a warhead's design. [REDACTED] 11/10/99)

⁴⁴¹(S/NF/OC) Had [REDACTED] he would have been acting in full accordance with the CIA's imposed restrictions on the

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~~TOP SECRET~~ [REDACTED]

(S//NF//RB) [REDACTED] had not reviewed the underlying intelligence. [REDACTED] of course, had, but his statements at this meeting tracked the October 31, 1995 briefing. [REDACTED]

[REDACTED] (FBI 15869)

(S//OC/NF//TD) After the [REDACTED] SA [REDACTED] SA [REDACTED] and [REDACTED] meeting, [REDACTED] and SA [REDACTED] interviewed [REDACTED]. The information provided to [REDACTED] however, was only as reliable as the guidance he received concerning the scope of the compromise. Had [REDACTED] received a clear and comprehensive understanding of the contents of the walk-in document he could have -- at this early date -- identified to the AI's investigators those locations where this limited information would have been disseminated. The inaccuracies of OEF's briefing could have been short-lived. Instead, [REDACTED] relied upon the investigators' description of the Chinese compromise. [REDACTED]

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[REDACTED] (AI at 5; FBI 529)

handling of this intelligence. In a cover letter from [REDACTED] Deputy Director for Operations, these restrictions were identified. "No copies of this report may be provided to any organization located outside of the Washington area. The contents of the report . . . may not be discussed with members of the Department of Energy's national laboratories." (FBI 00418) On June 19, 1996, after the AI report's release, [REDACTED] to review the walk-in document in Washington. [REDACTED] later briefed LANL Director Hecker on his own assessment of the walk-in document. (FBI 00675)

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(S) SA [REDACTED] notes reflect both [REDACTED] LANL, and [REDACTED] SNL, as individuals familiar with the W-88's background. Neither were ever interviewed by the FBI prior to 1999, despite SA [REDACTED] presence at this meeting. Both [REDACTED] and [REDACTED], when finally interviewed last year, dramatically altered the FBI's understanding of the compromise's scope.

~~TOP SECRET~~ [REDACTED]

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[REDACTED] His response would have been markedly different had the [REDACTED]

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[REDACTED]

(u)
(S/NF) [REDACTED] obtained a list of the various test shots involved in the development of the W-88 as part of his assistance. When read the list from the AI,⁴³ he confirmed that it looked like the list he provided the investigators. [REDACTED] explained that he padded this list with additional test shots to be deliberately over-inclusive so as not to exclude any possible suspects. In conjunction with this effort, he obtained and assembled the names of the lead engineer, primary designer, secondary designer, P Division individuals, radio chemists and others involved with each shot. He recalls generating a lot of names. [REDACTED]

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(S/NF/RD) [REDACTED]

[REDACTED] There is some evidence that [REDACTED] did discuss with the investigators the broad dissemination of W-88 information. [REDACTED] notes from [REDACTED] interview, [REDACTED] 407-408), state [REDACTED] in the design and test phase, 5-6 years proceed. There is a large number of people have access to development. There is also the engineering group. At these stages the documents would be voluminous." [REDACTED] 407) This revelation never made it to any version of the AI report.

(S/RD) Moreover, [REDACTED] firmly believed SNL to be within the possible venues where a compromise may have occurred, regardless of how the compromise's scope was defined. He recalls making that statement during his briefing to the investigators in 1996. SNL would have access to all the design information as they weaponized the W-88 and would have become a repository for nuclear weapon data afterwards. SNL is one of the choke points that would be expected to have all the

⁴⁰(u)
(S) [REDACTED] was never shown the AI report nor asked to review his AI interview for accuracy.

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relevant design material. [REDACTED] This recollection, however, conflicts with SA [REDACTED] and [REDACTED] notes of that briefing. SA [REDACTED] notes state "Sandia (questionable)." (FBI 15870) [REDACTED] notes state: "Sandia does not get specifics data." [REDACTED] (406) SA [REDACTED] written interview states: [REDACTED] was asked which other US Government agencies, facilities, or contractors would have had access to information about the W-88 during the time period: [REDACTED]. He said that, in addition, [REDACTED]

[REDACTED] (FBI 2852) Regardless of the conflicting recollections from this interview, the fact is that the draft AI report identified SNL as a possible location where the compromise might have occurred. [REDACTED] identified each location as possessing information on the W-88, including DOE HQ, DOE Albuquerque Operations Office (AL), LLNL, SNL and Rocky Flats, in his signed AI report. However, [REDACTED] to the FBI. Compare DOE 71 with FBI 531. b1

(S/RD) [REDACTED] recalls the investigators' interest in the design history of the W-88, particularly the dates when each design change was made. He was unable to provide this type of information. [REDACTED] did not have access to such information and is certain he did not attempt to provide it to the investigators. [REDACTED] never spoke [REDACTED] about his briefing nor did they provide any information to him. [REDACTED]

I. (U) KSAG's briefing of Deputy Secretary Charles Curtis on May 17, 1996

(u) (S) In May 1996, Deputy Secretary Charles Curtis asked to be personally briefed by DOE's experts. KSAG had not previously briefed the Deputy Secretary. KSAG's

(u) (S) SA [REDACTED] never spoke to [REDACTED] to follow up on any of these issues nor did he ask [REDACTED] to locate documents or generate lists of individuals who worked on any particular part of the weapon. [REDACTED] cannot recall SA [REDACTED] ever contacting him with any question related to the W-88. He simply was not utilized as a resource by the FBI, despite his involvement in the AI.

written assessment, two-pages of bullets, were provided to Trulock on September 8, 1995. Trulock then briefed Deputy Secretary Curtis, not KSAG.⁴⁴³ On May 16, 1996, KSAG reassembled in Washington and reviewed their written assessment. This group included [REDACTED] (LANL), [REDACTED] (LLNL), [REDACTED] (LLNL), [REDACTED] (LANL), [REDACTED] (NN-30), [REDACTED] (LANL), [REDACTED] (LLNL), [REDACTED] (SNL).⁴⁴⁴ The bullets were assessed as still accurate and slides were prepared for the Curtis briefing the next day. These slides were drawn directly from the bullets.⁴⁴⁷

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(U)
(S) The briefing was given by [REDACTED] (with a number of comments from [REDACTED]). Attending the briefing were Deputy Secretary Curtis, [REDACTED]. From the OEI were [REDACTED]. From KSAG in addition to [REDACTED].

⁴⁴⁸ No one interrupted the briefing nor spoke in dissent. [REDACTED] sat quietly throughout the briefing. This briefing is important because it proceeds

(U)
(S) [REDACTED] told the AGRT that KSAG briefed the Deputy Secretary twice, once in the fall of 1995 and again in the spring of 1996. No member of KSAG recalls briefing Deputy Secretary Curtis other than on May 17, 1996. The OEI Kindred Spirit chronology also reflects only a single KSAG briefing on May 17, 1996.

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(U)
(S) [REDACTED] vividly recalled this briefing because he had just returned from international travel and was exhausted. He made an unsuccessful effort to avoid this trip.

⁴⁴⁷ (S) A copy of these slides, with [REDACTED] were received from the CIA. The slides are readily recognizable from "cm2_ccmtg 5/17/96" in the bottom left corner of each slide. This represented the Charles Curtis meeting of May 17, 1996. One slide, entitled "Conclusion" was located among [REDACTED] own papers. This slide states that "- Compromise of [REDACTED] has been of material assistance to the PRC's strategic nuclear modernization efforts" and "- This technology enables earlier development of road mobile missiles to target the U.S." [REDACTED] 00225. b1

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(U)
(S) [REDACTED] had taken earlier flights back to their respective laboratories. They were satisfied in the continued validity of the bullets and with the slides' accuracy. [REDACTED] and was not present.

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DOE's final AI report by just eleven days. The final AI report that became the foundation of the FBI's subsequent FCI investigation reflected [REDACTED] [REDACTED] It did not reflect the KSAG's conclusions or the message communicated to Deputy Secretary Curtis.

(S/NP/D) There is unanimous agreement among those interviewed by the AGRT that the Deputy Secretary Curtis briefing accurately summarized KSAG's assessment of the Chinese nuclear weapons program, an assessment that tracked the bullets prepared on September 8, 1995. The May 17, 1996 briefing was organized around a series of twelve slides. The slides are entitled [REDACTED]

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[REDACTED]

(Id.)

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⁴³(S/NP) [REDACTED] has never been prosecuted for this compromise.

⁴³(S) This correctly represents KSAG's assessment in 1995. Recently this date appears to have been reached in error according to ongoing reviews within DOE. [REDACTED] 12/17/99)

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~~TOP SECRET~~ [REDACTED]

(S/NP/TD) [REDACTED]

• (S/NP/TD) [REDACTED]

• (S/NP/TD) [REDACTED]

• (S/NP/TD) [REDACTED]

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(EAT 470) (emphasis added). [REDACTED]

[REDACTED]

(S/NP) Unfortunately, the Deputy Secretary's KSAG briefing included only attendees from DOE. The immediate result of this briefing was that the Deputy Secretary of DOE was accurately briefed on KSAG's assessment of the intelligence. This accurate briefing, however, never left DOE, just as [REDACTED] briefing [REDACTED] on September 8, 1995 was never communicated outside DOE. At the conclusion of the briefing, Deputy Secretary Curtis tasked Trulock to ensure the FBI were notified and given whatever assistance they required in their investigation. [REDACTED]

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Sec

⁴¹(S/NP/OCT) [REDACTED]

DoE
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[REDACTED] told the Deputy Secretary that but for the walk-in document, DOE would not have known of the compromise. [REDACTED]

~~TOP SECRET~~ [REDACTED]

AQI 980. Some described this meeting as DOE vetting [REDACTED] before DOE permitted further dissemination of [REDACTED] within Washington. This meeting has also been described as arising due to the Deputy Secretary becoming aware that there was not uniform support within the labs for [REDACTED] of the compromise's scope. Deputy Secretary Curtis recalled asking for this briefing because he wanted to hear the scientist's assessment personally.⁴³² (Curtis 1/14/00)

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(U) [REDACTED] described the KSAG briefing to the Deputy Secretary in a memorandum to Secretary Richardson dated February 1, 1999. According to [REDACTED] Deputy Secretary Curtis requested a detailed, step-by-step review of the intelligence, the analytic conclusions, and key judgments and that review was led by two highly respected Laboratory scientists, presumably referring to [REDACTED]. According to [REDACTED] Deputy Secretary Curtis was sufficiently satisfied with the results of the review to direct OEI to proceed with briefings for the Assistant National Security Advisor, DCI, Chairman, Joint Chiefs of Staff, and others. (FBI 5334-5339 at 35) This description

[REDACTED]

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[REDACTED] remained silent in front of the scientists and Deputy Secretary.

(S) ⁴³² [REDACTED] Deputy Secretary Curtis recalled always hearing what he called "a buzz" about disagreements within the national laboratories on various matters. Such disagreement was not unique to this evaluation and was not atypical to any review conducted by multi-lab panels. When asked whether questions [REDACTED] might have triggered this briefing, the Deputy Secretary said it did not. The Deputy Secretary was aware of the DCI's skepticism with the walk-in document in late 1995 when they discussed [REDACTED] November 1995 briefing. (Curtis 1/14/00) [REDACTED] "was a response to a request from the Deputy Secretary to afford him the opportunity to discuss questions directly with the weapon designers who had served on the [KSAG] chaired by [REDACTED] (DOE 4386) [REDACTED] to Secretary Richardson that "the broader study group was reconvened in 1996 to revalidate the results at the request of Charles Curtis." (FBI 5336)

~~TOP SECRET~~ [REDACTED]

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seems to suggest that this May 17, 1996 briefing was principally conducted to ensure that DOE's credibility was not damaged by [REDACTED] within Washington.

(S//NF) Whatever motivated this briefing, its lesson never left the Forrestal Building. No formal report resulted, no letter was sent to the FBI, nor were there any meetings between the Deputy Secretary and the FBI. Instead, [REDACTED]

[REDACTED] Eleven days later the final AI report was transmitted to the FBI [REDACTED]

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[REDACTED]
(u)
J. (S//NF) The reexamination of the predicate in light of the CIA's withdrawal of the walk-in document.

(S//NF) [REDACTED]

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(S//NF) [REDACTED]

~~TOP SECRET~~ [REDACTED]

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(FBI 489)

(FBI 485-488 at 86)

(Id. at 87). SSA

explained that although he was alerted to the issue by the CIA, he deferred action until the CIA and DOE completed their review of the predicate. (12/15/99)

(Id. at 88).

(S//FOUO) On July 29, 1996, the CIA formally issued a communication alerting the earlier recipients of the walk-in document of the CIA's intention to

⁴⁵³ (S//NF) In stark contrast with the late dissemination to the FBI of the walk-in document, the CIA is to be commended for the rapid transmission of this information to the FBI. SSA note, dated May 16, 1996 states:

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⁴⁵⁴ (S//NF)

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Richardson [REDACTED] (FBI 5334-39) In an apparent reference to the OEI's reexamination of the predicate subsequent to the CIA's alert, [REDACTED] (Id. at 36)

(SAP/OC) On August 19, 1996, OEI met with the FBI to reaffirm the predicate and provide a letter from [REDACTED] to Section Chief Jerry Doyle, FBI, reaffirming the OEI analysis of the Chinese nuclear weapons program despite the CIA recall/reissue cable. In attendance at this meeting were [REDACTED] and SSA [REDACTED] Unit Chief [REDACTED] and Section Chief Doyle. (FBI 662; see also FBI 11725) The OEI Kindred Spirit chronology identifies [REDACTED] as among the attendees, but omits [REDACTED] (FBI 675)

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[REDACTED] We have discussed this judgment with representatives from the respective CIA offices responsible for dissemination of this information and they do not disagree with this assessment.⁴⁵⁸ (FBI 668) [REDACTED]

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[REDACTED] (Id.) The FBI acted quickly to reactive the Wen Ho Lee investigation. (AQI 1008-1011) ("DOE stands by their original conclusion").

⁴⁵⁸(SAP/OC) Although OEI restricted the number involved in reexamining the walk-in intelligence in light of the CIA's warning, no member of KSAG disagreed with the outcome when interviewed by the AGRT. [REDACTED]

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[REDACTED] The compromise assessed by KSAG in September 1995 remained valid in August 1996 and remains true today. The AGRT will not add to what is already an extensive list of proffered motivations for this behavior (ranging from an inadvertent mistake to testing for a reaction from the United States in an effort to validate particular information in the document).

K (U) The FBI's inadequate review of the investigation's predicate

(S//P//D) The FBI understood the OEI assessment to be [REDACTED]

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After receiving DOE's AI report and opening a full investigation on the Lees, the FBI set a lead to formally record the predicate for this full investigation. This lead resulted in FD-302s recording the interviews of [REDACTED] interview included a discussion of the broad dissemination of the compromised information as well as unique design features of the W-88 that the intelligence never demonstrated were compromised. [REDACTED] 302 attaches the OEI Kindred Spirit chronology which suggests a split within KSAG (whose membership is identified) among the labs and CIA. These interviews did not cause the FBI to question the accuracy of the DOE assessment. Like SA [REDACTED] 1995 communications to FBI-HQ, these 302s remained in the case files at FBI-HQ and FBI-AQ without any impact upon the course of this investigation.

(S//P//D) A conference call between SSA [REDACTED] SSA [REDACTED] and SA [REDACTED] on June 10, 1996, discussed what immediate steps needed to be taken in this case. SA [REDACTED] noted [REDACTED]

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[REDACTED] It was requested that this lead be coordinated through [REDACTED] of DOE.⁴⁵⁹ (AQI 954-56 at 55). On July 2, 1996, there was a meeting at FBI-AQ attended by Section Chief [REDACTED] and SSA [REDACTED] from Headquarters and Thomas J. Kneir (SAC), [REDACTED] (ASAC), SSA [REDACTED] and SA [REDACTED] to discuss the investigation. At this meeting SSA [REDACTED] provided a two-page document listing a series of known facts. (AQI 957; AQI 959-60) These known facts repeated the inaccurate assessment briefed to the FBI by OEL. The FBI began from [REDACTED]

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⁴⁵⁹(U) SA [REDACTED] recalls [REDACTED] was helpful getting the agents into the Forrestal Building and guiding them once inside. He was not aware that [REDACTED] the AI. [REDACTED] (1/18/00)

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(AQI 957-960 at 59) SSA [REDACTED] identified a series of leads he wanted set at the outset of this investigation. (AQI 957) SSA [REDACTED] even told AQ that these leads should be covered in FD-302 format reports shared with Headquarters as opposed to ECs. [REDACTED] 12/15/99) Among the listed leads for the field was a "lead for WMFO [REDACTED]

[REDACTED] handwritten notes, FBI 582) In the EC sent to FBI-HQ to record this meeting, SA [REDACTED] wrote "SSA [REDACTED] also requested a lead be set for WMFO to have the DOE scientist interviewed who did the intelligence analysis. (S)"⁴⁶¹ (AQI 958)

(~~SAFE~~) On July 23, 1996, SA [REDACTED] set the lead to the WMFO. The EC, copied to SSA [REDACTED] captures several pages of background on the working group's conclusions taken from the final AI report. Among this background material is language lifted verbatim from DOE's final AI report misrepresenting the working group's conclusion. [REDACTED]

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FBI

⁴⁶⁰(U) SA [REDACTED] never spoke directly with SSA [REDACTED] but recalls receiving a ten-page pamphlet on fission/fusion as background before the interviews. [REDACTED] 1/18/00)

⁴⁶¹(S) When interviewed, SSA [REDACTED] stated that the case agent should have come to Washington to cover this lead personally. He thought the EC after the October 31, 1995 briefing was inadequate and should have been recorded in FD-302 format. [REDACTED] 12/15/99) While this criticism has merit, it clearly was not included among SSA [REDACTED] instructions on July 2, 1996. The predicate is vital to this investigation and is an element with which the case agent should have personally familiarized himself. Ultimately, three interviews were conducted by WMFO - [REDACTED]

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[REDACTED] in the October 31, 1995 briefing, but [REDACTED] did not. Had SA [REDACTED] personally familiar with the OEI briefing, been present during [REDACTED] interview he would have understood [REDACTED] to describe a different assessment - that reached by KSAG - than that briefed to the FBI. [REDACTED] interview presented the first, and only, time the FBI spoke with a nuclear scientist who participated in KSAG until just recently.

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[REDACTED] (Id.) SSA [REDACTED] on Headquarters' copy
of this EC, wrote "also find [REDACTED] "462 (Id.) (FBI 00598 only)
The actual lead reads [REDACTED]

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[REDACTED] (Id. at 99). On August 19, 1996, the
OEI chronology includes as an addendum to the OEI/FBI meeting: "The FBI indicated
that in a couple of weeks an Agent from the Washington Field Office would want to come
to NN-30 and meet with someone to take a statement. Caution was given not to say
anything that one would not be comfortable testifying on a witness stand." (FBI 675)

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(S) (u) (8) On September 18, 1996, SA [REDACTED] sent FD-302s for
interviews of [REDACTED] to FBI-HQ and AQ.⁴⁶³ [REDACTED]
[REDACTED] minimized his
own role in this interview.

[REDACTED]
[REDACTED] done by Department of Energy (DOE) scientists and Central Intelligence Agency

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(u) (8)
⁴⁶² (S) The source for these names within FBI's files on July 23, 1996, may have
been SA [REDACTED] 1995 communication which identified [REDACTED] as the
chairman of the working group and described [REDACTED] as the final arbitrator of any
dispute within the group. SSA [REDACTED] amended his suggested lead, at least on his own
copy, to incorporate these two names. [REDACTED] was detailed to Washington, but [REDACTED]
[REDACTED] was at LANL. Ultimately, WMFO covered the [REDACTED] interview, but SA
[REDACTED] never interviewed [REDACTED] in LANL. There is no record that SSA
[REDACTED] specifically requested SA [REDACTED] to interview [REDACTED]. However, SA
[REDACTED] the author of the earlier cable, presumably was equally aware of [REDACTED]
[REDACTED] role. [REDACTED] was not interviewed until late 1999. He was never
interviewed by SA [REDACTED]

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(S) (u) (8)
⁴⁶³ (S) The interviews were delayed due to the suspension of the investigation
during DOE's reexamination of the predicate after the [REDACTED]
[REDACTED] (AQI 999)

(CIA) analysts in forming his opinion." (AQI 01039-40 at 39)

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(Id.) (emphasis added).

the agents weeks after providing the FBI with a letter reaffirming DOE's assessment of the walk-in document

This statement reflects how

KSAG's review was something he wanted wrapped up so the investigation into the source of the compromise could begin. mischaracterized KSAG's assessment of the Chinese ability to have advanced their program indigenously.

(AQI 1039)

(S/NF/OC/RD) the investigation's inaccurate predicate. He confirmed:

Although he told the AGRT

This is based on an administrative inquiry done by DOE, which looked at DOE laboratories (Lawrence Livermore, Los Alamos,

⁴⁶⁴(S/NF) This statement is an inaccurate summary of KSAG's assessment, although consistent with both the OEI briefing on October 31, 1995 and the inaccurate representations recorded in the final AI report.

[REDACTED]

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In addition, the interviews were previously arranged by [REDACTED]. SA [REDACTED] explained that he believed [REDACTED] wanted to keep the interview general and that he was uncomfortable saying anything without first obtaining the approval of his superiors within DOE. [REDACTED] (1/18/00) Because [REDACTED] referred to his Kindred Spirit chronology during the September 13, 1996 interview, the FBI agents asked for a copy. This request reflects the competence of the agents tasked to cover this lead. [REDACTED] told the agents he would ask Trulock to review the chronology and approve its release to the FBI.⁴⁶⁷ (AQI 1037)

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(S/NFO/CRD) [REDACTED] told the agents he initially led the working group that assessed the Chinese nuclear weapons program in 1995. (AQI 1041-43 at 41) [REDACTED] first concluded in April 1995 that United States nuclear weapon's information had been compromised. (Id.) [REDACTED]

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[REDACTED] was a derivative classification authority and utilized the "Los Alamos National Laboratory classification guide." (Id.)

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[REDACTED]

(Id.)

SA [REDACTED] been conducting the interview, he would have had the necessary clearance.

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^(u)
⁴⁶⁷(8) On September 16, 1996, three days later, by secure fax, [REDACTED] provided the Kindred Spirit chronology to the FBI. This chronology began with the first [REDACTED] memorandum to Trulock in April 1995 and was current through [REDACTED] interview on September 13, 1996. Because the chronology was shared with the agents after the interview, they were unable to go over it with [REDACTED] on September 13, 1996.

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(S/NF/OC/TD) On September 13, 1996, the FBI interviewed [redacted] who was at DOE Headquarters.⁴⁶⁴ [redacted]

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[redacted]

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⁴⁶⁹ (FBI 694-95 at 95; AQI 1046-47 at 47)

(U) (S/NF) [redacted] described the wide dissemination of the compromised information.⁴⁷⁰ He specifically identified both contractors and the Department of Defense as potential locations where the compromise may have occurred. "When asked from where and when the Chinese might have acquired the information, [redacted] said it would be very difficult to say, as the W-88 is a deployed system. Deployment means that the plans would be available to various groups of people such as the US Navy (the W-88 is used by the Navy), contractor personnel and other involved personnel apart from the Department of Energy." (Id. at 95 and 46)

(U) (S) The FBI sought to record the predicate, not challenge it through this lead. This distinction probably explains their failure to react to the content of [redacted] interview

(U) (S) SA [redacted] could not recall how [redacted] came to be included within the lead, but thought it was because either [redacted] had mentioned him during his interview or because SSA [redacted] had asked the agents to include [redacted] and only [redacted] was in Washington. ([redacted] 1/18/00)

⁴⁶⁹ (S) This FD-302 is inaccurately classified Secret by the FBI. [redacted]

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(U) (S) SA [redacted] specifically recalled asking [redacted] about the information's dissemination because [redacted] had told them that LANL was the likely location for the compromise. ([redacted] 1/18/00)

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upon receipt. Neither the case agent in the field nor the supervising agents at Headquarters recognized the clear discrepancy in this interview and the predicate communicated to the FBI. [REDACTED] was not interviewed further by the FBI until recently.⁴⁷¹

(S/AF/TKD)

[REDACTED] when interviewed by the AGRT, emphasized [REDACTED]

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[REDACTED]⁴⁷² Although he allowed that one never can say never, he thought it unlikely based on the intelligence he has seen. [REDACTED] within the working group from this consensus position. [REDACTED] added that [REDACTED] and as a result he lacks credibility.

(u)

(S) The FBI did take a few initial steps to review the predicate for this investigation, but, significantly, it did not follow up on those steps with additional

⁴⁷¹ [REDACTED] is an affable scientist who would have been readily accessible to the FBI. He is succinct and easily understood, despite the complicated subject matter. [REDACTED]

[REDACTED] His expertise is in the area of weapons design and nuclear simulation. [REDACTED]

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[REDACTED] AS a scientific resource, he would have been invaluable to the FBI had they made the effort to contact him.

(S/NEARD)

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interviews to clarify important conflicts captured in the 302s. Had SA [REDACTED] and SSA [REDACTED] sought out [REDACTED] they would have come to understand the inaccuracies not only in the OEI briefing, but also in the AI report. SA [REDACTED] and SSA [REDACTED] failed to interview [REDACTED] who was at LANL and not DOE HQ like [REDACTED]. SSA [REDACTED] should have insisted that SA [REDACTED] cover this lead personally. SA [REDACTED] failed to identify the composition of the OEI working group, KSAG, so that he would know who at LANL was aware of the Chinese documents and already aware of the compromise. These individuals could have been interviewed without any expansion of the number of individuals aware of the compromise. SA [REDACTED] was present when [REDACTED] name were mentioned on February 13, 1996. These members should have become resources to guide the FBI investigation at LANL. WMFO covered this lead and interviewed two subjects beyond the one identified by the case agent. The results were recorded on FD-302s and then apparently ignored by both the field and Headquarters.

(u)

L. (S) The CIA's independent assessment of the Chinese nuclear weapons program

(S//FOUO) After receiving the AI report on May 28, 1996 and completing the three predicate interviews in September 1996, the predicate for this investigation was left unchallenged until ASAC Lueckenhoff began to question it in December 1998, with one exception. That single exception is a 1997 review of the Chinese nuclear weapons program by the CIA. The CIA's written report was shared with the National Security Council, DOE and the FBI. This Chinese Nuclear Warhead Paper accurately characterizes the walk-in document, a document that the FBI received on [REDACTED]

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[REDACTED] (FBI 12365) The CIA report was provided to the FBI on September 11, 1997. It should have led to a comprehensive reevaluation of the predicate. It did not.

(u)

1. (S) An NSC request for a CIA assessment

DOE
b6, b7C

(u) (S//NF) In July and August 1997, [REDACTED] numerous senior government officials on his analysis of China's nuclear weapons program. That briefing presented an

alarming portrait of Chinese efforts to acquire United States nuclear weapons information.⁴⁷³

DOE
b6, b7C

(u)
(S) DOE and CIA records indicate that [REDACTED] the National Security Council ("NSC") during this time period as well. (DOE 3420; EAT 180) On August 5, 1997, Sandy Berger, the President's National Security Advisor, asked for a CIA evaluation [REDACTED] concerns. (EAT 180)

(u)
(S) That evaluation was begun in mid-August and completed by the end of the month. It was delivered to the NSC on September 5, 1997, (EAT 181) and to the FBI on September 11, 1997. (FBI 12388, 12360, 12361)

2. (u) (S) Background and limitations of the CIA assessment

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(S)(u) [REDACTED]

DOE
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(u)
(S) In one FBI document it was referred to [REDACTED] "sky is falling" briefing. (AQI 5337) Another FBI document dubbed it the "nightmare presentation." (FBI 12312)

(u) (S)(u) [REDACTED]

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[REDACTED]

(S)

[REDACTED]

(S) There were several noteworthy limitations to the CIA assessment. First, the analysts prepared it in just two weeks. [REDACTED] Second, it was never intended to confront [REDACTED] head on.⁴⁷⁷ Third, the analysts never addressed

OC 66, b7c

[REDACTED]

(AI at 2; FBI 526)

(S)

[REDACTED]

(S)

[REDACTED]

(S)

[REDACTED]

~~TOP SECRET~~

KSAG's findings or interviewed the KSAG experts.⁴⁷⁸ Finally, the original draft was completely rewritten to create a much shorter and less detailed product.⁴⁷⁹

006
b6, b7c

(u)
3. (S) [REDACTED] to the CIA

(S/RD) Since neither analyst was familiar with [REDACTED] them so they could become familiar with and assess the briefing's content. That briefing took place on August 13, 1997. [REDACTED] recalled that [REDACTED] a series of slides.⁴⁸⁰

b1

[REDACTED]

⁴⁷⁸(S) [REDACTED]

⁴⁷⁹(S) [REDACTED]

⁴⁸⁰(S/NF) These slides, revised over time, are entitled "CHINA'S STRATEGIC NUCLEAR MODERNIZATION PROGRAM" with the subtitle "DOE Nuclear

b1

[REDACTED]
[REDACTED]
[REDACTED] During the briefing, [REDACTED] gave [REDACTED] names to answer any questions and provide whatever other assistance the analysts might require. The analysts

DOE b6
b7C

Weapons Laboratory Contributions to Chinese Strategic Breakthroughs." The set provided by DOE numbers thirty-four slides, with several repeated slides. (DOE 1870-1903)

b1

[REDACTED]

⁴⁸¹(S)

b1

[REDACTED]

DOE
b6, b7C

⁴⁸²(S) Others who received [REDACTED] - Attorney General Janet Reno, FBI Director Louis Freeh, Deputy Secretary Charles Curtis and Dan Galington, Deputy Counsel, OIPR - each of whom were interviewed by the AGRT, were unable to recall in specific detail the representations made by [REDACTED]. The CIA analysts, unique because they understood both the topic and available intelligence, were able to recall specific representations from [REDACTED]. The analysts were also focused on the briefing's content given their assignment.

DOE
b6, b7C

did speak with [REDACTED] Neither [REDACTED] expressed significant disagreement with the CIA's assessment of the Chinese nuclear weapons program.⁴³

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4. ^(u)~~(S)~~ The CIA assessment paper

(S//~~OC~~/RD)

[REDACTED]

b1

DOE
b6, b7C

⁴³ (S//~~OC~~/RD) [REDACTED] increasingly moved away from his early support of and agreement with [REDACTED] assessment in 1995. In early 1997 [REDACTED] authored a paper entitled: "Chinese Modern Nuclear Warhead Development."

b1

[REDACTED] (BAT 423) Today [REDACTED] firmly supports [REDACTED] recollection of KSAG's assessment and he rapidly points to the exact language of the KSAG bullets when describing the compromise's scope.

⁴⁴ (S//~~OC~~/RD) See also this statement from the final paper: [REDACTED]

b1

(FBI 12366)

(b)(1)

[REDACTED]

Doc
b6, b7C

(S//FOUO) The final 1997 CIA position paper, as well as the draft, does adopt a position closer to that articulated [REDACTED] than that of KSAG. [REDACTED]

[REDACTED]

(S//FOUO) In addition, it appears that in the pursuit of brevity, much of the qualifying language used by the CIA analysts was removed from the final position paper.⁴⁴⁶

[REDACTED]

⁴⁴⁵ (S//FOUO)

[REDACTED]

⁴⁴⁶ (S//FOUO)

[REDACTED] (EAT 439) This observation is deleted in the final paper provided to the FBI.

[REDACTED] (EAT 445)

5. ⁽⁷⁾~~(8)~~ The FBI addendum to the CIA assessment

~~(S/NF/RD)~~ In an amazing example of circular reasoning, the CIA's position paper attaches and incorporates a written submission by the FBI. Not only would the FBI fail to recognize [REDACTED]

[REDACTED]

[REDACTED] On September 4, 1997, CIA [REDACTED] received the FBI's written submission. (EAT 472-476) [REDACTED]

[REDACTED]

The attachment summarizes various FBI investigations, including Kindred Spirit: [REDACTED]

[REDACTED]

[REDACTED] It would also be lost on the FBI when they received the final paper.

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OOE, OFBI
b6, b7C

(S//NF) On September 5, 1997, Section Chief Steve Dillard, Unit Chief [REDACTED] and SSA [REDACTED] provided an in-depth review of the Kindred Spirit investigation to [REDACTED] at the NSC. (Id.) After the briefing, the NSC asked the FBI, [REDACTED]

[REDACTED] (FBI 1086) This resulted in a time line, dated September 8, 1997, outlining the predicate in support of the FBI's investigation. It was forwarded to the NSC in preparation for the NSC's briefing of NSA Berger on September 9, 1997. (Id.) This outline clearly records the inaccurate briefing given the FBI by OBI on October 31, 1995.

[REDACTED] (FBI 13024-26 at 25) The outline includes important dates relevant to the walk-in document. On September 10, 1997 [REDACTED] requested the appendix to the CIA's position paper from the FBI. OIPR, which had previously approved the oral briefing of the NSC by the FBI (FBI 01085), also approved the dissemination of this information to the NSC on September 11, 1997. (FBI 12388) The appendix was sent to the NSC by facsimile the same day. (FBI 1088)

6. (U) (S) [REDACTED]

(S) On August 29, 1997, Unit Chief [REDACTED] and SSA [REDACTED] attended a CIA meeting to review and contribute to the DI's paper addressing the PRC threat to the labs. (FBI 15752) Trulock was also at this meeting. During the meeting [REDACTED]

[REDACTED] At one point, [REDACTED] the CIA analysts [REDACTED]

(S//NF) Sometime between August 29, 1997 and September 11, 1997, Trulock wrote DCI George Tenet a letter which was described by one CIA officer as [REDACTED] (FBI 12388) Trulock wrote: "we would be remiss in not expressing our concerns regarding both the overall analysis and several of the key conclusions. In our judgment, the DI paper contains a number of important flaws." (BAT 384-85 at 84) Trulock also wrote: [REDACTED]

[REDACTED] (EAT 384)

Doc
b6, b7C

(S) [REDACTED] The analysts wrote an internal response dated September 30, 1997. "We agree with Notra's assessment that the National Laboratories have a CI problem and fully support DOE's efforts to combat this problem. We were asked to conduct an independent analysis of [REDACTED] We tried to convey the known acquisition of US nuclear weapons design information and put it into context [REDACTED] (EAT 386-87 at 86)

7. (U) (S) The October 15, 1997 NSC briefing

Doc
b6, b7C

(S) On October 15, 1997, [REDACTED] briefed [REDACTED] and [REDACTED] of NSC. [REDACTED]

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[REDACTED] had already returned to LLNL to resume [REDACTED] detail and was not present. The DOE contingent arrived forty minutes into the briefing which had already begun with the CIA assessment.⁴⁴⁹ Although the CIA's brief was in ninety-five percent agreement with [REDACTED] and focused on the five percent which [REDACTED] The analysts believe that

(U) (S)

(U) (S) It is unclear whether NSC came to this conclusion as a result of having heard [REDACTED] directly, or whether it was a result of the FBI's briefing on September 5, 1997.

(U) (S) The DOE contingent was late because of their attendance at the Frech/Tenet/Pena meeting, concerning PDD-61, also taking place that day.

DOE
b6, b7c

(b)(1)

[REDACTED] that he never
claimed [REDACTED] At this point [REDACTED]
[REDACTED] 492 [REDACTED]

8. ^(u)~~(S)~~ The FBI's failure to recognize the significance of the CIA's assessment

~~(S)~~ A copy of the CIA's final paper, bearing the facsimile date of September 11, 1997, was provided to Director Freeh as part of a briefing package to assist the FBI/CIA effort to improve the counterintelligence program within DOE. [REDACTED]

[REDACTED] 493 [REDACTED]

⁴⁹⁰~~(S)~~ [REDACTED]

DOE
(b)(6)
(b)(7)(C)

⁴⁹¹~~(S)~~ [REDACTED] LANL, and [REDACTED] also accompanied [REDACTED] to NSC, but did not speak.

⁴⁹²~~(S)~~ The CIA analysts all emphasized that they were largely in agreement with [REDACTED] that DOE had serious and legitimate counterintelligence concerns in this area.

[REDACTED] The CIA shared [REDACTED] concerns over the lax security at the national laboratories.

⁴⁹³~~(S)~~ It is not clear whether Director Freeh made these notations in 1997 or 1999.

004
FBI
b6, b7c

(S//NF//RD) Thus, Director Freeh recognized that the CIA paper was clearly taking the position [REDACTED] But that point - and its implications - needed to be understood at a far lower level within the FBI, specifically at the [REDACTED] level. For it was the [REDACTED] personnel - specifically Unit Chief [REDACTED] and SSA [REDACTED] - who had read the AI report and received the October 31, 1995 [REDACTED] It was at this level that the message needed to be received and understood that there was a fundamental contradiction between what DOE had told the FBI and what the CIA was telling the FBI. It was received, but it was not understood.

(S//NF//OC) The CIA's review of China's nuclear weapons program in 1997 represented the last opportunity to correct the predicate as it was communicated to, and accepted by, the FBI. [REDACTED]

[REDACTED]

(u)
M. (S) The impact of the inaccurate predicate upon the FBI's investigation and current developments

(S//NF//RD) From May 30, 1996 until early 1999, the FBI investigated the wrong crime. [REDACTED]

[REDACTED] The inaccurate predicate caused the FBI to improperly narrow the focus of their investigation to LANL due to the associated assumption. [REDACTED]

[REDACTED] The error was compounded by the FBI's complete and uncritical acceptance of the AI report's selection of Wen Ho and Sylvia Lee as the subjects of their investigation. The AI was accepted by the FBI until December 1998 when ASAC Lueckenhoff raised serious concerns over its content. The inaccurate predicate survived for months longer. Only in March 1999 did the FBI begin to recognize the error when they first visited SNL. At

(u)
494 (S) There is no indication that the CIA assessment was ever shared with FBI-AQ.

~~TOP SECRET~~ [REDACTED]

SNL, the FBI, by chance, spoke with [REDACTED] and began to appreciate the predicate's inaccuracy.

DOE (b)(6) + (b)(7)(c) an original participant of KSAG,

(b)(7)(D)

(S//NF//OC//RD)

[REDACTED]

⁴⁹⁵ (S//NF//OC//RD) [REDACTED]

⁴⁹⁶ (W) (S//NF//OC//RD) This fact, which may or may not be a coincidence, has only recently been discovered. KSAG did not recognize the coincidence in 1995. [REDACTED]

DOE (b)(6) (b)(7)(c)

⁴⁹⁷ (S//NF//OC//RD) [REDACTED]

[REDACTED] The CIA's analysis may or may not represent the final word on this subject, but it is clear that this is precisely the type of rigorous dissection that the walk-in document required in 1995 and 1996 and requires today.

~~TOP SECRET~~ [REDACTED]

~~TOP SECRET~~ [REDACTED]

(S/NFOC/RO) Parallel efforts, by the FBI and DOE OCI, are presently underway (b)(1)

[REDACTED] This effort has already demonstrated a broad dissemination among various DOE components, DOD components and contractors. It has also identified documents disseminated before the 1984 window established by KSAG and utilized by the AI.

[REDACTED] observed that they "didn't recognize the fact that in the interface documents" this "information is shared with a larger number of organizations." "It was a blind spot" in their 1995 analysis. [REDACTED]

DOE
(b)(6)
(b)(7)(C)

[REDACTED] These documents were widely disseminated within DOE, DOD and the contractors.

(U)

DOE
(b)(6)
(b)(7)(C)

(S/NFOC/RO) Similarly, [REDACTED] at SNL have identified documents in the early 1980s that were widely disseminated which contain the compromised information. In an effort to acquire an accurate understanding of the predicate, the FBI has assembled a task force to interview the original participants of KSAG and identify what information has been compromised and which documents contain that information. This effort, combined with the ongoing review by DOE OCI of W-88 documents to determine which contain the compromised information, should focus the FBI's future investigation on the information which was compromised to the Chinese. These efforts will better define those materials which represent the universe of documents capable of having been the source of the compromise. Whether that will also identify the individual or individuals responsible for the compromise is more difficult to predict.

~~TOP SECRET~~ [REDACTED]