

U.S. INTELLIGENCE AGENCIES AND ACTIVITIES: INTELLIGENCE COSTS AND FISCAL PROCEDURES

HEARINGS BEFORE THE SELECT COMMITTEE ON INTELLIGENCE U.S. HOUSE OF REPRESENTATIVES NINETY-FOURTH CONGRESS FIRST SESSION

JULY 31, AUGUST 1, 4, 5, 6, 7, AND 8, 1975

PART 1

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U.S. INTELLIGENCE AGENCIES AND ACTIVITIES

Part 1: Intelligence Costs and Fiscal Procedures

THURSDAY, JULY 31, 1975

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, D.C.

The committee met, pursuant to notice, at 10 a.m., in room 2118, Rayburn House Office Building, the Honorable Otis G. Pike [chairman], presiding.

Present: Representatives Pike, Giaino, Stanton, Dellums, Murphy, Aspin, Milford, Hayes, Lehman, McClory, Treen, Johnson, and Kasten.

Also present: A. Searle Field, staff director; Aaron B. Donner, general counsel; John L. Boos, counsel; James B. F. Oliphant, counsel; Richard S. Vermeire, counsel; Jeffrey R. Whieldon, counsel; Roger Carroll, investigator; Charles Mattox, investigator; and Jacqueline Hess, investigator.

Chairman PIKE. The committee will come to order.

After some slight delay the House Select Committee on Intelligence today opens its hearings.

Our instructions from the House of Representatives are broad and they are clear. We are to investigate the intelligence gathering activities of the U.S. Government. We are to complete our investigation by January 31 and by that date report to the House our conclusions and recommendations.

It is a huge order and the only way we can get there is by starting. We start by looking at the cost. It is not easy. The Constitution of the United States, article I, section 9, says, "No money shall be drawn from the Treasury but in consequence of appropriations made by law and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time."

It does not say "some public money." It says "all public money." It would seem to me that a reasonable place to look for such a statement and account of the receipts and expenditures of the intelligence-gathering communities would be the four books provided to Congress and the American people entitled "The Budget of the United States Government." Here are the books.

I have looked hard, but the results are spotty. We have, according to the budget, an FBI, but I can find no CIA, no NSA, no DIA. There is a line item on page 73 of this book under the Department of Defense for \$7.3 billion for intelligence and communications. But I don't know what that means.

I get the uneasy feeling I am not supposed to know what it means. We shall find out.

As we learn what the costs are, we will look at the benefits achieved as well as the risks created by gaining this intelligence.

What benefits have we the right to expect? Abroad we should have a good idea of what other nations, especially large nations, are doing in weapons research and development. We should be aware of the political and economic climate throughout the nations of the world.

At home we should be able to learn how organized crime is operating, who is getting rich on drugs and how we can combat them. The risks are equally of concern.

No intelligence gathered by the *Pueblo* was worth the loss of the *Pueblo* and the capture of her crew. The risks involved in a collision between an American intelligence gathering submarine and a Russian submarine are incalculable. At home, while we wish to know all about how organized crime operates, we do not want the risks of having our phones tapped, our homes burglarized, or our persons made insecure.

We must draw reasonable lines between security and freedom, between "need to know" and "right to know." When any investigation begins we do not know where it will take us.

While the budget seemed a reasonable place to start, we will pursue our investigation where it seems most useful to go.

We will try to travel a difficult road bounded by indifference on the right hand and paranoia on the left.

We will try not to travel well-traveled paths and we will pursue facts rather than headlines.

We are dealing with issues fundamental to all Americans and to America. We are dealing with national security and national honor. We are dealing with individual security and with personal freedom.

Let us never forget that this investigation and the debate which preceded it could not have taken place in most nations on this globe so we should undertake it in pride and not embarrassment. Hopefully, we will so conduct ourselves that we may be a credit to the image of America as a nation among the nations of the world, that the way American Government operates and the way American citizens live will, when we are finished, be envied by those who do not and cannot share them.

Mr. McClory.

Mr. McCLODY. Thank you, Mr. Chairman.

I want to commend you, Mr. Chairman, on your statement and also on your initiative in getting the proceedings of our Select Committee on Intelligence moving. I am confident that you are going to have good support from this side of the committee and I am in full support of the approach which you are recommending insofar as our hearings are concerned.

I am convinced myself that this Nation needs a strong intelligence community and that we want to do everything we can as Members of the Congress and as members of this committee to help assure that we get the best quality, the best coordination, the most efficiency, and the most for our money insofar as the various intelligence activities are concerned.

Insofar as this committee is concerned, I am hopeful that we can operate in a bipartisan and objective way.

I am pleased that we have decided to be supported by a professional staff and not a partisan staff.

In the course of our investigations, it is clear to me that there will be no need to duplicate what either the Rockefeller Commission has performed or what the Church committee is doing, but that in the approach that we are taking we are not going to be guilty of duplicating the efforts of others, but taking a stand which, it seems to me, can contribute toward improving the intelligence community and performing a major service for the people of the Nation.

The subject of accountability is one which strikes me as sounding a keynote in our investigation here—to determine who the decision-makers are and who assumes the responsibility for the expenditures that are made and the projects which are undertaken.

The word “coordination” is involved in the mandate which we received so that we will be inquiring into the manner in which there is coordination or there is lack of cooperation in the various intelligence agencies.

In the end, it seems to me that we have a major function to perform in making substantial constructive recommendations to the end that we can have a more efficient and a better intelligence community and that we can have that service performed in a way which receives public support and public confidence because the public will be aware of the fact that there is some oversight, there is some responsibility, there is some accountability, not only in the executive branch, but in the legislative branch, in the Congress itself. I am confident that to that end we can perform well in the course of our hearings and our inquiry.

Thank you, Mr. Chairman.

Chairman PIKE. Thank you, Mr. McClory.

If there are no further statements that any Member wishes to make, we will start our hearings on the budget with Hon. Elmer B. Staats, Comptroller General of the United States of America.

Mr. Staats has a very long and distinguished career in the budgetary area of our Government.

He has been with the Office of Management and Budget. He has been the Comptroller General, I don't know how many years. Mr. Staats, I have listened to you with interest and appreciation a great many times. We are delighted to have you here today.

I would ask at this point that the moving cameramen sort of disappear.

Please proceed.

STATEMENT OF ELMER B. STAATS, COMPTROLLER GENERAL OF THE UNITED STATES, ACCOMPANIED BY ROBERT F. KELLER, DEPUTY COMPTROLLER GENERAL, MARTIN J. FITZGERALD, LEGISLATIVE ATTORNEY, GAO, AND FRED SHAFER, DIRECTOR, LOGISTICS AND COMMUNICATIONS DIVISION, GAO

Mr. STAATS. Thank you very much, Mr. Chairman.

We are pleased to accept your invitation to discuss the relationship of the General Accounting Office and executive branch agencies composing the so-called intelligence community. The agencies generally included under this umbrella term are: The Central Intelligence

Agency; the Defense Intelligence Agency; the National Security Agency; the intelligence components of the Army, Navy and Air Force; the Federal Bureau of Investigation; the Department of the Treasury; the Energy Research and Development Administration (formerly the Atomic Energy Commission) and the Bureau of Intelligence and Research in the Department of State.

The intelligence community is also usually defined to include, in addition, entities whose functions are to review and evaluate the product of the intelligence agencies, to advise the President, and to prescribe policies governing activities of the intelligence agencies. These other units include: The National Security Council; the Intelligence Resources Advisory Committee; the U.S. Intelligence Board; and the Foreign Intelligence Advisory Board.

Our experience in reviewing intelligence activities has been quite limited and, to a large extent, has arisen from matters not directly related to intelligence collection, analysis or dissemination but having instead to do with such matters as a comparative analysis of Soviet and United States research and development efforts, defense procurement, international narcotics control, foreign language training programs, and certain matters in international trade and economics. The other main source of experience in this area is a series of recent reviews we have conducted in response to congressional requests.

In general, we have not pressed for reviews of intelligence operations on our own initiative for the simple reason that our legal authority is quite limited and the problems of access to information have been such as to cause us to conclude that efforts to review these activities would have little practical result.

GAO's basic audit authority is contained in the Budget and Accounting Act of 1921, the Accounting and Auditing Act of 1950, the Legislative Reorganization Act of 1970, and the Congressional Budget and Impoundment Control Act of 1974. As an independent, nonpolitical agency in the legislative branch of the Federal Government, its authority is extensive, encompassing not only financial auditing, but also management reviews and evaluations of the effectiveness of programs. These statutes authorize GAO to audit the activities of most executive branch agencies, and grant it access to the records of the agencies necessary to the discharge of this responsibility.

However, certain restrictions on our audit authority are also provided for by law, including instances where moneys are accounted for solely on certification by the head of a department or establishment. For example, expenditures of a confidential, extraordinary or emergency nature by the CIA are to be accounted for solely on the certificate of the Director. Sometimes such restrictions are contained in appropriation acts. For example, annual appropriations for the FBI have included funds to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General and accounted for solely on his certificate.

In addition to legal restrictions on our audit and access to information authority, there are serious practical considerations which further inhibit our ability to perform meaningful reviews. These factors stem from an innate characteristic of all agencies involved in intelligence gathering or analysis, namely, the need and desire to maintain close

security so as to reduce the risk of leakage by minimizing the number of people having access to such matters.

First is the problem of obtaining the necessary special security clearances and satisfying multitudinous need-to-know requirements. A "Top Secret" Defense clearance or Atomic Energy "Q" clearance is in most cases insufficient for access to intelligence data. Because of this requirement, the limited work conducted by GAO requiring such clearances, and the time and expense involved, only a limited number of our staff have these clearances at present. A closely related problem is the difficulty of developing acceptable arrangements for the reporting of our findings and conclusions to the Congress.

Second is the restrictive policy established to maintain security by the intelligence agencies. Access to basic information is, at best, very limited. On occasion, the community cooperates to the extent of giving us certain requested information, but even then we are usually afforded insufficiently broad access to agency records to verify independently the accuracy and completeness of the material supplied to us.

We recently commented in some detail with regard to security clearances and our limited access to information in a May 10, 1974, letter to Senator William Proxmire, which was supplemented and updated in a July 10, 1975, letter to Senator Frank Church, chairman of the Senate Select Committee on Intelligence Activities and by a more recent letter to this committee. We would like to offer these letters to the committee so that, if you desire, they may be included in the record of these hearings.

Mr. PIKE. Without objection, the letters will be included in the record.

[The July 10 letter to Senator Church, which is virtually identical to Mr. Staats' letter to this committee, is in the files. The letters to Congressman Pike and Senator Proxmire, and subsequent correspondence between Mr. Colby and Mr. Staats appear on pages 445 to 462 of the appendix.]

Mr. STAATS. We know of this committee's deep interest in information regarding the size of the Government's commitment of resources, both in personnel and financial terms, to the intelligence function. We understand that the committee will be inquiring into the potential for achieving fiscal savings and increased management efficiencies in the execution of the intelligence activities of the Government. The magnitude of the financial resources devoted to intelligence work has been a subject of particular public concern and speculation.

Chairman PIKE. May I interrupt you just for a moment. I would like to announce to the members of the committee as a matter of policy that I am not going to stop the hearing for the purposes of this quorum call. If any member of the committee wishes to go to the quorum call, please feel free to go when you are obliged to do so. It is my personal judgment that what we are doing here is more significant than going over there and marking ourselves present and returning.

Go ahead, Mr. Staats.

Mr. STAATS. I should emphasize at this point that we cannot independently verify the accuracy of any estimates which may have been made as to the size of the intelligence community budgets. And, in any attempt to calculate an overall intelligence budget, there will al-

ways be judgmental issues over how to account for the cost of such things as submarines, reconnaissance aircraft, and satellites, where both intelligence and nonintelligence purposes may be involved concurrently. Furthermore, we understand that large segments of the total intelligence budget are concealed within the budgets of various Government departments and agencies, which would further complicate an attempt at verification of data.

As I have indicated, we have recently been engaged in several intelligence-related assignments which were prompted by specific congressional requests. One of these, undertaken at the request of Senator Charles Percy in July of 1974, and later endorsed by the chairman of the Senate Government Operations Committee, involved an attempt to obtain budgetary, organizational, and personnel information for all units, departments, and agencies of the Federal Government that perform police, investigative, or intelligence activities. A questionnaire was used to solicit the information from 173 units, departments, and agencies. Some data was gathered from responses to the questionnaire, while certain other agencies, apparently due to the sensitivity of the information, provided it to us during onsite visits.

A limited verification of data furnished by civil agencies was conducted by means of followup interviews with agency officials and through review of documents and reports. The extent of verification was limited because of time and volume constraints; we were not able to verify any of the Defense Department intelligence information which was provided to us. We also had to rely on each agency's interpretation regarding the extent to which it performed police or investigative, or intelligence activities. In some cases, existing accounting records did not readily identify the requested information, and we had to depend upon estimates made by the agencies as to their funding and personnel levels. Also, while we attempted to obtain the data in a uniform manner, some agencies did not furnish data in the requested format.

We issued two reports to Senator Percy on June 9, 1975, one dealing with police and investigative funding and personnel, and the other covering intelligence funding and personnel. The latter report, which is classified "Secret," contains data on six departments and agencies which volunteered information to us, including some data on the Defense Department. However, we were formally refused data on the Central Intelligence Agency, the National Security Agency, and certain other sensitive Defense Department intelligence activities. In some cases, statutory authority was cited as the basis for the refusal; while in most cases, we were directed to the congressional intelligence oversight committees for the data. We decided, after discussion with representatives of Senator Percy's office and the Government Operations Committee, and because select congressional committees had been created to investigate intelligence operations, that we would not make further attempts to obtain such data from the agencies which had refused it to us.

We are currently conducting, at the request of the House Judiciary Committee, a review of the domestic intelligence operations of the FBI. We are examining relevant policies and procedures, and the application of resources to these operations.

In order to determine how the Bureau carries out its domestic intelligence activity, it is necessary for us to review investigative cases. The Bureau was and is concerned that if we had access to its domestic intelligence files, the FBI's capability to develop informants and to conduct intelligence investigations would be negatively affected. In response to this concern, we worked out with the Bureau a procedure whereby the Bureau prepared special summaries of the case files which we had randomly selected for review. Through these summaries and followup interviews with FBI personnel associated with the cases, we are obtaining information on how the Bureau's policies and procedures are carried out in domestic intelligence investigations.

To insure the accuracy of the summaries, we need to verify the information contained in them. We therefore proposed a verification procedure under which we would randomly select documents from the case files to assure ourselves that the documents were accurately reflected in the summaries; the Bureau would block out informants' names before allowing us to read the documents. However, the FBI Director and the Attorney General have not been willing to agree to this procedure and have so notified the chairman of the Judiciary Committee. An alternative procedure was suggested by the Attorney General, but the chairman has advised the Attorney General that the alternative procedure would not be acceptable and has asked him to reconsider his position. Unless the verification problem is resolved, our report to the Judiciary Committee will have to be qualified because of our inability to fully verify the information on which it is based.

In the fall of 1974, we received two requests which would have necessitated that certain information be provided to us by the Central Intelligence Agency. One request was made by the chairman of the Subcommittee on Europe, House Committee on International Relations, concerning the cutoff of funds for Turkey. The second was made by Senator James Abourezk, and it concerned former oil company officials currently employed by several Government agencies, including the CIA. In both cases, we did not receive the information we requested; and in one case, this precluded us from making the requested review. In the other case, our review was limited but not completely frustrated by our lack of access to CIA information.

On the other hand, we have recently performed, at the request of the Special Subcommittee on Intelligence of the House Armed Services Committee, two reviews of the reasonableness of the procedures followed by the CIA in the divestiture of certain proprietary interests. The reviews were performed by GAO staff members holding security clearances, but no special intelligence clearances, and we were given excellent cooperation by the CIA personnel with whom we worked. Our reviews were completed in an expeditious manner, and we have issued our reports to the Special Subcommittee.

Perhaps at this point I should describe to this committee the sequence of events leading up to our termination, in 1962, of all GAO-initiated audit work at the CIA. The history begins with the enactment of the Central Intelligence Agency Act, after which the Director of the Agency requested that, in spite of the provisions of the law granting him broad and unusual powers, we continue to make a site audit of

expenditures. We agreed to do so under the same arrangements as existed when we made audits at the predecessor Central Intelligence Group. However, in view of the provisions of the act, we referred any apparently questionable payments to the CIA comptroller's office for corrective action. No audit whatsoever of unvouchered funds was made; these are the funds expended on the certificate of the Director. Furthermore, this work did not include substantive reviews of CIA policies, practices, and procedures.

About this point in time, GAO began to expand the scope of its audits to review not only agency financial transactions but also to determine whether authorized agency programs and activities were being conducted in an efficient, economical, and effective manner. In light of this development, a senior GAO official attended an executive session of the special subcommittee, Central Intelligence Agency, of the House Armed Services Committee, to discuss our work at CIA. During this meeting, the subcommittee suggested that we submit our recommendations regarding future GAO activity at CIA. On May 29, 1959, the former Comptroller General wrote to the chairman of the subcommittee to the following effect:

He believed that the broader type of audit was appropriate for GAO work at CIA and would be more likely to produce evaluations helpful to the Congress and the Agency;

The type of limited audit effort therefore conducted should no longer be continued;

He would not attempt to evaluate the intelligence activities of the Agency; and

The Subcommittee could be helpful in effecting a change in the scope of GAO work by advising the Agency of the Subcommittee's interest on behalf of a broadened GAO audit.

In July 1959, the former Comptroller General was briefed by CIA concerning activities and functions of the Agency. Thereafter, a series of staff level discussions were held on the subject of improving our audit of the CIA. The culmination occurred in October 1959, with an exchange of correspondence among the CIA, GAO, and the subcommittee. On October 16, the CIA Director wrote to the Comptroller General and, in substance, made these points:

He believed GAO could expand its audit activities with respect to a considerable portion of CIA;

Expenditures made on the certificate of the Director for confidential, extraordinary, or emergency purposes would not be subject to review;

The policy of the Agency was to limit as much as possible this authority of the Director;

Consequently, many vouchered expenditures were made which were related to activities which were not sensitive in themselves but which were conducted in support of highly confidential operations;

The Director's special authority extends protection to this category of vouchered expenditures, which would therefore also have to be excluded from any expanded audit coverage; and

He solicited agreement on these principles and, if agreement were achieved, suggested continuance of discussions toward broadening the scope of GAO audits.

In a letter dated October 21, 1959, to the CIA Director, with a copy to the subcommittee chairman, the Comptroller General—

Agreed that expenditures made on the certificate of the Director were not subject to GAO audit without his concurrence;

Said that it seemed possible to expand GAO audits considerably, even though these reviews would be outside the area of sensitive security operations;

Expressed a willingness to attempt to broaden GAO activities, within the principles expressed in the Director's October 16 letter, for a trial period; and

Said that if the trial period showed that GAO reviews were so limited that it

could not accomplish any worthwhile objectives, he would have to consider whether the effort should be continued.

On May 16, 1961, the Comptroller General wrote to the subcommittee chairman and the CIA Director to express the view that, under existing security restrictions, GAO did not have sufficient access to information to make comprehensive reviews on a continuing basis that would be productive of evaluations helpful to the Congress and that, as a result, it planned to discontinue audits of CIA activities. The GAO specifically related that, while access to overt activities of the intelligence component was reasonably good, its activities were not such as would be generally susceptible to productive audits. There was no access at all to the plans component. The overt and confidential activities of the support component were so integrated that a reasonably comprehensive audit could not be made. That same day, the subcommittee chairman discussed the contents of the May 16 letter with GAO staff; he expressed concern over plans to terminate audit activities at CIA.

On May 17, 1961, the CIA Director wrote the Comptroller General to express his opinion that GAO's reviews had been helpful in bringing certain matters to the attention of Agency officials and had formed the basis for taking corrective action. He further expressed regret over the plan to discontinue completely GAO's work at CIA and asked that, before final action was taken, he have an opportunity to discuss the possibility of continuing an audit on some scale. On May 18, 1961, the chairman of the House Armed Services Committee wrote to the Comptroller General, recommending strongly against the discontinuance of GAO efforts at CIA pending further discussion between CIA, GAO, and the committee. He further stated that, despite the "inherent" restrictions on the scope of a GAO audit at CIA, even a limited audit of overt accounting actions would serve a worthwhile purpose and that precipitous action was not required. He also mentioned that there were other overriding considerations which could not be divorced, under the prevailing circumstances, from any change in the existing relationship between GAO and the CIA.

On May 23, 1961, the Comptroller General wrote to the chairman of the Armed Services Committee and the Director of CIA to restate the restrictions GAO experienced on the scope of its audit; he also restated the conclusion that no worthwhile audit activity could be conducted under the circumstances. However, because of the views of the committee, he said he would continue a limited audit program at CIA pending further discussion of the matter.

In June of 1962, meetings were held between GAO staff and the CIA, and between GAO and the staff of the committee, to further discuss the matter. The GAO again restated the problems stemming from lack of adequate access to information, again proposing to terminate all effort at the CIA. As a result of these discussions and at the request of the committee staff, the Comptroller General recited the history of the matter in a letter dated June 21, 1962; he said that since May of 1961 nothing had caused him to change his views and that a conclusion had been reached only after having fully considered all the factors. He again specified the type of access he would need to make reasonably comprehensive reviews. He requested an expression of the committee's

views on these matters. On July 18, 1962, the committee chairman wrote to the Comptroller General as follows:

The restrictions imposed by CIA were necessary ;
The comptroller and internal audit functions at CIA had been strengthened ;
and,

For these reasons and because of the Comptroller General's belief that further effort at CIA was not worthwhile, the conclusion to withdraw from further audit activities would be accepted.

Therefore, since 1962, GAO has not conducted any reviews at the CIA nor any reviews which focus specifically on CIA activities, except for the two recent reviews noted earlier, which were done at the request of the Special Subcommittee on Intelligence of the House Armed Services Committee.

[The correspondence between the GAO, CIA, and the House Armed Services Committee referred to by Mr. Staats is printed on pages 496 to 518 of the appendix.]

A somewhat different situation is presented in the case of the National Security Agency. In 1955, in response to a request by the Director of NSA, the Comptroller General assigned a GAO staff member to NSA on a permanent basis to perform limited onsite audits of NSA's vouchers and accounts. Under the present onsite audit procedures, all accounting and supporting documents are maintained at NSA or designated records storage sites for audit purposes; these security measures are necessary because the majority of the documentation is of a classified nature. The mutual accessibility of the GAO staff members and NSA officials permits prompt and informal resolution of questionable expenditures. To the present, our audit effort has been primarily of a financial accounting nature, plus a very limited effort in the area of procurement. No formal report has been published on the results of our continuing examinations at NSA. Section 6 of Public Law 86-36 provides that no law shall be construed to require the disclosure of the organization or any function of NSA, of any information with respect to the activities thereof, or of the names, titles, salaries, or number of persons employed by NSA. We do not construe this section as precluding our access on a confidential basis; we view section 6 as a prohibition on any disclosure of our findings to the public at large.

The onsite GAO representative is required to obtain a special security clearance. From 1955 to 1973, only two or three of our staff had this special clearance at any one time. However, we have recently obtained clearances for a few additional members of our staff. We have informally discussed with NSA officials the potential for GAO conducting management-type reviews of certain aspects of NSA's operations. The preliminary conclusion we reached is that these are feasible, although we recognize that there are legal and practical limitations. One area in which we preliminarily believe some constructive, broader GAO reviews could be conducted is NSA's automatic data processing and communications activities.

There are several general considerations which bear upon the question of how we can most properly relate our audit responsibilities

to the special characteristics of the intelligence community. On the one hand we must keep in mind:

Legal limitations placed on the scope of the audits we could perform and the lack of explicit legislative authority to audit intelligence agencies;

The probability of continued restricted access to information;

Probable requirements for additional staff; and

The fact that any substantive reports would probably be available only for very limited distribution.

There are other factors, however, and they are also entitled to be given due weight. These would include:

The certainty that, whatever the exact amount, large expenditures are made in the execution of the intelligence function;

Growing recognition of the need for improved oversight machinery in the Congress and the support role which GAO might play; and

The indications of a potential for significant contributions toward more efficient and effective management of certain of the activities pursued by intelligence agencies.

Given the necessary charter, some of the areas where we believe that GAO studies might be conducive to improved management would be, for example, examinations into intelligence requirements and analysis capability compared with data-collection capability. In addition, procurement, property management, and personnel management usually present opportunities for economies and improved management. Furthermore, exploration should be undertaken of the potential, within and among the agencies, for a duplication or a lack of coordination of collection, analysis, and research activities.

We perceive several available options:

(1) Undertake reviews only in response to specific congressional requests.

(2) Perform audits and reviews on behalf of oversight committees.

(3) Initiate, renew, or continue discussions with agency officials with a view toward obtaining, independently of the interest of a specific committee, sufficient access to information to permit useful self-initiated management reviews.

(4) Assign professional staff members to the oversight committees.

(5) Seek explicit legislative authority for our audit of the intelligence agencies and access to the requisite information.

(6) Pursue any combination of the first five options.

While we certainly do not rule out any of these courses of action, our view is that, for the present, we want to assist the oversight committees to the extent possible. Of course, other current activities, such as our work at the FBI and further discussions with NSA, will be continued.

The role of the GAO in the oversight of the intelligence community cannot be fully determined, in my view, until the oversight role of the Congress is agreed upon and machinery established to exercise this role.

The GAO shares a common problem with the Congress in balancing the need for adequate review of the operations and finances of the intelligence community, the need for public confidence in intelligence operations, and the need for confidentiality essential to the successful execution of many intelligence programs.

This concludes my statement but with your permission, I would like to read some parts from my letter to this committee which spell out some thoughts we have.

We say:

We believe the Congress should once again, as it has in the past, consider the manner in which oversight of the intelligence community is managed in the light of the constitutional provision that no moneys be spent from the public treasury unless appropriated by the Congress. In this regard, the Congress should consider the role GAO is to play in what the Congress ultimately decides should be the requisite Congressional approval of intelligence community funding and activities. GAO's role should be sufficiently clarified so that it can determine its reporting responsibilities.

Then, as the second point, we say:

We believe the Congress should address the questions of whether some broad policy guidelines and criteria for certain types of covert national security activities should be established by legislation; whether any agency responsible for intelligence collection should also be responsible for carrying out actions; and whether the existing Congressional system for identifying, approving, or disapproving significant individual covert projects is adequate.

Then we conclude by saying that:

Given this situation, the question arises as to the adequacy of the available management review function within the CIA particularly. Are the agencies within the intelligence community so organized and structured as to permit such a management review function as an internal matter? If not, can they be made so to enhance the possibility of effective congressional oversight management review, either by the oversight committees themselves or with the assistance of GAO or others?

This concludes my prepared statement, Mr. Chairman. I will be happy to respond to questions.

Mr. Keller, to my left, the Deputy Comptroller General, and Mr. Fitzgerald of our General Counsel's office are here to assist me.

Chairman PIKE. Thank you very much. Before starting I would simply like to advise the members of the committee that we will proceed under the 5-minute rule.

It applies to all members. It will hurt me just as much as it does you.

Mr. Staats, you have been most constructive and most specific.

I would like to paint with a rather larger brush. Does the General Accounting Office, which has the responsibility for representing the legislative branch of our Government in overseeing the expenditures of the public moneys, know how much we spend on intelligence?

Mr. STAATS. No, sir, we do not. As I have indicated in my statement, in preparing the report for the Senate Government Operations Committee, we were not able to obtain that information specifically.

Chairman PIKE. Because of the restrictions which have been placed on your access to information, does the GAO know whether there is duplication in the realm of our intelligence-gathering activities?

Mr. STAATS. We would have no way of finding out, Mr. Chairman. This information is not available to us and, unless we know where the money is and where the people are, we would have no basis for making a judgment that there is duplication or lack of coordination or poor management.

Chairman PIKE. In your letter to this committee, Mr. Staats, you referred to the first part of the seventh clause, article I, section 9 of the Constitution. That is the provision which states that no money

shall be drawn from the Treasury but in consequence of appropriations made by law. It is my feeling that the Congress does in fact make the appropriations but they do not in fact know what they are appropriating when they make the appropriations. I am more interested in the second part of that clause which says, "and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time."

In your judgment, is a regular statement and account of all public money published?

Mr. STAATS. This provision is susceptible to interpretation as to whether or not it refers to the totals of the Government or whether it relates to departments or to activities or to functions. It has never been fully litigated.

Chairman PIKE. If there has been an attempt to litigate it, it was in the case of *United States v. Richardson*.

Mr. STAATS. Yes, but it was eventually thrown out by the Supreme Court on lack of standing, if my understanding is correct.

There is, of course, disclosure by the Treasury and through the budget of overall expenditures.

Chairman PIKE. You are really an expert in this field. Do you consider the kind of disclosure which we get to be that which the Founding Fathers had in mind when they referred to a statement and account of all public moneys?

Mr. STAATS. I would certainly agree that it does not represent full disclosure. But at the same time, I would have to say, Mr. Chairman, that from the early days of our history there have been provisions written into law which authorize agency heads to maintain certain expenditures in secret.

Chairman PIKE. Yes, but we cannot write into the law anything which overrides the Constitution.

Mr. STAATS. But I think it is the other way around. The Congress has written into law provisions which authorize agency heads to maintain expenditures confidential in spite of this provision. That practice has not really been challenged in our long history for reasons of which I am unaware.

Chairman PIKE. The time of the chairman is up.

I yield to Mr. McClory.

Mr. McCLORY. Thank you, Mr. Chairman. Do we have any estimates as to the overall costs of the entire intelligence community? It seems to me I recall some statement about \$5 or \$6 billion or something like that.

Mr. STAATS. We have seen those figures, too, Congressman McClory. But we would have to simply——

Mr. McCLORY. That is just a guess?

Mr. STAATS [continuing]. Regard those as guesses unless they can be verified.

Mr. McCLORY. You have prepared two reports for Senator Percy. They are fairly recent, last year, I believe. Those are considered as secret, but you have received extensive information, I gather, from the intelligence agencies other than the CIA and the NSA.

Now have those been made available to other persons than Senator Percy?

Mr. STAATS. I believe they have been made available to this committee. There is no restriction on information which is classified as secret except for individuals receiving it being qualified to receive it. We make many reports which are of a classified nature.

Mr. McCLODY. So you either could or have released that to this committee with the understanding that it is a secret document.

Mr. STAATS. That is right. Any person who is willing to receive the information under the rules that apply to classified information is eligible to receive this kind of report.

Mr. McCLODY. Now if you were authorized to conduct investigations such as you perform for the Congress with respect to other agencies of CIA and other intelligence agencies on a confidential basis that would be legislative authority which would give you the prerogatives which you don't seem now to have.

Mr. STAATS. That is correct.

We may have to have more explicit authority than we have today.

Mr. McCLODY. Would you encounter any difficulty, do you think, if ultimately we should recommend the establishment of a joint congressional committee on intelligence to overview the intelligence community with respect to the subject of the secrecy of the reports you might prepare for the benefit of such committee.

Mr. STAATS. I would like to say two or three things with respect to your question. This is to some degree a personal judgment and based on my own background . . . I would favor a joint committee. I would favor it partly growing out of the experience of the Joint Committee on Atomic Energy which has in my opinion been quite successful in receiving highly sensitive information. To the best of my knowledge there has never been any problem concerning disclosure of unclear information from the committee. It has been an effective method by which the House and Senate could exercise oversight of that program.

The other thing I would like to say is more related to our role. Without some committee of this type to which we could relate, with which we could agree regarding areas in which we would investigate and study and develop recommendations, so that we had someplace in the Congress where we could have an audience and a body to report to, we would be, I think, relatively ineffective. So I would favor for both those reasons a committee of the type you are suggesting.

Mr. McCLODY. There is an existing rule of the House which permits any Member of the House to see and examine secret information with the same limitations as other Members who originally receive such information. Do you have an opinion as to that rule or whether you think it might be susceptible to some modification in order to retain greater secrecy of such reports.

[The rule referred to is House Rule XI(2)(e)(2). Derived from section 202(d) of the Legislative Reorganization Act of 1946, it was made a part of the rules on January 3, 1953.]

Mr. STAATS. Speaking for GAO, we certainly would not want to be in a situation where there was any concern that we would be supplying information to other than a body authorized by the Congress to obtain that type of information, and we would not do so. By the same token, because of the sensitivity of the information we are dealing with, we need some part of the Congress to which we can relate and with which we could have agreement on the areas on which we would undertake reviews.

Mr. McCLODY. Thank you very much.

Chairman PIKE. Mr. Giaimo.

Mr. GIAIMO. In reading and listening to your testimony, you state on page 13 that since 1962 GAO has not conducted any reviews of the CIA nor any reviews which focused specifically on CIA activities. On the bottom of page 16, you say that the role of the GAO in the oversight of the intelligence community cannot be determined fully until the oversight role of the Congress is agreed upon and machinery established to exercise this role.

Then you go on to say how there has to be a balance between adequate review by the Congress and the needs of confidentiality. Is it a fair inference then that the General Accounting Office has very little if any information on the activities and expenditures of public funds by the intelligence community and the members of the intelligence community of the U.S. Government?

Mr. STAATS. That is correct.

Mr. GIAIMO. Is it also correct that you are not, nor is the General Accounting Office, in a position to know whether or not the CIA or other members of the intelligence family are acting within the parameters of the statutes which established their existence and their missions?

Mr. STAATS. That is correct. I should add here that we are also not able to give the Congress any appraisal as to the adequacy of the agencies' own internal control machinery. This includes internal review of their financial requirements, accounting to the Director, accounting to the National Security Council or to anyone else. So we are in no position to make any judgment as to whether they are running a good internal management shop.

Mr. GIAIMO. Would you care to give us your opinion as to whether or not you think this is a healthy balance between the public's need to know and the Congress' need to conduct watchdog or oversight operations. Do you think we now have a healthy balance between the intelligence community and the oversight community?

Mr. STAATS. Absolutely not. I would emphasize that it is important that the Congress know. Many things the Congress is aware of cannot be made public, and people understand that, I am sure. But I think there is a public confidence element here as to whether or not there is an oversight agency conducting reviews in the intelligence community, even though the results cannot be fully divulged. I think the public needs to be assured in this area as in any other area that there is an oversight agency with adequate authority to get the information and make that information available to the Congress of the United States.

Mr. GIAIMO. Did I understand you to say that you favor the establishment of a Joint Congressional Committee on Intelligence to oversee the activities of the intelligence community?

Mr. STAATS. That is correct.

Mr. GIAIMO. You made reference in your statements to earlier meetings with GAO and conversations going back to the early 1960's, particularly with the Armed Services Committee. Would you characterize earlier oversight activities by congressional committees as having been done by very few individuals in the Congress? Do you know of your own knowledge whether that was so?

Mr. STAATS. That is correct.

Mr. GIAIMO. For example, you speak of the Armed Services Committee in 1959 and 1961 and 1962, and you mentioned the subcommittee chairman and the chairman. In those days, if I recall correctly, the chairman was Mr. Vinson of Georgia. Can you tell us who was then the subcommittee chairman of that Subcommittee on Intelligence?

Mr. STAATS. Mr. Keller was present at that time. I think it would be better if he answered the question.

Mr. KELLER. Congressman Paul Kilday was chairman of the subcommittee at that time.

Mr. GIAIMO. Do you know whether those conversations involved all of the members of the Armed Services Committee?

Mr. KELLER. I would have no way of knowing that.

Mr. GIAIMO. Do you know whether there were many people in the Congress in the early 1960's who were privy to the information, which you have told us here today, as a result of the communications between the GAO and the congressional committee involved?

Mr. KELLER. My judgment would be that there were probably very few.

Mr. GIAIMO. Would you care to give us your opinion as to whether or not part of the problem with the inadequacy of congressional oversight over the many years, particularly in the early 1960's, has been the fact that there have been too few Members of the Congress who were privy to this information?

Mr. STAATS. That would be my view although again we would have no way of knowing with how many members of the committee the information was shared. I think only the individuals themselves could tell you that.

But part of the value of a joint committee would be that the membership of that committee would represent a judgment by the Congress of those who would have a legitimate interest in the subject. It would not be uncertain. It would not be a vague understanding about who was going to get the information or who was not. I think that there is great value in that kind of situation.

Chairman PIKE. Mr. Stanton?

Mr. STANTON. Thank you, Mr. Chairman. Mr. Staats, first of all let me thank you for your candor and your testimony which I consider excellent in terms of its presentation. Could you tell me, you have stated in your testimony that you do not know the amount of money expended by the intelligence community because there is no way that you can audit it; is that correct?

Mr. STAATS. That is correct.

Mr. STANTON. Then you would have no way of knowing in a time frame, say, from 1955 to 1975 what the increase in fiscal outlay has been to any particular agency; is that correct?

Mr. STAATS. That is correct.

Mr. STANTON. Is it true that the reason that you cannot tell is because such funds are hidden in other parts of the Federal budget and that there are only specific Members of Congress who know, on the Appropriations Committee, in what particular agency budget that money is contained; is that correct?

Mr. STAATS. Both for that reason and for reasons of secrecy and confidentiality.

Mr. STANTON. As to your experience with the NSA, where you did institute audit procedures, is it your belief that the same procedures could be instituted with respect to the CIA?

Mr. STAATS. I would be inclined to say "yes" if you assume that we will be able to make meaningful reviews of the managerial side of NSA. We think we can, and we have no contrary indications to date from NSA that they would not be agreeable to managerial type reviews. I mentioned two potential areas where we feel that GAO audits could be made: automatic data processing and communications. But we recognize again that even there we need to have someone to whom we can report because I would be willing to venture today that those could not be public reports.

Mr. STANTON. Would you say that, when you need somebody to report to, you are talking about the Congress and, specifically, I assume, the joint congressional committee concept that has been advocated for about 20 years.

Mr. STAATS. That is correct.

Mr. STANTON. Do we not run the risk of a joint congressional committee becoming part of the establishment of the agency over which it performs oversight? For example, it has been said that certain committees of this House who have oversight responsibility have been so involved with the object agency that they have failed in terms of performing oversight. Is that danger not possible through a joint congressional committee performing that function?

Mr. STAATS. Not inherently so, as I see it. I suppose there is a danger of any committee, whether we are talking about an oversight committee of this type or any other committee, becoming, you might say, advocates of the program. This is a matter, I think, of broader concern than just the field that we are talking about here.

But there are ways that you can protect against that, also.

Mr. STANTON. That is correct.

For that purpose would you think that one of the ways might be a limitation on the amount of time that a Member serves on that committee, as we do on the Budget Committee of the House presently, with a limitation of serving on the joint congressional committee for 2 to 6 years, or for a specific period of time?

Mr. STAATS. I think that might be one way to deal with it. If that were done, I would hope it would not be such a short period of time that individuals would not be able to become fully knowledgeable about the area they are working in. I have a feeling that, concerning the arrangement of the House Budget Committee, the period of time is too short; but that is another matter.

Mr. STANTON. Would it be possible and practical in your judgment to institute, for the protection of the public and the building of confidence of the public in Government the activities in this sensitive area, explicit expressed authority for the GAO for audit review through enactment of legislation as recommended by our committees to other committees in the House?

Mr. STAATS. Yes, indeed. I referred to several avenues of approach in my statement. I would want to emphasize that I doubt that we could be fully effective, even with a joint committee, unless we specifically had access authority to information. I do not believe we would be able to get that information as readily without such explicit authority.

Mr. STANTON. I concur. I thank you very much for your testimony.
Chairman PIKE. Mr. Treen.

Mr. TREEN. Thank you, Mr. Chairman. I appreciate, Mr. Staats, your being here today. I would like to ask you if you know, either as a result of review of the experience during Project Manhattan or because you were with the U.S. Bureau of the Budget from 1939 to 1953, how the Congress appropriated funds for the Manhattan project, how they were accounted for when expended, and who had access to that information?

Mr. STAATS. I do not know specifically the names of the individuals who had access to that information, but I believe that there were only two individuals who had access to that information.

Mr. TREEN. Do you know how the money was appropriated, under what heading, under what category did we appropriate the money for the research to develop the atomic bomb in the early 1940's?

Mr. STAATS. That information is now available and we would be glad to supply it for the record. My recollection was that it was made available largely through the Corps of Engineers construction appropriation.

Mr. TREEN. I would appreciate, Mr. Chairman, if that is satisfactory with you, getting the details of that for the record.

Chairman PIKE. Yes; we would appreciate your providing that for the record, Mr. Staats.

Mr. STAATS. We will be glad to.

[The information follows:]

The history of the Manhattan Project is the subject of "Now It Can Be Told," by Lt. Gen. Leslie R. Groves, who was director for the Manhattan Project from September 17, 1942, to December 31, 1946. Chapter 26 specifically concerns the extent to which the nature of the project and the sources of its funding were made known to Members of Congress. Involvement of the General Accounting Office in auditing the expenditures of the Manhattan Project was discussed in hearings before the Senate Select Committee on Atomic Energy on April 4 and 8, 1946. The audit conducted during that period was essentially a voucher-type audit.

See also, "On Active Service in Peace and War," by Henry L. Stimson and McGeorge Bundy, particularly page 614. Volume I of "A History of the United States Atomic Energy Commission," by Richard G. Hewlett and Oscar E. Anderson, Jr., contains in Chapter 9 a discussion of Congress and appropriations for the Manhattan Project.

Mr. TREEN. I would like to get into the question now of your authority to examine accounts. Basically you have authority under 31 U.S.C., sections 54 and 60 which seem to me to contain a rather broad charter. Section 54, title 31 states that all departments of the Government shall furnish to you "such information regarding the powers, duties, activities, organization, financial transactions, and methods of business of their respective offices as he may from time to time require of them."

You are given the authority to secure and "have access to and the right to examine any books, documents, papers, or records of any such department or establishment." Under section 60 you are "authorized and directed to make an expenditure analysis of each agency in the executive branch of the Government * * * which, in the opinion of the Comptroller General, will enable Congress to determine whether public funds have been economically and efficiently administered and expended."

Before getting your response thereto, I assume that you feel that the appropriations acts that contain provisos about expenditures on the certificate or warrant of the head of an agency cut across these statutes, is that correct?

Mr. STAATS. Yes, that is correct, and in the case of CIA there is a specific provision in its organic act, as you know, which authorizes the Director to make expenditures on his own certificate, which means we do not have any authority to go behind—

Mr. TREEN. I would like to examine that a little bit legally. I have never examined into this area before, but when Congress says that the head of an agency may expend money on his own certificate, of course that means that he then is given a great deal of discretion in how that money is spent, but do you interpret that to mean that you cannot then look at how it was spent?

Mr. STAATS. That is correct.

Mr. TREEN. He is given the authority to spend it?

Mr. STAATS. That is correct. Legislation has been introduced in the House by Congressman Eckhardt on January 16 of this year for himself and a number of other Members, which would at least authorize us to go behind the certification to the extent of making a judgment as to whether it was in fact a justifiable certificate in the sense of being secret or confidential.

[The bill referred to is H.R. 1513.]

Mr. TREEN. You don't think you have that authority now? Are there any court decisions upon which you base that opinion?

Mr. STAATS. No, sir.

Mr. TREEN. It seems to me the discretion to spend on the certificate of a head of an agency doesn't mean that you can't examine that expenditure; at a very minimum you can—you can total up the amounts he has spent on his own certificate, can't you?

Mr. STAATS. We may not even be permitted to know the amount.

Chairman PIKE. The time of the gentleman from Louisiana has expired.

Mr. Dellums.

Mr. DELLUMS. Thank you very much, Mr. Chairman.

Mr. Staats, I am appreciative of your being here this morning.

On page 8 of your testimony you allude to divestiture of certain proprietary interests on the part of the CIA.

Now, my first question may elicit from you classified information. Maybe the question that would elicit classified information could be answered for the record.

First of all, did you do an audit on the CIA's sale of both Southern Air Transportation and Air Asia?

Mr. STAATS. I am advised, Congressman Dellums, this would be classified information and we would have to supply that answer to you in a classified manner.

Mr. DELLUMS. I would request unanimous consent that material be given to this committee, Mr. Chairman.

Chairman PIKE. Just a moment. Before we do that, are you telling us that whether or not you performed an audit is, itself, classified information?

Mr. STAATS. That is my advice at the moment, Mr. Chairman; that would be the case with respect to any specific operation.

Chairman PIKE. The matter will be either provided for the record or heard in executive session at some subsequent time.

Mr. DELLUMS. Thank you, Mr. Chairman.

Is it correct you did do an audit on the divestiture of two proprietary companies?

Mr. STAATS. Yes. We were asked to look at whether or not the procedures that they went through to divest themselves of these interests were adequate, and we did get the necessary information, and we rendered opinion on the questions in each case.

Mr. DELLUMS. Did you look at or audit the profit and loss statement of either or both of these proprietary companies?

Mr. STAATS. I am sorry, I didn't get the first part of your question.

Mr. DELLUMS. Did you look at or audit the profit and loss statement of either one or both of these proprietary companies?

Mr. STAATS. I am advised that we did not make an audit of any profit and loss statement.

Mr. DELLUMS. So you have no way of answering the question of whether or not these companies made a profit?

Mr. STAATS. No, sir.

Mr. DELLUMS. What happened to the money from the sale of these two proprietary companies?

Mr. STAATS. I believe our reports would be available to this committee, Mr. Chairman.

Chairman PIKE. Will the gentleman from California yield?

Mr. McClory.

Mr. McCLORY. I have a point of order.

The point is that the witness stated this is classified information and you have stated that you would receive the information in executive session.

Chairman PIKE. That is not my understanding. The witness, who is a very experienced, old hand in these things, has said that naming the specific corporations involved did constitute a classified statement.

Mr. Dellums thereafter rephrased his question to cover unnamed corporations. If at any time Mr. Staats feels the matter is or should be classified, he has an absolute right to say so.

The Chair overrules the point of order.

Mr. McCLORY. I think he was referring to the specific cases to which the witness had already stated—

Chairman PIKE. As I said, I am not going to raise the question of secrecy if Mr. Staats does not opt to do so.

Mr. DELLUMS. Mr. Chairman, I would restate my question: What happened to the money from the sale of these two unnamed proprietary companies?

Mr. McCLORY. Mr. Chairman, I think the witness—I think that our colleague—

Chairman PIKE. Does the gentleman make a point of order?

Mr. DELLUMS. I am not yielding time to the gentleman.

Mr. GIAIMO. Will the gentleman yield to me for a moment?

Mr. DELLUMS. I yield to my distinguished colleague.

Mr. GIAIMO. For many years, one of the problems has been that even before we have objections from the executive branch or the agencies themselves, there is all too often a predisposition on the part of certain people in the Congress to impose our own cloak of secrecy—

in addition to executive branch cloaks of secrecy—over the activities of agencies. That has been part of the problem with congressional oversight.

Chairman PIKE. The Chair will simply state that any man can make a point of order at any time.

Mr. McClory made a point of order and was overruled.

Mr. Dellums.

Mr. DELLUMS. Thank you.

Mr. Staats, on the question—

Mr. STAATS. I am sorry, Congressman Dellums, we are not able to respond to that question for the reasons I have indicated.

I hope the members will appreciate the fact we are bound by the same laws that bind everyone else with respect to the classification of information.

Mr. DELLUMS. I respect that. I am simply raising questions; if it is classified I would simply request that the information be given to the committee or heard in executive session. I am simply raising the question.

Mr. STAATS. I believe that can be done.

Mr. DELLUMS. Thank you.

My next question is, was the company or companies sold at true market value?

Mr. STAATS. We are not able to respond to that.

Mr. McCLORY. I think the witness is entitled to be protected by the confidentiality under which he guards this information—

Chairman PIKE. Mr. McClory, I am just going to say flatly the witness is wholly capable of taking care of himself.

Mr. McCLORY. And the—

Chairman PIKE. This witness has been around longer than you and I have been around. What has happened here is that by your raising points of order and interrupting Mr. Dellums, Mr. Dellums' time has expired and accordingly the Chair now is obliged to recognize Mr. Murphy.

Mr. McCLORY. A further point of order. I want to make it perfectly emphatic here that I intend, when a witness is pursued after he has made the point, to provide the information, would violate the confidentiality under which the information is held, I am going to persist in objecting to questions which would endeavor to elicit information which the witness has indicated he is not at liberty to provide and to persist in the questioning after that point has been made.

It seems to me quite improper as far as the members of this committee are concerned.

I am not raising any question with regard to secrecy which is not already inherent in the law, but I am going to be certain that whatever is inherent in the law is going to be preserved and protected in this hearing.

Chairman PIKE. The gentleman from Illinois did not state a point of order. Any time that the gentleman from Illinois does state a point of order, the Chair will rule on the point of order, but the Chair is not going to let the time of any member of the committee be used up in that fashion and from now on the Chair will exercise his discretion in granting additional time, if we run into that situation again.

The Chair recognizes the gentleman from Illinois, Mr. Murphy.

Mr. MURPHY. Mr. Chairman, I will yield 1 minute of my 5 minutes to Mr. Dellums.

Mr. DELLUMS. Thank you very much.

Mr. Staats, with a view toward understanding that the questions I am raising with you are in no way an effort to compromise you, but simply to raise the questions: If in fact in your judgment the matters are security matters that should be given to this committee in executive session, I accept that as a member of committee.

I simply raised the question in order to elicit the response today or at some future date.

My next question in the remaining seconds I have is, were the companies sold strictly to the highest bidder? If not, why not?

My next question, who bought these companies? Were any of the buyers previously associated with the CIA and, finally, what kind of CIA audits have been made on company ledgers? If you could supply us with answers to all of the questions that I have raised with you that are of a classified nature, I will deeply appreciate it and with that I yield back my time to my distinguished colleague.

[The information may be found in the committee files.]

Mr. MURPHY. Thank you.

I too would like to thank you for your forthright testimony here today, Mr. Staats.

In your testimony you pointed out legal restrictions on your auditing and your access to information authority, and later on page 3 you say a closely related problem is the difficulty of developing acceptable arrangements for the reporting of GAO findings and conclusions to Congress.

My question, Mr. Staats, is whether we could have your recommendation in developing acceptable arrangements for the reporting of your findings and your auditing to the Congress?

Mr. STAATS. Yes. This very definitely relates to the discussion we had a few minutes ago with respect to a joint committee, or some alternative arrangement—

Mr. MURPHY. I understand you agree with the theory of the joint committee as I do.

I would like, at your leisure, for you to supply us with acceptable reporting arrangements to the Congress, taking into consideration the confidence you must preserve and the Congress has to preserve.

Mr. STAATS. We will be happy to elaborate and develop that point further.

Mr. MURPHY. Thank you, Mr. Staats.

Thank you, Mr. Chairman.

Mr. MURPHY. I yield to Mr. Dellums if I have time.

Mr. DELLUMS. Mr. Staats, what is your opinion of the legality of an agency investing appropriated funds in the stock market?

Mr. STAATS. I don't really know what your question alludes to, but I would say that the freedom which CIA has been given in the statute does not preclude any investment or any expenditure which in the judgment of the Director would carry forward his own program and there is no way that you can really go behind that. That is really the substance of what I have been saying here.

Mr. DELLUMS. So you are suggesting that the authority for the CIA or any other agency of the so-called intelligence community to estab-

lish proprietaries and spend appropriated funds for that purpose is within their authority, given the present law?

Mr. STAATS. If the Director makes that determination, yes.

Mr. KELLER. The CIA Act specifically provides that the moneys available to the Agency can be spent without regard to any other provisions of law and regulations relating to the expenditure of Government funds. It is a very broad provision.

Mr. DELLUMS. One other question: What is the legality of covert Government proprietaries competing for Government contracts with public companies? Do you have any opinion on that?

Mr. STAATS. Our response would have to be the same as the one we have given to your previous question.

Mr. DELLUMS. I appreciate that.

Chairman PIKE. Mr. Kasten.

Mr. KASTEN. Title 31, section 60 of the United States Code directs the Comptroller General to report directly to the Government Operations Committees, et cetera, on a number of different expenditures and evaluation of expenditures of executive branch agencies.

On page 6 of your letter of July 31 to the chairman you state that in general GAO has not taken the initiative in pressing for oversight of intelligence operations, but has made serious efforts to assist the committees on a request basis.

Does the GAO make a distinction between the congressional and self-initiated audits relative to the methodology and also relative to the legal authority? Do you draw a line between the statute here and what you are supposed to be doing, and also the initiated studies?

Mr. STAATS. The legal problem is there in either event. What is different is that if there is a strong interest on the part of a committee such as the Armed Services Committee or the Foreign Relations Committee in a particular matter, then our chances of getting the necessary information on a voluntary basis are better.

Mr. KASTEN. Under the normal procedure of reporting periodically, what reports have been submitted to the committees in accord with this statute? What reports having to do with intelligence and what reporting arrangements and procedures now exist between the GAO and the various committees that have oversight responsibilities at the present time?

Mr. STAATS. Let me respond to your question in the general framework in which we operate with respect to all the committees of the Congress.

The statutes, beginning with the Legislative Reorganization Act of 1970, and reincorporated in the Congressional Budget Act of 1974, require that we respond to requests that come from committees of the Congress to the best of our ability and we have worked with virtually all the committees in the Congress in that manner. These would be reviews that are undertaken specifically on request of committees, and the reports are made to the requesting committees. The availability of those reports to other elements in the Congress is a matter that is handled on a case by case basis. In some cases they are made widely available. In other cases they are held for hearings and for other reasons.

Now, regarding reports that we make on our own initiative under the broad charter that we have, these are made available to the public

unless classified, the day after they are forwarded to the Speaker of the House and the President of the Senate. All of these reports are referred to the interested committees and in all instances, to the Government Operations and Appropriations Committees. The Government Operations and Appropriations Committees have a specific responsibility under the Legislative Reorganization Act for following up on our reports and the recommendations we make in those reports, including, for example, receiving agencies' responses to those recommendations. Each agency is required within 60 days to tell the committees whether they intend to accept our recommendations or not. So the Government Operations Committee does have a special responsibility concerning our self-initiated reports.

Mr. KASTEN. The point of my questioning is, I think there may be as many problems on our side—on our side as the Congress—as there may be on the other side, the CIA or you.

Have, since 1962, any congressional committees requested the GAO to resume its financial audits of the CIA?

Mr. KELLER. Not since 1962.

Mr. KASTEN. There has not been that request?

Mr. KELLER. No, sir.

Mr. STAATS. The only requests we have had, Congressman Kasten, relate to those which we cite in our testimony here this morning.

Mr. KASTEN. In the letter you provided to us and also the letter to Senator Proxmire, you said that the GAO terminated all audits of the CIA because of disinvolving access to records.

Specifically, what difficulties have been encountered by the GAO in its attempt to conduct meaningful audits of the CIA?

Mr. KELLER. Perhaps I could answer that, sir. In the first instance there is the provision in the CIA Act which allows the Director to make expenditures on his own certificate. The law goes on further to say that the certificate "shall be considered a sufficient voucher for the expenditure"; to accountants that means that is all the data which is to be available.

Second, the position taken in the early sixties by the Director of CIA was that not only were unvouchered, certificated expenditures exempt from review by our office, but that also vouchered expenditures, if they were made in support of the covert activities, would not be subject to GAO review. And then you begin to get the whole thing mixed up.

Also, it is my understanding that our people who were out there were given limited access to certain things they wanted to look at, were never allowed to see very much of the whole picture and after a 2- or 3-year trial period of trying to expand our audits we came to the conclusion it was not a worthwhile effort.

Mr. STAATS. When the definition includes those activities which support covert operations, then it includes literally almost everything the Agency does, because nearly everything can be regarded as being in support of confidential operations. It was a hopeless situation as the GAO saw it, and we properly withdrew.

Chairman PIKE. Mr. Aspin?

Mr. ASPIN. Thank you, Mr. Chairman.

Mr. Staats, you have already said that you don't know the total amount of money that we are spending here. That would be one of the questions in which I am interested.

I don't know to what extent you can help, but I am trying to find out something about where does the money come from and who has control over it.

Now, where the money comes from apparently is scattered—mostly we talk about it being scattered throughout various other budgets, in the federal budget system and then shifted to the intelligence community after the appropriations process.

You are an expert. You have been around a long time. How else could the CIA or any other intelligence organization get money other than through that process? Is there any way other than through that process they might get money?

Mr. STAATS. I don't personally have too much difficulty with the process, provided that there is a policy—

Mr. ASPIN. I am just trying to determine if you can think of any other way they might get money. For example, what is the legal status over any profits made from proprietary companies? Have they complete discretionary control over that?

Mr. STAATS. It is all considered during the appropriations process.

Mr. ASPIN. Is that recycled through the appropriations process? Do they have to return that money to the Treasury?

Mr. STAATS. Let me answer your question this way: There is disclosure of these operations within the framework of the existing arrangements for review—

Mr. ASPIN. What happens to the money? If they make a profit at the end of the year, what happens to that profit? Does that go back into the Treasury and they have to get appropriations from it or can they use that money as they see fit?

Mr. STAATS. No; they cannot use it as they see fit but it is subject to the same monitorship by the OMB that all of their funds are subject to.

Mr. ASPIN. Do you know how that works? I mean, do you know what happens to that money?

Mr. STAATS. I do not believe that I am the best person to answer your question. Mr. Lynn probably can answer your question.

Mr. ASPIN. Who can we ask?

Mr. STAATS. Mr. Lynn.

Mr. ASPIN. Where else could they get money? Could they be, for example, printing the stuff? Is that possible? Can you think of any other place? I am trying to find out where all the possible sources of funds for the intelligence community come from. Where do they come from?

Mr. STAATS. The only basic source is appropriations.

Mr. ASPIN. You can't think of anything else? Appropriations, proprietary companies, selling such companies, profits from such companies?

Mr. STAATS. Those would not be significant in relationship to the total operation, no, sir.

Mr. ASPIN. Let me speak to the question of who has control over it. Do you have any feel for—the head of the Central Intelligence Agency is also head of the entire intelligence community. Do you have any

feel for how much control he has over that total intelligence budget of other intelligence agencies other than the CIA?

Mr. STAATS. I can only refer you to the statute under which he wears two hats; he is Director of Central Intelligence——

Mr. ASPIN. Does he help set the budgets for other agencies? Does he help set the budget for the NSA?

Mr. STAATS. He helps.

Mr. ASPIN. How much authority does he have, like the Secretary of Defense helps to set the budget for the Army, Navy, and Air Force? Has he that kind of authority, to set the budget for DIA, NSA, and other intelligence agencies?

Mr. STAATS. Legally he does participate in that.

Mr. ASPIN. Never mind what happens legally. What happens in fact? Does he really control the budgets of all those agencies?

Mr. STAATS. The word "control" is too strong a term. Legally he has the responsibility for advising the President with respect to that function. If there were an issue involved, undoubtedly he would have to get the President's decision, but his charter to advise the President is very broad. His concern relates to the total community, that is quite correct.

Mr. ASPIN. Do the other intelligence agencies present their budgets to him for their approval? Where do they present their budgets, do you know?

Mr. STAATS. I think you should direct this question to Mr. Lynn, who will be with you tomorrow. He is much more recently involved in this than I.

Chairman PIKE. The time of the gentleman has expired.

Mr. Milford.

Mr. MILFORD. Thank you, Mr. Chairman.

Mr. Staats, effective intelligence work, by its very nature, is highly secret and strict—and requires strict "need to know" rules.

The standard operating procedures within intelligence organizations are carried on in such a way that even their own employees have very limited knowledge of the overall mission and activities. And, as you know, the CIA and others use a so-called compartment system where even high level department officials will not be aware of special missions and operations. This, of course, is a very necessary procedure.

Now, in your opinion, can professional auditing procedures be devised wherein your own employees could audit these agencies and yet maintain this compartmental concept?

In other words, can you keep your auditors departmentalized and yet come up with a reasonable appraisal or audit wherein a very limited number of your key people would be aware of the overall audit results?

Mr. STAATS. Our staff has had experience with many highly secret, highly sensitive operations, and I think our record is very good in that we have not been the source of any disclosures of that type of information. We have been involved in reviews of military readiness, the performance of highly sensitive weapons systems and matters of this type. So I have no concern about our ability to deal with secret, classified, confidential information.

Now, referring to the compartmentation which exists within certain intelligence operations, I have to be very frank that there will probably have to be clear legal authority to have access to the necessary

information on a sufficiently broad basis. That may present a problem to the intelligence agencies, but I think that there must be some recognition here that without the ability to get information in that manner, there is not going to be adequate oversight, whether done by us or by anybody else. You are not going to have it.

Mr. MILFORD. I agree with you.

My question, primarily, goes not toward the executive agency so much as, can you devise auditing procedures that would maintain this compartmental concept?

Mr. STAATS. I think we can. I think we would have to be guided by and would take into account the agency's own problems in this regard. We do that today in similar situations.

Mr. MILFORD. Obviously, at some point there must be interdepartmental correlation, but my question is, can it be assumed that only a very limited number of people, such as the intelligence agency itself, have access to it? It is very limited?

Mr. STAATS. We would have to recognize that problem, and in fact today all of our classified reports are reviewed by the agency before we release them to the Congress from the standpoint of what specific information in them has to be classified.

On any of these subjects, we send the report in draft form to the agency and many times, as you may know, we send classified reports up to Congress. Often part will be classified, part will be unclassified. Or there may be even pages where certain parts of the information are classified, the remainder unclassified. This judgment is not made by us; it is made by the agency when it gives the draft its security review, and I think that would have to apply in this case.

Mr. MILFORD. You mentioned briefly in your statement that audits of the intelligence agencies might require more personnel. Do you have any idea of how many or what percentage of an increase would be required if you get into this?

Mr. STAATS. We couldn't really venture any guess at this point. It would depend a great deal on the wording of the statute giving us authority, and I think it would depend a great deal on the interests of the oversight committee itself as to how much it would like us to do. But I couldn't venture a guess at the moment.

Mr. MILFORD. It would follow this compartmental concept in your auditing. Would this proportionately require more people to carry out than your routine types of investigations and audits?

Mr. STAATS. I would say yes. Generally, yes.

Mr. MILFORD. Thank you, Mr. Chairman.

Chairman PIKE. Mr. Johnson.

Mr. JOHNSON. Mr. Staats, you have mentioned the figure \$6 billion in your letter to the committee as being the probable amount or at least the figure that is bandied about as being spent on the intelligence.

Mr. STAATS. That was not GAO's figure; no, sir.

Mr. JOHNSON. I think it is in your letter to the Congress.

Mr. STAATS. We are attributing that figure to other sources.

Mr. JOHNSON. You say it comes from other sources, but that is the figure that you use. You didn't say that you had determined that. Obviously it is a large figure. We all recognize it is in the billions.

Mr. STAATS. Yes.

Mr. JOHNSON. It is also my understanding it is hidden throughout the budget in the budgets of many different agencies and departments of the Government; is that correct?

Mr. STAATS. That is right.

Mr. JOHNSON. When you are making audits of these other agencies and departments of the Government, do you ever run across these blocs of funds which are somehow squirreled away for the intelligence activities of the Government?

Mr. STAATS. We do run into situations on other reviews that we make, reviews of the type I referred to on page 2 of my statement, where we are simply told that that is information not available to us.

Mr. JOHNSON. Then you do not pursue that further?

Mr. STAATS. We have no way to pursue it.

Mr. JOHNSON. I hesitate to use the word "stonewalled" but when you run into that stone wall attitude, do you take it for granted you haven't authority to pursue it? How do you know it doesn't go beyond intelligence activities?

Mr. STAATS. With our present authority, we are not able to go beyond that point, although we make an effort to get them to give us information on a voluntary basis.

Mr. JOHNSON. I understand that the CIA has statutory authority to do as it pleases with the money and I agree with your interpretation of that.

You have mentioned in your testimony or in your letter, I have forgotten which, that in response to a letter concerning Senator Percy's request, that you did not get responses from the CIA, the Defense Department, and the NSA, I believe. You mention that they cited statutory authority. What statutory authority does NSA and the Department of Defense have to refuse to give you information legitimately requested?

Mr. STAATS. We have that information here. If you like, we can specify it now or give it to you.

Mr. JOHNSON. If you can submit that to the committee, I would like to see if the legislation we are talking about needs to be expanded beyond CIA.

[The requested information is printed in the appendixes of these hearings.]

Mr. JOHNSON. The Defense Department evidently, if they tell you it is secret, you won't pursue it, or if NSA tells you, you won't pursue it.

Mr. STAATS. We might pursue it to see whether or not they would be agreeable to declassifying enough of it to meet our requirements. For example, if we are dealing with something like narcotics control, or if we are dealing with some other matter then we do pursue it in that sense, but the ultimate decision is theirs, not ours.

Mr. JOHNSON. In your letter you indicated you wrote a letter to CIA January 17 of this year and never received a response and made attempts to get a response and could not.

What attempts do you make when they refuse to talk to you?

Mr. STAATS. These are handled by telephone or visitation.

Mr. JOHNSON. And if they flatly refuse, there is nothing you can do about it?

Mr. STAATS. That is correct.

Mr. JOHNSON. Well, we have this amendment to the Foreign Assistance Act of 1974 which was passed last year, which prohibits CIA expenditure of funds "for operations in foreign countries other than intelligence activities, intended solely for obtaining necessary intelligence" unless the President determines it is important to the national security.

Presently then there would be no way of determining, no way that anybody in the U.S. Government, unless the President himself went into an investigative posture, could determine whether or not that provision of the law is being honored; is that correct?

[The reference is to the Hughes-Ryan amendment—section 32 of the Foreign Assistance Act of 1974, P.L. 93-559, "Intelligence Activities and Exchange of Materials"—which amended section 662 of the Foreign Assistance Act of 1961; 22 U.S.C. 2422. The amendment is printed on page 429 of the appendix.]

Mr. STAATS. That is correct.

We do find that in some cases the agency will let us have information. For example, in connection with the report we made to the Congress on the legislative ceiling on expenditures in Laos, we were able to get the information because they were willing to supply it.

Mr. JOHNSON. They gave you the information, but did you have any way of verifying if the information they gave you was correct?

Mr. KELLER. Probably not.

I would like to follow up a little bit on your earlier question for a minute. The law is quite clear in that it says we shall have access to all information and papers and records of agencies. At the same time, there is no enforcement power in the Comptroller General. In other words, if we do get a refusal, we have no subpoena power, we have no way of going to a court and trying to enforce our right. We have presented testimony on this problem to Congress, not primarily with regard to security agencies, but concerning many agencies; we have asked for subpoena power in order to get a resolution of whether we have a right to these records or not.

It is just as simple as this—that we can have all the rights in the world and the agency has the papers and doesn't give them to us.

Chairman PIKE. Mr. Hayes?

Mr. HAYES. Mr. Staats, do you know the mechanical method by which moneys allocated in one budget—for example, in the Air Force budget for intelligence purposes—are then transferred to another intelligence agency—for example, to the CIA?

Mr. STAATS. Mr. Lynn, again, can outline this. I am sure he will tomorrow, but, in general, this is handled through the OMB with the advice of the DCI and it becomes a Presidential decision.

Mr. HAYES. So that the physical method then is determined by OMB?

Mr. STAATS. At the beginning of the fiscal year or as soon as the funds are available, there would be a transfer that would take place.

Mr. HAYES. Do you have information concerning how employees are detailed between the various intelligence agencies and other executive branch departments?

Mr. STAATS. No, sir, I do not.

Mr. HAYES. If confidentiality and the problem of classification causes no audit to be done, is it possible for GAO now to audit those things which have been publicly disclosed? For example, the Glomar Explorer adventure?

Mr. STAATS. As far as getting verification of the data which relates to that matter, the answer would still lie with the agency. I don't think the fact that it has been made partially public really alters the legal or the factual situation.

Mr. HAYES. You do not believe that alters their classification system at all, so they may classify what has been published in newspapers and broadcast by television and yet you accept that classification or you feel you are required to accept it?

Mr. KELLER. If we are talking about CIA and funds spent on the certificate of the Director. He can still maintain he has legal authority to withhold information on that project. I can conceive that he would say, "Yes, this has been disclosed, but we are not going to disclose the mechanics relating to the part that was disclosed."

Mr. HAYES. For example, the procurement process on the vessel itself, how much it cost and who contracted for it, et cetera.

Mr. KELLER. Of course, I am speculating here.

Mr. HAYES. Does the General Accounting Office have authority to conduct audits on U.S. agencies outside the United States?

Mr. KELLER. Yes.

Mr. HAYES. Do you feel you are subject to the same rulings of confidentiality and classification when you go abroad and begin to conduct those audits?

Mr. KELLER. We have offices in Frankfurt, Germany, and Bangkok.

There are two types of situations. We probably would have trouble with overseas CIA activities just the same as we would have a problem here. With respect to Defense activities or AID activities that do not involve intelligence activities, even though they may be classified, we probably would not have any particular trouble. Our people would have to have the required security clearances, but we have had no real problem with that.

Mr. STAATS. Legally, we have the same situation in any agency where the agency head has authority to make expenditures on his own certificate. We have exactly the same problem in State or the FBI with respect to expenditures made on a certificate. Any other agency that has that same kind of statutory power presents the same problem as far as we are concerned. We cannot go behind the certificate made by the agency head.

Mr. HAYES. Thank you.

Chairman PIKE. Mr. Lehman?

Mr. LEHMAN. Thank you, Mr. Chairman.

Mr. Staats, are you a CPA?

Mr. STAATS. No, sir.

Mr. LEHMAN. Being head of the General Accounting Office, you work very closely with CPA's and understand professional accounting procedures?

Mr. STAATS. We have about 600 CPA's in GAO, and we work very closely with CPA organizations.

Mr. LEHMAN. I am sure you have a working knowledge.

In looking through this statement of yours, I run into such terms in regard to auditing as, on page 4, "accuracy of estimates." On page 7, blocked-out informants' names in ordinary accounting procedures. In getting a certified audit, you do have to do confirmations on which are the informants in the certified audit.

At page 6 you talk about "lack of access of information."

In this kind of an audit, it is really not what I would call a real audit. To me an audit is either a certified audit or not an audit. It either is or it isn't.

To me what kind of a financial institution in this country would advance money to a business firm based on this kind of an audit that lacks estimates, contains blocked-out names, and reports lack of access to information?

Mr. STAATS. I am sure that you would recognize that when an auditor cannot fully verify the basis upon which he certifies a financial statement, he is going to qualify. He should qualify it.

In this case that you refer to, involving the blocking out of informants' names, it would not affect at all the kind of judgment we would be seeking to make, whether the summaries which the FBI has prepared for us are adequately reflective of what is in the files. We don't need the name of the person; we don't need the name of the organization; what we do need to know is whether the summary itself is an accurate reflection of what is in the file.

Mr. LEHMAN. You have to do that with confirmation of some type from some source.

Mr. STAATS. That is correct.

Mr. LEHMAN. The only financial institution that I can think of that would advance money on this kind of an audit would be the Treasury of the U.S. Government.

Mr. STAATS. I must say that some of the rules are different between the private and the public sector.

Mr. LEHMAN. My next question would be rather provincial in nature. As you know, the area I represent is near Cuba and has a large Cuban refugee community and has apparently been the scene of a great deal of CIA operation. Radio and so forth. Do you have the authority to obtain for this committee the sums that have gone to groups there, and still more important, to determine what money is still going to such groups?

Mr. STAATS. No.

Mr. LEHMAN. I expected that answer.

Chairman PIKE. Mr. Field.

Mr. FIELD. In early 1970, there was a report prepared at the Office of Management and Budget referred to as the so-called Schlesinger report. It was an attempt to study the administration's budget of the intelligence community.

Did GAO ever receive a copy of that report?

Mr. STAATS. Not that I am aware of; no, sir.

Mr. FIELD. Was GAO aware of the study?

Mr. STAATS. We have heard of it, but are not familiar with the details.

Mr. FIELD. Did you ever request a copy of that report?

Mr. STAATS. I am not sure that we did.

Mr. FIELD. Has GAO ever attempted to receive reports from the Office of Management and Budget on any of these studies that may have been done on the intelligence community in terms of its budget or anything of that nature?

Mr. STAATS. No; for the simple reason that we have been aware that they are under somewhat the same restrictions as we.

Mr. FIELD. In pursuit of your studies in order to try to evaluate some of the requests that you have had from Congress, you have never felt that that would be a quick and appropriate way of perhaps receiving some of the information without having to go into the confidential side.

What I am thinking is, if you could get the results of somebody else's study you may not have had to get into a specific mission or the name of an agent or anything like that, which might be highly classified. You might nevertheless, without having done that yourself, at least get the general results which by now are at least figures or something like that. Have you ever thought of that as an appropriate way of finding out the cost and the relative budget breakdown of the intelligence community?

Mr. STAATS. One thing we have thought about is the possibility of doing a review, after consultation with appropriate committees, of the process and the procedures, by which the agencies exercise internal control of their budgets and their activities. Such a review would not divulge in any way the substance of actions by the agency.

But to do so, we would have to have access to information, and to date we have not been able to get that kind of access.

Mr. FIELD. Thank you.

What type of records did GAO retain as to its audit and the working materials that go into an audit? Do you keep copies of all the audits done of the intelligence community or of any agencies in it?

Mr. STAATS. We usually keep files on our work for a period of time—working papers and so on.

Mr. FIELD. You do have complete records of all the audits done of intelligence agencies?

Mr. KELLER. I would like to comment just for a moment. This is subject to verification.

Normally on classified reports we do, of course, have our backup papers and copies of reports. I believe when we were doing work in CIA some materials were kept at the CIA headquarters. We do not have copies of all such reports in our building, but they are available to us. I just wanted to clarify that point.

Mr. FITZGERALD. That is correct.

Mr. KELLER. This situation may exist at other agencies.

Mr. STAATS. Our working materials involving NSA are kept at NSA. More generally, when we are dealing with especially sensitive, classified information, where we want to make sure that we are not the source of divulgence, we will keep those records in the agency and that which we would keep in our office would be very minimal.

Chairman PIKE. Mr. Staats, have you received any request from any Member of Congress to check on whether any money has flown from the U.S. Treasury to what I will call loosely organized crime?

Mr. STAATS. No; we have not had any such requests.

Chairman PIKE. Mr. Staats, earlier you suggested that the manner in which the Joint Committee on Atomic Energy had functioned would be a pretty fair pattern by which to operate a joint committee on the oversight of intelligence activities.

The Joint Committee on Atomic Energy operates in such a manner that we can read in the budget of the United States each year the amount we are spending for the purchase of nuclear materials and the amount we are spending for the manufacture of nuclear weapons.

Can you think of any reason why, if we tell the world what we are spending for the manufacture of nuclear weapons, we should not tell our own taxpayers what we are spending for intelligence?

Mr. STAATS. This is a very difficult question to answer in categorical terms. I should think, Mr. Chairman, that at least some elements of the intelligence community budget could be made available in some form. Where I could see possible trouble with the release of figures on the amount of money involved is that, while a gross figure itself doesn't present very much of a problem, it only represents a basis for analysis and questions such as, "What did you spend last year, 5 years ago? What has been the trend?"

Chairman PIKE. Do you think it would be more harmful to have gross figures revealed to the public than it would be to conceal them on the grounds that their release would be harmful?

Mr. STAATS. There is certainly less problem with gross figures for the total intelligence community than there would be with respect to any single element. There is no doubt about that.

I would be hopeful and perhaps even optimistic that a way could be found to provide some gross information without presenting a problem of confidentiality. To the best of my knowledge, the intelligence community will oppose any kind of a figure, however, because of the feeling of sensitivity it has about even a gross figure.

Chairman PIKE. Of course they oppose any revelation of any figure whatsoever. I would agree that at some point down the line, in line items, the amount expended should not be revealed on a line item basis year after year; because that would—in my judgment, at least—constitute some revelation of the methods of our intelligence gathering. But I would also like to say to you that I believe there is no reason at all that the gross figures we spend for intelligence should not be revealed to the American people.

Mr. McClory?

Mr. McCLORY. Mr. Staats, I judge in line with this questioning that if we gave a gross figure without separating, for instance, covert activities from general information gathering activities, there wouldn't be any problem, but if we would describe the amount of money that is expended for covert activities, so called, that would be information which I assume in the intelligence community would be regarded as highly valuable to the enemy in addition to the fact that it might be informative to the Members of Congress or to the American people.

Mr. STAATS. The more you break it down, the greater the problem. I agree with that.

There is also the corollary problem of what is included in the figure; this would have to be agreed upon. There are some activities which perform an intelligence function and also perform other nonintelligence functions concurrently or coincidentally.

Mr. McCLORY. I would like to see what else we can obtain from you in addition in executive session or under an agreement of confidentiality insofar as this committee is concerned. For one thing, about the Percy reports. In addition to the request Mr. Percy made, this was supplemented then by a request by the committee, so it was a committee request, or it was delivered to the committee. Is that available now to this committee?

Mr. STAATS. Yes, it will be.

Mr. McCLORY. With respect to the audit being performed for the House Judiciary Subcommittee with respect to the FBI, to the extent that that is classified, that would be available to this committee as well; will it not?

Mr. STAATS. We will make that report to Mr. Rodino. It is my understanding that after he has had a chance to receive that report and study it, it would be available.

Mr. McCLORY. If we get an agreement from the CIA that certain detailed financial information, for instance, will be made available to this committee, or would be made available to this committee in its investigative work, would you be capable then of auditing or verifying the information if we get the permission for you to make that kind of an audit?

Mr. STAATS. We would have to have CIA's agreement or permission for access to the records necessary to verify it.

Mr. McCLORY. But then you could do it.

Just one other area and that is with respect to the questions that were addressed to you by my colleague, Mr. Dellums.

Would you be able to supply the information that you would provide in executive session in a written form which we could receive under an agreement of confidentiality without having a full executive session?

Mr. STAATS. I think it would have to be with permission. There would have to be an agreement to supply it to you.

Mr. McCLORY. If we get the agreement from them, you can supply it to us in written form. I am asking whether we have to resolve ourselves into executive session or have another session or whether you can send it to the chairman.

Mr. KELLER. We can certainly work all that out, Mr. McClory. The two reports Congressman Dellums was talking about were made specifically at the request of the House Armed Services Committee. The reports were made to that committee. It is my understanding that such material is available to this committee.

Chairman PIKE. If the gentleman will yield, the House Armed Services Committee has passed a resolution turning over to this committee such information as they have.

Mr. KELLER. That would include the two particular reports that Congressman Dellums has referred to.

Mr. McCLORY. You haven't any other requests for confidential information of the type we are making our inquiry about here from any other member of the committee or of the Congress, which you think might be useful to us, do you?

Mr. STAATS. I believe we have referred to all of them here in our statement and in the letters which have been made available to the committee.

Mr. McCLORY. I want to thank you very much for a very helpful and very constructive statement here today, Mr. Staats.

Thank you very much.

Chairman PIKE. Mr. Giaimo...

Mr. GIAIMO. Mr. Staats, don't you have a long history of reviewing and auditing the Department of Defense?

Mr. STAATS. That is correct.

Mr. GIAIMO. Then, for many years you have looked into the activities of the Department of Defense; is that correct?

Mr. STAATS. That is correct.

Mr. GIAIMO. In the course of looking into the activities of the Department of Defense, have you, to any extent, looked into their intelligence operations?

Mr. STAATS. No, sir, we have not.

Mr. GIAIMO. Have you ever attempted—to the degree that you outlined in your opening statement that you sought over the years to conduct adequate review of CIA, NSA and the FBI—to do the same with DIA and the other subcategories of intelligence functions within the Department of Defense?

Mr. STAATS. We have not. We would have the same problems that we have with respect to any other element of the intelligence community.

Mr. GIAIMO. In your opening statement, you say that you did make positive efforts to review certain functions within CIA and FBI. Did you have a series of negotiations which failed?

Mr. STAATS. That is right. We did not attempt to initiate audit work at the FBI on our own; it was undertaken after we received a specific request from the House Judiciary Committee.

Mr. GIAIMO. Do I understand correctly that you have no interest in trying to do the same with Defense agencies?

Mr. STAATS. We have not felt that it was practical to do because of our limited access to information.

In the communications area, which in some aspects is related to intelligence, we have done extensive work.

Mr. GIAIMO. Are you talking about certain unnamed agencies which deal in communications and other electronic types of intelligence?

Mr. STAATS. That would be part of the context which we would keep in mind in looking at the effectiveness of the total Defense Department communications capability.

Mr. GIAIMO. In general your answer basically is that you have not attempted to look into the intelligence community under the jurisdiction of the Department of Defense.

Mr. STAATS. The restrictions on information have been such that we just did not feel it was a practical way to spend our money.

Mr. GIAIMO. I would like to ask you a direct question, based upon your own experience in government and with the budget. Do you think there would be any harm to national security when we balance it against the right of the American people to know? Would there be any injury if we were to publish a one-shot line item in the budget of the total appropriation figure for the Central Intelligence Agency?

Mr. STAATS. I would not favor doing it for just one element of the community. If I were to do it, I would do it for the total intelligence effort.

Mr. GIAIMO. Are you saying, in other words, go beyond publishing the budget of the CIA and publish the budgets of the other functions also?

Mr. STAATS. Yes, indeed.

Mr. GIAIMO. Can you tell me why?

Mr. STAATS. Well, for one thing, the total obviously is larger and if you were to identify the individual pieces of it, there would be a greater risk—

Mr. GIAIMO. May I interrupt.

I thought you mentioned publishing the budgets of each agency. Are you now saying just take one total figure for all intelligence agencies?

Mr. STAATS. In responding to Chairman Pike's question a few moments ago I was talking about the total intelligence community.

Mr. GIAIMO. With regard to your response to the chairman, I was not sure whether you meant the total CIA budget or the total intelligence budget.

Mr. STAATS. I would like to be clear about that.

Mr. GIAIMO. Then I gather you are in some disagreement with the Rockefeller report, which suggests that portions of the CIA budget could be published.

Mr. STAATS. I don't recall whether it referred to the CIA budget or to the total, but also I believe it recommended that it should be explored. I don't believe it made a flat-out policy recommendation.

Chairman PIKE. Mr. Stanton.

Mr. STANTON. Thank you, Mr. Chairman.

Mr. Staats, does the Office of Budget and Management interfere with the GAO audit attempts?

Mr. STAATS. Are you now speaking generally?

Mr. STANTON. Specifically as to the intelligence community.

Mr. STAATS. No.

Mr. STANTON. Are you familiar with Gen. Mark Clark's 1955 review of the intelligence community, and more particularly, the CIA, in which specific recommendations were made for oversight?

Mr. STAATS. I do recall seeing his study at the time. I have not reviewed it recently.

Mr. STANTON. The recommendation was that, rather than instituting an oversight committee, there be a Citizens Review Committee or Citizens Advisory Committee which has been functioning since 1955.

Are you aware of whether that committee has any particular knowledge of the budget of the CIA or of any of the other intelligence agencies?

Mr. STAATS. I cannot speak with current knowledge, but at the time I was with the Bureau of the Budget I was familiar with what they did. I sat in on a number of their meetings.

To the best of my knowledge, they did not get into oversight of expenditures. The suggestion in the Rockefeller report that the Board be given that responsibility would, I think, be a new responsibility.

Mr. STANTON. In other words, the original report of Gen. Mark Clark, which specifically recommended rather strong oversight procedures by the Congress and others, was watered down in the Eisenhower administration to a Citizens Advisory Committee which hasn't done even the perfunctory operation of reviewing budget. Is that what you are saying?

Mr. STAATS. It is. To the best of my knowledge, it did not get into the question of how much money should be spent, how it was to be spent, or any followup audit on the manner in which it was expended.

Mr. STANTON. Are you aware of any time during the course of the last 20 years when anybody in any of the intelligence community has been prosecuted for stealing?

Mr. STAATS. Do you mean information?

Mr. STANTON. No, money.

Mr. STAATS. I am sure there must have been, but I cannot cite the cases.

Mr. STANTON. That is not a secret, is it?

Mr. KELLER. We have not really made any effort to find out.

Mr. TREEN. Mr. Staats, I want to try to understand the limitations on your auditing authority. I assume that you have audited the FBI on occasion, that is, looked at the overall amount of money appropriated for the FBI and attempted to account for how that money was spent?

Mr. STAATS. We have cited here the problem that we have currently with the FBI, but the FBI has not raised problems with us except for the question of the need to have access to the individual investigative files for verification purposes. Except for that one point we have had good cooperation from the FBI.

Mr. TREEN. What I am trying to determine is this: A certain amount of money Congress appropriates for the FBI, I assume, is in our Justice Department appropriations. Of that certain amount for the FBI, some is spent on the certificate of the Director. Those are the areas that you have trouble with. But you can aggregate the amount of money in a particular agency that is spent by that means, can you not?

Mr. STAATS. The amount that is authorized to be spent in this manner is known. There is no secret about the amount authorized to be expended on the certificate of the Attorney General. We do not, however, have any authority to determine how much was spent for a particular purpose.

Mr. TREEN. We could determine then, in a very simple arithmetic process, how much we appropriate to each agency that may be expended on the certificate or warrant of the department head to get an aggregate figure of how much money is spent without the necessity of accounting for it.

Mr. STAATS. I think that is correct.

Mr. KELLER. I don't see any real problem with getting overall totals. We have had no trouble with the FBI in so-called housekeeping functions.

Mr. TREEN. I would like to see that as a starting point, how much we appropriate to agencies with intelligence gathering activities that are in the category of expendable on the warrant of the agency head alone.

Mr. STAATS. There would be no problem in doing that, as long as the funds are appropriated to the agency and can be identified.

With respect to the CIA you have a difficult situation because CIA does not receive any appropriation directly from the Congress. It is financed through other appropriations.

Mr. TREEN. And we don't know then the sources of its funds? When I say "we," the GAO does not know?

Mr. STAATS. The GAO does not know.

Mr. TREEN. Some could come from HEW, some could come from Interior for the CIA and GAO would not know that, is that correct?

Mr. STAATS. I have to assume that the Appropriations Committee knows, but I have no way of knowing what information is given to them.

Mr. TREEN. Mr. Staats, on page 15 of your prepared statement you refer to several factors that bear upon the question of how we can most properly relate our audit responsibilities to the special characteristics of the intelligence community. You say: "There are other factors, however, and they are also entitled to be given due weight." The last one you cite is "* * * the indications of a potential for significant contributions toward more efficient and effective management of certain of the activities pursued by intelligence agencies." What indications do you have of a potential for significant contributions toward the more efficient management of activities?

Mr. STAATS. I would say that from our experience, any organization of this general size and scope of operations is susceptible of making improvements in several different areas. I can say this without much fear of contradiction. In addition, there certainly have been many statements made, valid or not, to the effect that there is overlap and failure of coordination within the entire intelligence community. There have been many stories in the press to this effect.

Mr. TREEN. I was wondering whether you were alluding to these allegations in the press and elsewhere or whether you yourself have received specific indications that in the intelligence community there are these potentials for savings. I recognize that in any outfit that spends a lot of money you can say there is a potential for savings, but you don't have any specific indications that in the intelligence community uniquely there are significant savings in efficiency, do you?

Mr. STAATS. No. We would not be able to be more specific until we have authority to review their operations.

Mr. TREEN. Thank you, sir.

Chairman PIKE. Mr. Dellums.

Mr. DELLUMS. Thank you.

Mr. Staats, my first question goes to the question of legal authority. In my question I will use the term "illegal acts." What I have in mind is such things as assassinations, warrantless wiretaps, burglary and surreptitious entry and warfare undeclared by Congress or unauthorized by overt President action. My question is what is GAO's view of the use of appropriated funds to commit illegal acts?

The second part of that question is: Is such a view in any way dependent upon whether these funds are in a disclosed or undisclosed category?

Mr. STAATS. I don't believe that we would have any basis for assuming that those acts have taken place.

Mr. DELLUMS. I am not asking for a judgment on whether they have taken place, simply on the question as to hypothetical, illegal acts.

Mr. STAATS. I think the answer would be that if we had authority to have access to information and records concerning the type of thing

you are talking about, if indeed they took place, then we would be able to make a determination.

Mr. DELLUMS. You are not prepared at this point to render any judgment on illegal acts simply as a hypothetical question in terms of appropriated funds?

Mr. STAATS. It is a hypothetical question, I think you would agree.

Mr. DELLUMS. In your letter to Senator Proxmire of May 10, 1974, on congressional oversight, page 8, third paragraph, you were discussing GAO reviews of CIA expenditures and you said,

No exceptions were taken to any expenditures; in those cases where questionable payments came to our attention, we referred the matter to the CIA Comptroller's Office for corrective action. In using the term "questionable payments", we meant any expenditures which, except for former section 10(a) of the act, appeared to be improper or illegal either under law or under the decisions of the Comptroller General.

My question is: Did GAO bring any of these "questionable payments" to the attention of any Member of the House or the Senate or any committee?

Mr. STAATS. Mr. Keller can answer that.

Mr. KELLER. Except for some minor items I have no record of that having been done; there is always a possibility our people who were involved consulted with the Special Intelligence Subcommittee but I cannot vouch for that.

I have no record of it being brought to the Congress' attention.

Mr. DELLUMS. Thank you.

Would you then provide this committee with specifics on what you considered questionable payments?

Mr. STAATS. We can do that.

Mr. KELLER. We can try. We are talking about things which took place a number of years ago. We may have a problem of availability of records, but we will do the best we can.

Mr. DELLUMS. I appreciate that.

Mr. Staats, when I raised the earlier question with respect to your opinion of appropriated funds for illegal acts and we both tended to agree at this particular moment since I am not trying to put you in a position of making a value judgment, you did, however, in your definition of questionable accounts, even with your own statement in your letter of May 10, 1974, allude to the question of the issue of improper or illegal. So to some extent it would seem to me that it was not that hypothetical in that you also came to the conclusion that certain factors, certain payments that you considered questionable were in the category, in your own mind and in the minds of your staff, as improper or illegal so when I raised the question of what is your view with respect to illegal acts, I was assuming that you had some predisposition with respect to the use of appropriated funds for illegal acts.

Mr. STAATS. This would depend on the individual case.

We would have to examine the statutes involved in the particular case, the language of the Appropriation Act, the Attorney General's decisions and court decisions. Anything of this type would fall into the category of what we talked about here.

Mr. DELLUMS. Thank you.

My next question is: Is there a difference in GAO's approach or their response when they are operating under their own authority as opposed to when they are acting on congressional request?

Mr. STAATS. Not insofar as a determination of what is illegal or improper, would be concerned. The procedure differs in the sense that, if we are responding to a request, say, of the Armed Services Committee to look at a particular problem, we accept that request as what their requirement is and we do not make a judgment of whether they have a good basis for that request or not. We go ahead and try to answer the question.

Second, when we make our report, it is addressed to the committee. In any case where we initiate a report on our own we release it to the press the day after its transmittal to Congress so it is a public matter.

Chairman PIKE. The time of the gentleman has expired. We have a record vote on now. Would you be able to be back at 2 o'clock this afternoon?

Mr. STAATS. Yes, sir.

Chairman PIKE. The committee will stand in recess until 2 o'clock, at which time Mr. Murphy will be recognized. We will go through the members one more time and then quit for the day.

We will ask you to supply for the record those things you were not able to supply in open session.

[Whereupon, at 12:22 p.m., the committee was recessed, to reconvene at 2 p.m., the same day.]

AFTERNOON SESSION

Chairman PIKE. The committee will come to order.

Mr. Murphy, you may inquire.

Mr. MURPHY. Thank you very much.

Mr. Staats, maybe you have covered this before, but would you supply this committee with a copy of the report that you prepared for Senator Percy?

Mr. STAATS. I believe that we indicated this morning that it would be available. There have been discussions on that question. I understand it will be made available to this committee.

Mr. MURPHY. Mr. Staats, earlier today you talked about vouchered and unvouchered accounts. Would you give us in the terminology of the GAO exactly what you mean by that?

Mr. STAATS. In budgetary terminology, vouchered funds carry a description of the purpose for which they were spent, and the voucher serves as an auditable document. An unvouchered fund is one which is made solely on the certification of some officer who has authority to make the certification; it does not provide the same kind of audit trail that exists when vouchered funds are spent.

Mr. MURPHY. How does that differ from, say, the CIA Director's certification account?

Mr. STAATS. It is the same concept.

Chairman PIKE. Would you yield?

Mr. MURPHY. Yes.

Chairman PIKE. Do you actually see the certificates whereby the Director of the CIA says he has spent this money?

Mr. STAATS. I don't think so.

Chairman PIKE. You take his word for it?

Mr. STAATS. The purpose of the bills that have been introduced by Senator Schweiker in the Senate and Congressman Eckhardt in the

House would allow us to see the certification and to make a judgment of whether or not the expenditure was for a confidential purpose, but not to question it beyond that point. I believe that was the purpose of the bills in both cases.

[The bills referred to are H.R. 1513, introduced by Congressman Eckhardt on January 16, 1975, and S. 1817, introduced by Senator Schweiker on May 22, 1975.]

Mr. MURPHY. Is the practice of certification in the CIA the same as it is in the FBI for their Directors' accounts?

Mr. STAATS. Yes, I believe so, and in the other intelligence agencies as well.

Mr. MURPHY. Does the IRS have a similar account?

Mr. KELLER. I believe they do.

Mr. STAATS. I believe that is correct; yes.

As a matter of fact, a great many agencies have small amounts which are available to the head of the agency and are expended on his certification, which simply means that they are spent on the basis of his judgment rather than on the basis of complying strictly with all the laws that otherwise relate to expenditure of appropriated funds.

Mr. MURPHY. Could it be determined in an aggregate sum totaling all these different intelligence-gathering agencies, what certificate accounts for all these different intelligence-gathering agencies would amount to?

Mr. STAATS. You could not do that for the Central Intelligence Agency. It could be done with respect to other agencies where such funds are carried on a limitation basis in the appropriations acts themselves. That could be done.

Mr. MURPHY. Would you have any knowledge, Mr. Staats, of any World War II bombers being sold, transferred, or in some way ferried out of this country to other countries through your accounting procedure?

Mr. STAATS. Not that I know of; we would not have direct knowledge of such transfers.

Mr. MURPHY. What happens to military equipment, say, from World War II? I am talking specifically about bombers stored in Arizona, B-26's? Who would keep track of these, the armed services?

Mr. STAATS. Yes, the armed services.

Mr. FITZGERALD. If I may interject, I think this might run to a question which would involve some work we have done which is of a classified nature.

While we would have some limited knowledge, yet the report I have in mind is classified secret.

Mr. MURPHY. Without delving into the classification, would your accounting procedures inform us if we were to follow an accounts trail as far as weapons or airplanes were concerned? Could we find out who received those?

Mr. FITZGERALD. I cannot comment specifically in response to that question, on the basis of the report to which I just referred.

Mr. STAATS. I think we could give you some information as to who has custody and accountability for security and disposition of those aircraft.

Mr. MURPHY. Could you follow us up to the step before this accountability procedure would leave the country? Would your procedures follow that far?

Mr. STAATS. If they are disposed of under a military sales agreement, then I think that the information would be available.

Mr. MURPHY. Could you give us information about some corporation, some domestic corporation, purchasing said equipment in the United States, or would your accounting procedures stop with the purchase by a private domestic corporation?

Mr. STAATS. I believe they would stop at that point. I would have to check on that to be sure; I would not want to be too categorical about that.

Mr. MURPHY. Accountingly speaking, if you wanted to cover movements of World War II equipment or any military equipment, your procedures would go up to a private corporation sale, and the trail would end there as far as you are concerned?

Mr. STAATS. I believe that is correct.

Mr. SHAFER. If the equipment is combat-effective military equipment, unless there were some unusual terms of sale, the equipment would have to be demilitarized before being sold to a private corporation.

Mr. MURPHY. What do you mean by demilitarized?

Mr. SHAFER. By that I mean that aircraft would have been rendered incapable of delivering ordnance, or a gun barrel would have been rendered incapable of firing a shell.

On the other hand, if equipment is sold to another country under the Foreign Military Sales Act as a piece of military equipment, or if donated to another country under the military aid program, the accountable records, if they have been properly kept, should be traceable and we should be able to follow it through.

But if equipment is sold to a private corporation as a demilitarized item, our audit trail would be lost at the point of sale.

Mr. MURPHY. Thank you.

Chairman PIKE. Mr. Kasten.

Mr. KASTEN. Mr. Staats, does the GAO have any knowledge of present or former GAO employees who have subsequently worked or are currently working for any intelligence agency?

Mr. STAATS. I do not know of any. I would want to make a very specific check before I would be completely certain of that, but I am not aware of any. I think I am rather confident in saying there are none.

Mr. KASTEN. Have you ever looked into the problems of detailing of the employees between intelligence agencies and other executive branch departments?

Mr. STAATS. No, sir, we have not. Again, I think we would be up against the barrier we talked about this morning in not having access to that information.

Mr. KASTEN. How do you handle the problem, for example, of CIA employees who are detailed to the Commerce Department or the Defense Department or OMB or other agencies when you conduct your comprehensive audits?

Mr. STAATS. I do not know of any problems that have ever been presented in that form. I am not aware of how many such people are on detail. We would not necessarily know. We would not ordinarily be

dealing with an individual at that level. We would be dealing more with the supervisory chain.

In general, if we were auditing Agriculture's grain program, for example, we would assume that any such people were on their payroll and accountable to Agriculture.

Mr. KASTEN. You would not know, for example, that someone was receiving their check not from that particular department but in fact was on the payroll of the CIA?

Mr. STAATS. We would have no way of knowing.

Mr. KASTEN. In the process of conducting an audit, you don't go back to see where they are being paid?

Mr. STAATS. If we were to go into agencies for that specific purpose, I think we might be able to find out. In other words, if we were to undertake a review as to all employees detailed from other agencies to an agency such as Commerce, I think we could obtain that information.

Mr. KASTEN. For example, I believe it was the Drug Enforcement Agency, there are 30 or 40 employees of the CIA who had been working in the drug enforcement area. If you were to conduct a comprehensive audit of the Drug Enforcement Agency and there were 30 or 40 employees of the CIA in that agency are you telling us you would not know that they were working for the CIA?

Mr. KELLER. You may or may not know. There are many ways to handle details. For example, the employee in question might appear on the rolls of DEA; on the record he is a DEA employee, and yet the CIA may be reimbursing DEA for his services in an entirely separate transaction. If an employee is not on the rolls of the borrowing agency, that would be pretty easy to pick up. If he is being paid by the borrowing agency and the agency is being reimbursed, then it is a little harder to pick up.

I am not saying it is impossible to do it. I agree with Mr. Staats, if we made a special effort, I think we could find out or come pretty close.

Mr. STAATS. There are three possibilities. One might be that the agency knows someone expert in a particular field and arranges to borrow him on a formal reimbursible basis from another agency. The second would be that an individual transfers from one agency of the Government to another. The third would be that an individual is detailed informally, where, I suppose, it could conceivably be done for some ulterior reason; in this case, I do not know that we, or anyone else perhaps, would be able to find out very much about it.

Mr. KASTEN. If someone were being paid from the Agriculture Department, let's say, because that is the one we used before, and reimbursed from the CIA, your comprehensive audit would not show on payroll records that there was a reimbursement being made from the CIA to the Agriculture Department which indirectly paid the salary of that individual?

Let's say there was a secretary working for an Under Secretary of Agriculture or working for another executive who in fact was an employee of the CIA and working for the CIA, you would never find that in your comprehensive audit?

Mr. STAATS. We could find it out unless perhaps, that individual was paid for out of certified or unvouchered funds in the lending agency. If he is there on a reimbursible or even a nonreimbursible basis, we

could probably find that out if we had any reason to inquire. But, we would not seek out such information on our own or as a routine matter.

Mr. KASTEN. Thank you, Mr. Chairman.

Chairman PIKE. Mr. Aspin.

Mr. ASPIN. No questions, thank you.

Chairman PIKE. Mr. Milford?

Mr. MILFORD. Thank you, Mr. Chairman.

Mr. STAATS, I am bothered by the dialog between you and the chairman and Mr. Giaimo concerning public revelation of the total amount budgeted for our total intelligence activities. Isn't it a fact that most of our intelligence agencies have a fairly constant year-to-year budget? For example, DIA and NSA, ERDA and the FBI, their annual budgets would not have wide variations from year to year. Wouldn't that essentially be correct? They may have a steady climb for inflation, but 1 year it would not be real high and the next year substantially different, would it?

Mr. STAATS. That all depends on the agency. Different agencies have different patterns. If you take a large agency like the entire Defense Department what you are saying is quite true. It reflects inflation and it reflects the manpower levels; those are the two principal ingredients which have affected the total size of the defense budget. But other agencies have ups and downs. Take the Labor Department's manpower programs for example; in time of recession they go way up in expenditures.

Mr. MILFORD. I am speaking here of intelligence agencies only.

Mr. STAATS. I don't know what the pattern is with respect to intelligence agencies as I have indicated this morning.

Mr. MILFORD. Here is what I am getting at: Isn't it also a fact that some types of intelligence activities, particularly covert operations, can be extremely expensive? Where one single operation may cost more than the entire budget of other intelligence agencies, isn't it a fact that there can be very wide variations in cost, there?

Mr. STAATS. I said this morning that I could not see a great problem in publishing the total intelligence budget per se. Where I do think you get into problems is trying to analyze trends and year-to-year comparisons as to what makes up for the difference. If this were indeed purely a matter of reflecting inflation from year to year, that would be one thing, but there may well be variations which could be fairly dramatic.

I would not retract what I said this morning: with respect to the gross figure for the whole intelligence function I cannot see that as a problem, as such. But if you were to try to develop trends since World War II and to analyze changes from year to year, or if you tried to do this for a 5-year period, and if you tried to go behind those figures and to examine what those programs were—I don't believe that is what the chairman is talking about.

At least that is not what I am talking about.

Mr. MILFORD. That is not what I am talking about either. I am talking about publishing now annual figures of our own intelligence budgets.

I am trying to establish the fact that with the agencies covered by that budget some of the intelligence activities that occurred there are extremely expensive. I mentioned specifically covert operations and

that the cost of these operations can vary dramatically from year to year. I have a fear here that if the total is known, that this is what our intelligence budget is and compared again at a later time, that one could extract from that knowledge and attribute it to particular operations. I am worried about that being damaging to the Nation.

Mr. STAATS. I would have great difficulty seeing any real problem there, so long as you did not have a requirement that you have a detailed analysis as to why that budget went up or down.

Mr. MILFORD. The other factor that bothers me a little if we do go public with the total figure, then it must be made public throughout the congressional process, the authorization hearings and again in the appropriations process, floor amendment processes and what have you, and that in the interim between authorization and appropriations intelligence situations can change dramatically to where the figures may need to be altered.

Mr. STAATS. I am very familiar with the arguments against publishing a gross figure. They run something like this: once you have a gross figure, then you want to go behind that figure, once there is a total figure, then there is no basis for stopping short of breaking it down by each intelligence element. That can be controlled if there is a will to control it.

But the people who argue against using the gross figure say that you should not start anywhere, because once you start, it is difficult to stop.

Mr. MILFORD. Thank you, Mr. Chairman.

Chairman PIKE. Mr. Johnson.

Mr. JOHNSON. Thank you, Mr. Chairman. There has been some expressed trepidation about the GAO to make audits and then keep secrets. I thought we ought to pursue this a little bit because I am sure the question will be raised at a later time.

You do make audits of the NSA, correct?

Mr. STAATS. Yes. On a very limited basis so far.

Mr. JOHNSON. Only in financial matters to NSA, but you are in the process of expanding that?

Mr. STAATS. Yes.

Mr. JOHNSON. You make audits of the ERDA, Treasury, and the Defense Department?

Mr. STAATS. Yes.

Mr. JOHNSON. And of the State Department in some intelligence areas?

Mr. STAATS. That is right except for the Bureau of Intelligence and Research.

Mr. JOHNSON. You deal with very highly sensitive matters in some of these audits, do you not?

Mr. STAATS. Many of them are highly classified.

Mr. JOHNSON. Do you know what they have beyond top secret and Q clearances for this?

I understand you will have people who will have top secret and a Q clearance and they do not qualify to examine somebody's books because somebody decides they are not qualified enough?

Mr. STAATS. Each intelligence agency has its own special security clearance and need-to-know requirements. The Q clearance or top secret clearance does not necessarily give you access to intelligence information.

Mr. JOHNSON. Are there any particular types of investigations that they make of an individual's background beyond top secret and Q?

Mr. STAATS. They make a very detailed background check. It is expensive and very time consuming.

Mr. JOHNSON. When you are able to deal with these sensitive matters, these highly classified matters with some agencies, is there any reason to assume that you could not deal with highly classified matters in the intelligence field?

Mr. STAATS. No, sir. I see no reason why we could not do so. There are more problems in handling such information but I do not see that as a barrier.

Mr. JOHNSON. Who can see the NSA audits outside the GAO? What do you do with those?

Mr. SHAFER. We are told that there are only six staff members in the entire Congress who are cleared to receive the security data from the National Security Agency.

Mr. JOHNSON. Who are those individuals?

Mr. SHAFER. I can give you their names.

Mr. JOHNSON. You are talking about Members of Congress or staff members.

Mr. SHAFER. Staff members.

Mr. JOHNSON. How about the Members of Congress?

Mr. SHAFER. As far as I know, the Members of Congress are entitled to receive such information on a need-to-know basis. I have never had occasion to furnish Members of Congress with this type of data.

Mr. JOHNSON. Who decides who has the need to know?

Mr. SHAFER. The Director of the National Security Agency, by statute, has a special authority to determine who should receive this type of data.

Mr. JOHNSON. So we have turned it over to him to decide whether or not he should tell us what he is doing.

Mr. SHAFER. In effect, that is the way it works; yes, sir.

Mr. McCLORY. Excuse my interruption.

I want to be sure we have the name of the witness who is answering.

Mr. STAATS. This is Mr. Fred Shafer, head of the GAO Logistics and Communications Division.

Mr. JOHNSON. What would be the procedure to be followed if you found out in an NSA audit that the NSA had somehow violated the law, there had been a clear violation of the law and its charter?

What would then be your procedure?

Mr. STAATS. I am not sure we could do anything more than raise questions as to whether there is an adequate basis for the expenditure.

The question might be whether or not the expenditure is in conformity with NSA's own internal regulations.

Mr. JOHNSON. I do not know anything more about the CIA than what I read in the paper, but let's assume that NSA is involved in assassination plots and they are hiring people to kill others. You would discover that in the course of your audit. What would then be your procedure?

Would you classify it and keep it secret or would you report it to somebody in the Congress or what would happen?

Mr. KELLER. We have not actually had a case like that, but I would visualize that we would notify the head of the agency of what had happened and second we would notify the appropriate committees on the Hill, at least Appropriations and probably Armed Services.

Mr. JOHNSON. Thank you.

Chairman PIKE. Mr. Hayes.

Mr. HAYES. Thank you, Mr. Chairman.

Mr. STAATS, I previously asked about whether or not you had knowledge of the methodology of transfers of funds. You indicated that we should perhaps ask Mr. Lynn insofar as it would be an OMB function. During the time you were with the Bureau of the Budget and particularly that time between 1947 and 1953, did you have occasion to know of the methods by which the Bureau of the Budget, the predecessor to OMB, transferred interagency moneys to the CIA?

Mr. STAATS. Yes, I did. Whether that is the same procedure that applies today, I could not say.

Mr. HAYES. Could you explain what that procedure was during that time?

Mr. STAATS. In general terms, yes.

It was a matter of transferring from the appropriation accounts within which the funds were made available by the Congress to the account for the CIA. This was done after consultation with the Director of Central Intelligence and with the President's approval.

Mr. HAYES. Can you explain to the members of the committee the consultation process?

For example, what would the Bureau of the Budget demand by way of consultation from the agency head, say, for example, the CIA or any intelligence agency with which you might be familiar?

Mr. STAATS. The agency head had to make his case. Of course, he had to make his case even before the budget was presented to the Congress. Sometimes adjustments made by the Congress in the totals had to be taken into account. In the interval between the time the budget was submitted and until the time the appropriation was made, developments might take place that would require a change.

Mr. HAYES. At any time did the head of the Department discuss needs for funds for uses which might be contrary to the U.S. Criminal Code?

Mr. STAATS. We had no occasion to go into that.

Those kinds of activities, if indeed they existed, would have been conducted under unvouchered funds in any event. We would have no more right there than we do in GAO to go behind the unvouchered funds.

Mr. HAYES. Would it be fair to say that the agency head during the consultation process would say we have need for funds for the following line items and present you with a line item account and then say we also have need for our unvouchered accounts in the following sums? Is that a fair description?

Mr. STAATS. No. There was no breakdown between vouchered and unvouchered funds; that is a matter of internal administration. The funds would not be line-itemed. They would be broken down into broad categories such as collection, dissemination, analysis, and research.

Mr. HAYES. Were there ever any questions on the part of the Bureau of the Budget which would further penetrate those broad categorizations?

Mr. STAATS. I am recalling from memory from a good many years ago. In some cases we did require a detailed justification and support. I would say in most cases that was the case.

Mr. HAYES. So those reports are extinct? Are there records we could see?

Mr. STAATS. As to whether current records are available, you would have to ask Mr. Lynn. I would doubt very much if records of that time are still in existence. This goes back a long way.

Mr. HAYES. From your experience with the GAO can you relate to the committee any knowledge that you have of history of audits since 1921 of various sections?

For example, the famous Code and Decipher Solution Section which was dissolved in 1929. Did GAO conduct an audit from the time of its founding in 1921 to 1929 for that section?

Mr. STAATS. Mr. Keller might be able to answer better than I. He has been in GAO longer.

Mr. KELLER. I was not with the office there in 1929 but perhaps I can explain this. From 1921 when the GAO was established until about World War II, the GAO looked at vouchers. In other words, it was pretty much of an eyeshade operation which really didn't get behind the vouchers to the substance of what was going on. I cannot speak to your question. I guess that if we look at it, we were not really aware what it was.

Mr. HAYES. So that those records then would really not be of much use to us in terms of looking at techniques of classifications?

Mr. KELLER. No. My guess is that those records are probably no longer in existence. Most records of the Government are subject to a disposal program.

I think that they probably would have been disposed of by this time.

Mr. HAYES. Thank you.

Chairman PIKE. Mr. Lehman.

Mr. LEHMAN. Thank you, Mr. Chairman.

I may be duplicating some of the other questions but I want to get it clear in my own mind. Outside of the intelligence community, for instance on page 2 you state, "We have not pressed for reviews of intelligence operations on our own initiative." Outside of the intelligence committee you do regular annual periodic audits on your own initiative?

Mr. STAATS. We do audits on our own initiative. In some cases they are periodic, annual, or otherwise.

For the most part, we enter into these audits or reviews in certain areas because we think funds can be saved or improvements made in operations, or because we think the Congress will have an interest. There is a variety of reasons. We have a planned work program with respect to all activities of the Government, outside of the intelligence area; we go in on our own initiative to look at certain programs to see if there were ways to improve them.

Mr. LEHMAN. In the intelligence community you have not pressed for these regular types of audit as you state here. On the following page you say, "The problem is the 'need to know' requirements." Is

that one of the reasons that you do not go into those kinds of operations on your own initiative more?

Mr. STAATS. I think that we have to be very frank about this. I would like to underscore this point for the benefit of the whole committee. We have felt that the access problem was so great and the restrictions placed on the use of information such that we decided to put our resources elsewhere, where we could get greater return for the Government. That would not necessarily be the case if our legal authority were different. We could make a different judgment.

Mr. LEHMAN. That gives us an option at this end if we can strengthen your legal authority to the point where you could redeploy these 400 CPA's to get the kind of accountability from the intelligence community that you now get from other agencies of the Government. If we could give you the authority, you could move in that direction.

Mr. STAATS. We could certainly do more than we are doing today.

Mr. LEHMAN. My reaction to your statement, maybe I am reading it wrong, but it seems to me that a great deal of it was indicative of a great deal of frustration your office has with the intelligence community in doing the kind of auditing job you are used to doing with other agencies of the Government. Is that an understatement?

Mr. STAATS. You are interpreting it correctly.

Mr. LEHMAN. I have the permission to quote John Moss who said when he heard I was on this committee that he characterized the CIA as an open spigot without accountability. From what I have learned today I guess I would be inclined to agree with him.

Thank you very much. I yield back the balance of my time.

Chairman PIKE. Mr. Field?

Mr. FIELD. Thank you, Mr. Chairman.

Mr. Staats, there are a number of things which if GAO would supply to us over a period of time it would be a tremendous help to us in preparing our report. The first thing I would be interested in would be if you could identify some of the specific statutory changes that would be needed in order for GAO to be able to properly carry out what you would consider to be a thorough audit of the intelligence community. Second, some estimate of the manpower requirements that GAO would need to do this.

The second area which we could use help on, and I don't know whether you may be able to answer or if you have standards and procedures on this, is defining what is the intelligence community as far as the budget is concerned. We all talk about these agencies. There are problems such as an Army base or an Air Force base where maybe 25 percent of the personnel are devoted full-time to an intelligence function, but nevertheless the base would not exist except to support the 25 percent.

How do you handle that in terms of dividing up an intelligence and nonintelligence budget?

For example, the submarine assigned to an intelligence mission—only a few people are actually intelligence personnel and maybe only a few pieces of equipment are owned by the intelligence agency. How would you treat that if you were to audit it?

There are things like an FBI agent doing background checks on people applying for Federal jobs. Is he collecting intelligence or not, according to your purposes of the budget? We are trying to use the

budget to define for oversight purposes what is the intelligence community. Do you have that now or could you develop them for us?

Mr. STAATS. We would be happy to supply answers to the best of our ability on all of those questions you have raised.

Mr. FIELD. The final point would be whether you could recommend a clearance and perhaps some physical security procedures which GAO could institute on its own so that it would have sufficient confidentiality and ability to handle classified information that it could on its own be able to have its own procedures, would not be relying upon the executive branch to give the clearances and be able to assure the executive branch that the procedures we have on the congressional side, the legislative side, are as good as theirs and would make a strong argument.

Perhaps if you could again recommend the way you would go about developing these clearances and the security procedures, and perhaps again we could use them in the Congress as well. We would appreciate that.

Mr. STAATS. That one is much more difficult but we will try.

Mr. FIELD. The final point I just wanted to clarify is that we will request audits that you have conducted of the intelligence agencies and we would appreciate copies of those in the near future.

Mr. STAATS. Yes, sir.

[Mr. Staats' November 10, 1975, reply to Chairman Pike, in response to Mr. Field's request is printed on pages 519 to 527 of the appendix.]

Chairman PIKE. Mr. Staats, you and your staff have been most cooperative, candid, and constructive. We thank you.

The committee will stand in recess until 10 o'clock tomorrow morning.

Mr. DELLUMS. May I ask a question of the Chair prior to adjournment?

Chairman PIKE. Yes.

Mr. DELLUMS. Mr. Staats very eloquently stated the problem of access to highly classified information or cryptic information in terms of the GAO being able to adequately do an auditing job. It seems to me that we as members of this committee and our staff are caught in the same situation. As you recall when we drafted our security provisions we had taken as a policy position that our staff would not have to go through clearances of intelligence agencies.

Chairman PIKE. You are talking about our committee staff, not our personal staff.

Mr. DELLUMS. And they would not have to sign papers from those agencies. If the GAO has extraordinary difficulty in obtaining cryptic information, do you think we will be able to win this fight with the intelligence community with respect to our ability to authorize staff to have access to cryptic information? If we do not have it we will be just as impotent as the GAO.

Chairman PIKE. This is going to come as a great shock to you, Mr. Dellums, but let me say we have won that fight. That fight is over. The committee will stand in recess until 10 o'clock tomorrow morning.

Thank you.

[Whereupon, at 2:40 p.m., the committee adjourned to reconvene at 10 a.m., Friday, August 1, 1975.]

U.S. INTELLIGENCE AGENCIES AND ACTIVITIES

Part 1: Intelligence Costs and Fiscal Procedures

FRIDAY, AUGUST 1, 1975

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, D.C.

The committee met, pursuant to recess, at 10 a.m., in room 2118, Rayburn House Office Building, the Honorable Otis G. Pike [chairman], presiding.

Present: Representatives Pike, Giaimo, Stanton, Dellums, Murphy, Aspin, Milford, Hayes, Lehman, McClory, Treen, Johnson, and Kasten.

Also present: A. Searle Field, staff director; Aaron B. Donner; general counsel; John L. Boos, counsel; Jeffrey R. Whieldon, counsel; Roger Carroll, Jacqueline Hess, and Charles Mattox, investigators.

Chairman PIKE. The committee will come to order.

I would ask the cameras to remove themselves from this particular spot at this particular time.

This morning our witness is Mr. James T. Lynn, the Director of the Office of Management and Budget.

STATEMENT OF JAMES T. LYNN, DIRECTOR, OFFICE OF MANAGEMENT AND BUDGET, ACCOMPANIED BY PAUL O'NEILL, DEPUTY DIRECTOR, OMB, AND DONALD OGILVIE, ASSOCIATE DIRECTOR FOR NATIONAL SECURITY AND INTERNATIONAL AFFAIRS

Chairman PIKE. Mr. Lynn, I want to thank you first of all for having provided your statement in advance. I have had an opportunity to look at your statement. It is a relatively lengthy statement.

It seems to me that we might expedite our processes quite a lot if we put your statement, which all of the Members have, in the record and proceed directly to questioning on that statement.

What would you think of that idea?

Mr. LYNN. I have very mixed emotions with regard to it, Mr. Chairman.

Chairman PIKE. I will bet you have.

Mr. LYNN. Because on the one hand I certainly wish to expedite the work of this committee as much as possible and therefore anything we can do to serve your interests best we want to do. On the other hand, I must say that I think that a general understanding of our role and then fitting it into the application to the intelligence community is important.

If I might suggest a reasonable compromise in this regard that should take a very short period of time, why don't I have the statement before me, read in part, skip in part and hold it down to a relatively short period?

Chairman PIKE. Do you suppose if we did that we could finish the reading of your statement in half an hour?

Mr. LYNN. I think so.

Chairman PIKE. Mr. McClory?

Mr. McCLORY. It is true that we have had the statement before us and have had an opportunity to examine it. Our principal interest is with respect to the intelligence community beginning on page 8. It might be that you could omit the preliminaries and begin on that page and even end on page 12 as far as I am concerned.

Chairman PIKE. Mr. McClory, I want to thank you once again for the excellent bipartisan cooperation we are getting in this committee.

Don't you think that is reasonable?

Mr. LYNN. I have a feeling I am getting very strong signals from the dais. Mr. Chairman.

Chairman PIKE. Mr. Lynn, very frankly, we started late with these hearings. We are doing our best to keep them moving. I think that your statement is replete with substance but the substance is of no particular pertinency to the activities of this committee. Therefore, why don't we do it the way Mr. McClory suggested, you start on page 8 of your statement and wind up somewhere around page 12.

If you would like to summarize the beginning of it and then start reading at page 8, that will be all right.

Mr. LYNN. I think that I can say this about the first part: Since our process in budget review is so much the same between any agency and the intelligence community, it was useful to describe our function first as a matter of generality as to how we did it.

I think what we learned from the first eight pages is that it is a rather detailed structure. It is a structure that has been used for some time and there is no magic about it. It is one that is known as far as the procedure is concerned to most people who are interested. With that, and in the same interest that you have expressed with regard to saving time, but with an understanding that this part of the statement will be, the first part will be considered well—

Chairman PIKE. The entire statement without objection will be placed in the record at this point.

STATEMENT OF JAMES T. LYNN, DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET

Mr. Chairman and Members, I am pleased to be with you today to discuss the role of the Office of Management and Budget. I propose to discuss, first, our general role and then focus specifically on our relations with the Intelligence Community.

OMB's general role is comprised of three major functions:

First, we oversee and manage the preparation of the Federal budget.

Second, we work with the agencies to improve the operations of the Executive Branch.

Finally, we coordinate legislative proposals offered by the Administration and the development of Executive Branch views on legislation pending before the Committees of the Congress.

OMB BUDGET ROLE

There are four major phases in the budget process:

- (1) Executive formulation.
- (2) Congressional enactment.
- (3) Budget execution.
- (4) Post audit.

OMB's principal role in the budget process is assisting in executive formulation (step 1 above) and budget execution (step 3 above).

Congressional enactment is, of course, the responsibility of the Legislative Branch, although I testify as appropriate. The post audit phase is handled by the General Accounting Office as well as internal audit groups within the various Government departments and agencies.

PREPARATION AND EXECUTION OF THE FEDERAL BUDGET

The President's transmittal of his budget proposals to the Congress in January or February each year climaxes many months of planning and analysis throughout the Executive Branch.

PRELIMINARY STEPS

OMB staff, in cooperation with staff of the Treasury Department and the Council of Economic Advisers, keep under continuous review the relationships between Government finances and the economy generally. This review includes study of recent conditions, as well as the future outlook. Consideration is given to tentative assumptions on the economic environment, projections of revenue expected under these assumptions, and the aggregate range of Government spending levels.

In the late spring, the Office of Management and Budget conducts the Spring Planning Review. Staff prepares estimates indicating a probable range of spending for each of the major programs and agencies for the forthcoming budget. In preparing estimates we draw upon our knowledge of agency programs, agency estimates for particular programs, program evaluation materials and informal discussions with responsible agency budget and planning personnel. We also develop information to relate program objectives to resources requirements.

Paul O'Neill and I then review the fiscal and economic situation, the spending outlook, and the individual program, budget, and management issues posed in the agency presentations. I then discuss our findings with the President, and seek his decisions on planning guidance for each agency and department so that they may reshape their plans and prepare their budgets accordingly. In fact, only a few days ago the planning guidance letters for the FY 1977 budget were sent out.

COMPILATION AND SUBMISSION OF AGENCY BUDGET ESTIMATES

During the next several months agencies revise their program plans in accordance with assigned planning ceilings and program guidance received, and decide upon the budget requests they wish to make for the upcoming budget. They compile schedules and supporting information in accordance with the instructions prescribed by the Office of Management and Budget (Circular No. A-11).

Agency budget submissions are due in the Office of Management and Budget beginning in September. The submission covers all accounts in which money is available for obligation or expenditure, whether or not any action by Congress is required.

REVIEW OF AGENCY ESTIMATES IN THE OFFICE OF MANAGEMENT AND BUDGET

When the estimates are received in the Office of Management and Budget, they are referred to the examiners assigned to the programs involved. All the knowledge the examiners possess about the agency—whether based on long-run analyses, field investigations, special studies, or conferences held with agency officials—is brought to bear on the estimates at this time. The examiners must be thoroughly familiar with the President's budget policy and previous Congressional action, as well as with the programs of the agency and their relationship to activities of other agencies.

The examiners give considerable attention to the bases for the individual estimates: the volume of work on hand and forecast; the methods by which the agency proposes to accomplish its objectives; the costs of accomplishments; and the estimates of requirements in terms of supplies, equipment, facilities, and numbers of people required. They review past performance, check the accuracy of factual information presented, and consider the future implications of the program. They identify program, budget and management issues of major importance to be raised for discussion with agency representatives at hearings. The hearings, held in October and November, may last only a few hours for a small agency, but often run into weeks for a large department.

After the hearings are completed, the examiners prepare their summary of the issues and their recommendations for my review. This so-called "Director's Review" provides an opportunity for me and my principal assistants to obtain an understanding of the agency's program and budget requests, an analysis of the significant issues involved, the relationship of the agency requests to the planning ceiling set for the agency as a result of the Spring Planning Review, and recommendations as to budget allowances.

BUDGET DECISIONS BY THE PRESIDENT

Because of the scope and complexity of the budget, I and my principal assistants meet frequently with the President to present major issues for his decision as portions of the Office of Management and Budget reviews are completed during October, November, and December. As soon as the President makes his decisions, OMB notifies each agency head of the amounts which will be recommended to Congress for his agency's programs for the ensuing fiscal year. After any appeals by the agency head to the President have been settled, OMB completes the final preparation and printing of the President's Budget for submission to Congress.

BUDGET EXECUTION

The Anti-Deficiency Act requires that the Director of the Office of Management and Budget apportion, with a few exceptions, appropriations and funds made available to the Executive Branch. This consists of dividing the total available funds into specific amounts available for portions of the fiscal year or for particular projects or activities. It is a violation of law (31 U.S.C. 665) for an agency to incur obligations or make expenditures in excess of the amounts apportioned.

The objective of the apportionment system is to assure the effective and orderly use of available funds and to reduce the need for supplemental appropriations. It is, of course, necessary to insure flexibility if circumstances change.

Changes in laws or other factors may indicate the need for additional funds, and supplemental requests may have to be transmitted to the Congress. On the other hand, reserves may be established under the Anti-Deficiency Act to provide for contingencies or to effect savings made possible by or through changes in requirements or greater efficiency of operations. Amounts may also be withheld for policy or other reasons, but only under specific procedures established by the Congressional Budget and Impoundment Control Act.

Progress on the budget program is reviewed throughout the fiscal year at successive levels, both in the agency and the Office of Management and Budget. Periodic reports on the status of apportionments are supplemented by more specialized reports which relate accomplishments to cost. Shifts in the agency budget plans are frequently required to meet changing conditions—to finance unforeseen circumstances or to provide savings where the workload is less than was estimated or where increased efficiency permits accomplishments at less cost than was anticipated.

PREPARING THE INTELLIGENCE COMMUNITY BUDGET

I have spent some time providing the general backdrop of OMB's process of preparing the President's Budget because the OMB role and process of preparing the intelligence budget is essentially the same as that with respect to the budget of any other Executive Branch department or agency. Let me cite a few examples of this, particularly as it relates to the 1976 budget process for intelligence.

1. The principal U.S. foreign intelligence activities are examined by a single unit in OMB contained within OMB's National Security Division and reporting to OMB's Associate Director, Mr. Donald G. Ogilvie, who is responsible for national security and international affairs. Under Mr. Ogilvie, this unit, consisting

of a branch chief and five professional examiners, reviews the budgets of the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, and those intelligence activities of the Army, Navy, and Air Force that bear most directly on U.S. intelligence capabilities.

By way of a footnote, I should state that they do not examine the domestic information gathering of the FBI or other non-foreign intelligence-related activities. They also do not examine most of the military or force-related intelligence activities of the Military Departments that are intended for wartime support to military forces during operations. These activities are the responsibility of other branches of OMB.

2. The intelligence programs are examined in the same context and in the same time frame as are all other Executive Branch activities. The current and projected economic situation is considered; pertinent Presidential guidance on intelligence is taken into account; and the effectiveness of the programs is analyzed.

3. During the 1976 budget formulation process, the Director and Deputy Director held in-depth sessions with the Associate Director and the staff on all these activities. Intelligence activities and programs were evaluated in June of last year, major policy and program issues were identified, and alternative long-range program plans were discussed. Guidance in the form of a planning target for the Intelligence Community's budget submission was provided to the Director of Central Intelligence and the Secretary of Defense in July of last year. We follow the same basic procedure each year.

4. After the budgets were submitted in October and reviewed by the OMB staff, the Director and Deputy Director reviewed the total Intelligence Community budget in December. Then two meetings were held to review the issues with the President who made the final decisions.

5. A final allowance letter was sent by the Director of OMB to the Director of Central Intelligence and the Secretary of Defense informing them of the funds included in the President's budget for the Intelligence Community.

DIFFERENCES IN BUDGET PREPARATION WITH RESPECT TO INTELLIGENCE

The only differences between OMB's role in the preparation of Intelligence Community budgets and those of other agencies result from the sensitive classification of the Intelligence Community budgets and the fact that part of the Intelligence Community budget is subject to joint review by the OMB and the Secretary of Defense.

Because most intelligence budget information is sensitive and classified, it is not specifically identified in the President's Budget. This is a legitimate area for review, but it cannot be clearer that:

1. The Director of Central Intelligence, who by statute is responsible for protecting intelligence sources and methods, has determined that most of the budget information is classified, and

2. The Congress has consistently supported the view this classification of intelligence budget information is appropriate, most recently in a Senate vote of June 1974.

Mr. Colby can provide more detail on this matter.

As a result of the classification of most intelligence budget information, OMB, both in its relationship with the intelligence agencies and in its relationship with the Congress, has taken measures to protect this information, while ensuring that the Congress has the requisite information so that it can perform its constitutional role in reviewing the budgets of the agencies and in authorizing and appropriating funds for these activities. For example, the Director of OMB has by long-standing practice sent letters to the Chairmen of the Appropriations Committees identifying the amount of funds the President is requesting for the Central Intelligence Agency. These Chairmen annually have responded in a classified letter to the Director of OMB indicating Congressional action on this request.

I should emphasize that the classification of intelligence budget information does not mean that Congress is uninformed about the cost, purposes, results, and effectiveness of U.S. intelligence activities. The Director of Central Intelligence testifies annually on the Intelligence Community budget before both the special oversight subcommittees of the Armed Services and Appropriations Committees. The Assistant Secretary of Defense for Intelligence, the Director of the National Security Agency, the Director of the Defense Intelligence Agency, and representatives of the Army, Navy, and Air Force also testify on their budget requests for intelligence.

The second difference in OMB's examination of intelligence activities in comparison to most other nonintelligence activities is related to the OMB joint review with the Department of Defense. For those intelligence activities of the Defense agencies—Defense Intelligence Agency and National Security Agency—and of the Military Departments, OMB participates in a joint review of the budget requests with the Office of the Secretary of Defense.

Let me briefly describe this process. OMB is a formal participant in the joint budget review and plays an informal role throughout the entire Defense program and budget cycle. An outline of the program and budget review calendar is as follows:

January.—The five year Defense plan is updated by the Defense Comptroller staff to reflect decisions made in the just completed budget review.

February.—The Secretary issues Planning and Programming Guidance, including fiscal levels, to the Services for preparation of the next five year plan. These planning levels have historically been higher than those identified in the President's Budget. While OMB has no formal role at this stage, there may be input from the OMB Director to the Secretary regarding appropriate fiscal levels.

March-May.—Based on the Planning and Programming Guidance, each Service submits a Program Objectives Memorandum which proposes a five year force structure and resource plan.

May-August.—The Program Objectives Memoranda are reviewed by the Office of the Secretary of Defense staff, principally the Program Analysis and Evaluation staff with inputs from other components of the Office of the Secretary of Defense. The culmination of the reviews are Program Decision Memoranda issued by the Secretary to the Services which provide both programmatic and fiscal modifications to the Program Objectives Memoranda. The focus of the May-August review is the whole five year period, and the emphasis is on forces, deployments and operating rates. In general, OMB monitors the process and may introduce or critique issues. OMB staff studies may be reviewed by Defense staff at this time and may form a basis for Program Objectives Memorandum issues as well as budget issues at this stage of the process. The historical OMB role has been to maintain an informal presence, reserving a formal role until later when the OMB Director and the President are personally involved.

September.—The Services prepare a budget submission based on Program Decision Memoranda guidance.

October-December (The Joint Budget Review).—The Services submit budgets for "joint" review by the Office of the Secretary of Defense and OMB staff. The joint review is unique to Defense, involving OMB staff working jointly with the DOD staff in reviewing the Service estimates for the Secretary. The function of the joint review is to (a) price out decisions reached during the preceding Program Objectives Memorandum review; (b) allow the Secretary to reconsider decisions made in Program Objectives Memorandum cycle; (c) introduce new program issues. OMB program issues are formally introduced at this stage of the review process. The decisions made by the Secretary of Defense in the joint review form the final budget submission to OMB.

This basic joint review procedure is adhered to with respect to Defense intelligence activities. It culminates, of course, in the final decisions by the President.

DIFFERENCES IN BUDGET EXECUTION WITH RESPECT TO INTELLIGENCE

There are also some differences in the budget execution phase that, while not unique to intelligence activities, I wish to call to your attention.

First, it is normal practice for OMB to apportion funds based on the appropriation structure that is presented and approved by Congress. Since most intelligence activities are included in larger appropriations within the budget, OMB does not take an apportionment action *specifically identifiable* to intelligence activities. Nonetheless, all intelligence funds are reviewed by OMB prior to apportionment of the larger appropriation within which they are included.

One exception to this is the Central Intelligence Agency where OMB apportions all funds for this agency as a separate entity.

Second, reprogramming is handled somewhat differently. For a typical agency or department, reprogramming controls are based on line item identification in appropriations. Such identification is absent from most of the intelligence appropriations because of security considerations. I believe, however, that in spite of this difference, significant changes in the use of funds do not occur without our

knowledge. In the various reviews in which OMB staff participates throughout the year, the intelligence agencies do report on significant changes in their activities and the financial changes to the President's budget.

Finally, some transfers are made into certain intelligence activities under provisions of the Economy Act (31 USC 686). This Act permits purchase of supplies and service by one agency for another when it is more economical to do so. These transfers are not formally approved by OMB. Again, there is no lack of OMB or, for that matter, Congressional knowledge of these transfers which are reflected in both budget submissions to OMB and budget justification material provided to the Congress.

These distinctions in OMB practices with respect to execution do not, I believe, materially affect the way OMB approaches its responsibilities or the way the intelligence agencies carry out their responsibilities. I do not believe that the types of problems that are being investigated would have been prevented by changes in the way OMB has approached its responsibilities in execution of the Intelligence Community budget. In the final analysis, abuses of authority can be prevented only by ensuring the integrity and capability of the people in the Intelligence Community.

On the other hand, it is certainly possible that some revisions in Intelligence Community budget execution may be appropriate. For this reason, I have directed that the OMB staff review the present practices, the options available for changes in these practices, and the advantages and disadvantages of these alternative approaches.

OMB MANAGEMENT ROLE

OMB's second major function is to work with Federal agencies in efforts toward better management.

This responsibility is carried out by assisting the Federal departments and agencies in the development of new management systems, such as management by objectives and studies of major policy issues and management problem areas.

OMB monitors the management by objectives program with which you may be familiar. In this program, the objectives of the agencies and departments proposed in discussion with the OMB staff are actively monitored to ensure that important agency and Presidential objectives are being accomplished.

These functions are applied to the Intelligence Community in the same way as the other Federal agencies and departments. OMB staff participate in numerous studies and special reviews of intelligence activities. Director Colby has played an active role in the management-by-objectives process.

OMB LEGISLATIVE COORDINATION

The final role of the Office of Management and Budget is to coordinate the Administration position on legislation. On behalf of the President, OMB works with other elements of the Executive Office of the President and with the agencies to carry out the President's legislative responsibilities, including agency proposals, reports, testimony on pending legislation, and enrolled bills.

The legislative coordination function has several purposes:

It provides a mechanism for staffing out agency legislative proposals which the President may wish to include in his legislative program.

It helps the Executive agencies develop draft bills which are consistent with and which carry out the President's policy objectives.

It is a means of keeping Congress informed (through the "advice" transmitted by the agencies) of the relationship of bills to the President's program.

It provides a mechanism for assuring that Congress gets coordinated and informative agency views on legislation which it has under consideration.

It assures that bills submitted to Congress by one Executive agency properly take into account the interests and concerns of other affected agencies and will therefore have the general support of such agencies.

It provides a means to reconcile divergent agency views.

OMB's legislative coordination function with respect to legislation affecting intelligence activities is no different from that performed in any other area of Federal Government activity. For example, during the last year, OMB in conjunction with other elements of the Executive Office of the President and appropriate agencies has:

1. Coordinated the Executive Branch position on bills affecting the tenure of the Director of Central Intelligence and annuities under CIA's retirement plan.

2. Reviewed draft Department of Defense legislation affecting personnel in the Defense Intelligence Agency and the National Security Agency; and
3. Initiated the legislative clearance process with respect to proposed legislation on the protection of intelligence sources and methods.

CONCLUSIONS

That is a brief overview of our role and the ways in which we work with the Intelligence Community. At this time I will be pleased to answer your questions.

Mr. LYNN. Preparing the intelligence community budget: The OMB role and process in preparing the intelligence budget is essentially the same as that with respect to the budget of any other executive branch department or agency. Let me cite a few examples of this particularly as it relates to the 1976 budget process for intelligence.

1. The principal U.S. foreign intelligence activities are examined by a single unit in OMB contained within OMB's National Security Division and reporting to OMB's Associate Director, Mr. Donald G. Ogilvie, who is responsible for national security and international affairs. Under Mr. Ogilvie, this unit, consisting of a branch chief and five professional examiners, reviews the budgets of the Central Intelligence Agency, the Defense Intelligence Agency, the National Security Agency, and those intelligence activities of the Army, Navy, and Air Force that bear most directly on U.S. intelligence capabilities.

By way of a footnote, I should state that they do not examine the domestic information-gathering of the FBI or other non-foreign intelligence-related activities. They also do not examine most of the military or force-related intelligence activities of the military departments that are intended for wartime support to military forces during operations. These activities are the responsibility of other branches of OMB.

2. The intelligence programs are examined in the same context and in the same time frame as are all other executive branch activities. The current and projected economic situation is considered; pertinent Presidential guidance on intelligence is taken into account; and the effectiveness of the programs is analyzed.

3. During the 1976 budget formulation process, the Director and Deputy Director held in-depth sessions with the Associate Director and the staff on all these activities. The current and projected economic situation is considered; pertinent Presidential guidance on intelligence is taken into account; and the effectiveness of the programs is analyzed.

4. During the 1976 budget formulation process, the Director and Deputy Director held in-depth sessions with the Associate Director and the staff on all these activities. Intelligence activities and programs were evaluated in June of last year, major policy and program issues were identified, and alternative long-range program plans were discussed. Guidance in the form of a planning target for the intelligence community's budget submission was provided to the Director of Central Intelligence and the Secretary of Defense in July of last year. We follow the same basic procedure each year.

5. After the budgets were submitted in October and reviewed by the OMB staff, the Director and Deputy Director reviewed the total intelligence community budget in December. Then two meetings were held to review the issues with the President who made the final decisions.

6. A final allowance letter was sent by the Director of OMB to the Director of Central Intelligence and the Secretary of Defense informing them of the funds included in the President's budget for the intelligence community.

DIFFERENCES IN BUDGET PREPARATION WITH RESPECT TO INTELLIGENCE

The only differences between OMB's role in the preparation of intelligence community budgets and those of other agencies result from the sensitive classification of the intelligence community budgets and the fact that part of the intelligence community budget is subject to joint review by the OMB and the Secretary of Defense.

Because most intelligence budget information is sensitive and classified, it is not specifically identified in the President's budget.

This is a legitimate area for review, but it cannot be clearer that :

1. The Director of Central Intelligence, who by statute is responsible for protecting intelligences sources and methods, has determined that most of the budget information is classified, and

2. The Congress has consistently supported the view that this classification of intelligence budget information is appropriate, most recently in a Senate vote of June 1974.

Mr. Colby can provide more detail on this matter.

As a result of the classification of most intelligence budget information, OMB, both in its relationship with the intelligence agencies and in its relationship with the Congress, has taken measures to protect this information, while insuring that the Congress has the requisite information so that it can perform its constitutional role in reviewing the budgets of the agencies and in authorizing and appropriating funds for these activities.

For example, the Director of OMB has by long-standing practice sent letters to the chairmen of the Appropriations Committees identifying the amount of funds the President is requesting for the Central Intelligence Agency.

These chairmen annually have responded in a classified letter to the Director of OMB indicating congressional action on this request.

I should emphasize that the classification of intelligence budget information does not mean that Congress is uninformed about the cost, purposes, results, and effectiveness of U.S. intelligence activities. The Director of Central Intelligence testifies annually on the Intelligence Community budget before both the special oversight subcommittees of the Armed Services and Appropriations Committees.

The Assistant Secretary of Defense for Intelligence, the Director of the National Security Agency, the Director of the Defense Intelligence Agency, and representatives of the Army, Navy, and Air Force also testify on their budget requests for intelligence.

The second difference in OMB's examination of intelligence activities in comparison to most other nonintelligence activities is related to the OMB joint review with the Department of Defense. For those intelligence activities of the defense agencies—Defense Intelligence Agency and National Security Agency—and of the military departments, OMB participates in a joint review of the Budget requests with the Office of the Secretary of Defense.

Chairman PIKE. Mr. Lynn, I think that would be a very appropriate place to stop because from there on you are once again getting into a rather generalized discussion of the process.

Mr. LYNN. I would say, sir, that I would urge your reading of the difference in the defense process carefully.

I would also say that the last number of pages of this, at least to page 19 where we become more general again, I believe, are specifically related to the intelligence community, but if you do not want it read, we won't read it.

Chairman PIKE. Which particular pages?

Mr. LYNN. I am thinking of page 16 beginning in the middle of the page.

Chairman PIKE. Let's skip over to page 16 in the middle of the page and read 16 and 17.

Mr. LYNN. Up to the top of page 19.

Chairman PIKE. Mr. Lynn, it is not that we don't like to hear you read the statement, it is just that most of us have seen it and are capable of reading it. We would like to get into the questioning.

You start reading at page 16.

Mr. LYNN. Mr. Chairman, if you don't want me to read it, I won't. It is as simple as that.

Chairman PIKE. No, sir. I don't want the Office of Management and Budget to feel they have been precluded from reading something they really wanted to read. Go ahead.

Mr. LYNN. Differences in Budget Execution with Respect to Intelligence.

There are also some differences in the budget execution phase that, while not unique to intelligence activities, I wish to call to your attention.

First, it is normal practice for OMB to apportion funds based on the appropriation structure that is presented and approved by Congress. Since most intelligence activities are included in larger appropriations within the budget, OMB does not take an apportionment action specifically identifiable to intelligence activities. Nonetheless, all intelligence funds are reviewed by OMB prior to apportionment of the larger appropriation within which they are included.

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knowledge of these transfers which are reflected in both budget submissions to OMB and budget justification material provided to the Congress.

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I do not believe that the types of problems that are being investigated would have been prevented by changes in the way OMB has approached its responsibilities in execution of the intelligence community budget. In the final analysis abuses of authority can be prevented only by insuring the integrity and capability of the people of the intelligence community.

On the other hand, it is certainly possible that some revisions in intelligence community budget execution may be appropriate. For this reason, I have directed that the OMB staff review the present practices, the options available for changes in these practices, and the advantages and disadvantages of these alternative approaches.

I believe that will give the highlights of it, Mr. Chairman. I do not believe we even approached anything near 30 minutes.

Chairman PIKE. You did fine, Mr. Lynn.

Mr. LYNN. Thank you.

Chairman PIKE. Mr. Lynn, in preparing figures on what it costs America for her intelligence-gathering activities, how do you define intelligence-gathering activities?

Mr. LYNN. I am not quite certain I understand your question, Mr. Chairman.

Chairman PIKE. Well, before we can talk about what it costs us to gather intelligence we have to know what we are talking about. There has to be a definition of what is to be included in and what is to be excluded from the cost of intelligence-gathering activities. How do you establish the parameters? How do you define intelligence-gathering activities in order to determine the cost?

Mr. LYNN. I would say that as a matter of overall budget review an effort has been made to identify various functions performed that we believe are in the category of intelligence and then having identified those and their having been brought to us in a systematic way with the coordination of the Director of Central Intelligence, we consider those specific functions.

Now if you want a description of specific functions that are done in the intelligence community and discussion as to whether such functions to be considered in this budget or some other budget—

Chairman PIKE. That is precisely what I am talking about.

Mr. LYNN. I believe that is the kind of thing, Mr. Chairman. I would have to say respectfully would take a closed session. There is no way we can get into specific functions that are performed without being able to classify the material.

Chairman PIKE. I am not asking for a specific function performed. I am asking you how you define that which you include as a cost of getting intelligence. Certainly the definition is not classified.

Mr. OGDYNE. Mr. Chairman. I do not believe that it is possible in open session, without going into specific examples of what we include in the intelligence area of the budget, to fully answer your question.

We can give you some rough general ideas.

Chairman PIKE. Well, give me a rough general idea about a situation where a ship goes off on an intelligence-gathering mission.

I am not asking for specifics but how do you define what part of the cost of that operation will be called intelligence gathering?

Mr. LYNN. I think that what you do is take area by area of activity and look at it and ask logically is its main theme intelligence or is it really so incidental to intelligence that it ought to be categorized something else.

Chairman PIKE. Do you make that determination, Mr. Lynn?

Mr. LYNN. No; we do not make this determination alone.

Chairman PIKE. Who makes that determination?

Mr. LYNN. That determination is made by two different groups essentially, one is the Congress of the United States in its own appropriation and oversight process.

Chairman PIKE. There is no way the Congress of the United States makes that determination because the Congress of the United States by and large does not know.

You talk about a letter which you send to the chairman of the Appropriations Committee. I don't see that letter.

Mr. GIAIMO. I have been on the Appropriations Committee since 1963, and I am on the Defense Subcommittee which deals with the intelligence community. I have never seen the letter. Up until last year, I was never even privy to the briefings of the intelligence community. Your statement that the Appropriations Committee has performed oversight is just not so. Limiting it to certain Members of Congress makes a big difference.

Mr. LYNN. I agree. By your own rules in the Congress, by your own decision in the Congress, it has been decided—

Chairman PIKE. It has been decided that a handful of men will have this authority.

Mr. GIAIMO. It is not Congress who is informed. It is a certain few Members.

Mr. LYNN. I stand corrected. You are absolutely right, Mr. Giaimo.

Chairman PIKE. We have established that it is not Congress that makes this determination. Who is it?

Mr. LYNN. Certainly the Members of the Congress who by its own decisions have been made privy to these budgets are involved in that; because if they had strong objections as to what is included or is not, I am sure that the various heads of the agencies would be told about it and so would we. Now in the executive branch of the Government, of course, we will make recommendations in this regard. I believe that the Director of Central Intelligence will also make recommendations in this regard as will the other agencies involved. Then ultimately, I think, the decision would rest with the President, if there is a disagreement amongst us or if we all agree, but, I think, there is an important decision that should be made at a Presidential level.

Chairman PIKE. I would ask my timekeeper if my time is up. I missed the signal.

Mr. McClory.

Mr. McClory. I want to commend you on your statement, Mr. Lynn, Also, I would observe with respect to this subject that if you did undertake to deliver a letter to all the Members of Congress I am confident

that it would be a violation of the trust that we repose in you with respect to the secrecy which surrounds intelligence activities. I would not want to suggest that you have been derelict in not issuing such a letter to all the Members or publicizing it. On the other hand, I would like to ask if it is not possible under executive session or under an assurance of confidentiality that this committee can receive these letters that have been delivered under the rules or practices that have been established by committee of the Congress.

Mr. LYNN. Mr. McClory, let me give you my overall attitude. We want to help this committee in every way we can. Our own concern with respect to this matter is the matter of classification of sensitive material. In answer to your question, I believe that under the appropriate security arrangements, as you suggest in closed session, that this information should be given to you. Now as to who ought to give certain kinds of information as between Director Colby and us, that is a different matter, and is subject to the general way we do business with agencies. Certainly as far as giving information of this kind, you are deeply, by nature of jurisdiction and the things that you have to look into, entitled to information of this kind.

Mr. McCLORY. Have you supplied similar information to the Rockefeller Commission and to the Church committee?

Mr. LYNN. I will have to ask.

Mr. OGILVIE. The Church committee is being provided with that information, but it is being provided by Director Colby, not by OMB.

Mr. McCLORY. What about the money left over? The funds that are employed by CIA and other intelligence agencies are sort of secreted or transferred around. They are in various budgets. What happens to the money that is left over? Does that come back to the Treasury or do you get information about that?

Mr. OGILVIE. We do have information about that; yes, sir.

Mr. McCLORY. You say on page 17 that you apportion the funds of the Central Intelligence Agency and you include that as a separate entity so that CIA funds are different from other intelligence agency funds insofar as your practices are concerned.

Mr. OGILVIE. The difference, Mr. McClory, is in the apportionment process, not in the funds themselves, because intelligence funds are included in larger appropriation categories than the amount of the funds themselves. They are, because of the way OMB apportions funds, apportioned according to the appropriation of which they are a part. In the case of CIA, we specifically identify those funds and apportion them separately.

Mr. McCLORY. In making up the overall budget are you informed with respect to the specific projects which enter into the overall budget?

Mr. LYNN. I think the answer to that is that on major matters that involve large expenditures, I would say that the intelligence community brings them to our attention and upon our inquiry brings them to our attention. So, I would say we have some knowledge of some projects. We have no knowledge of others. Let me put that in context.

The same thing is true of other departments and agencies. If you take a look at the S. & E. account of HUD, it is a very broad account. It is the one for employees and so on.

I did not have OMB ask me specifically what I was doing with particular people as to what way they were going to approach this, that or the other thing. On major projects, OMB would ask me. From what I have been advised, not having been through this cycle myself from the position of OMB Director except for the spring review, it is much the same with the CIA.

Mr. McCLORY. My time is up.

Chairman PIKE. Mr. Giaimo.

Mr. GIAIMO. Mr. Director, it is a pleasure to see you again and to have this opportunity to talk with you. It is a far cry from the days when you and I sat across the table when you were the Secretary of HUD. This is a whole new ball game insofar as both of us are concerned. Let me say at the outset that I for one, and I am not new to briefings in this area as I stated earlier, I am terribly concerned over the inadequacy of congressional oversight and also equally concerned over what I suspect to be the inadequacy of the executive branch oversight of the intelligence community.

In your statement on page 13 you said, "I should emphasize that the classification of intelligence budget information does not mean that Congress is uninformed"; you then comment on how the various committees of the Congress, the oversight committees and appropriating committees, are apprised.

I think we made clear the distinction that must be made. It is not Congress that gets this information; it is certain Members of Congress. That is one of the problems of the present inquiry, for Congress to change its ways.

Let's consider the executive branch. You are a key area of the executive branch, but do you see in depth all of the budget of the intelligence community?

Mr. LYNN. Do I personally?

Mr. GIAIMO. OMB.

Mr. LYNN. We have a little definitional problem at the outset but in preparation for these hearings I went through some of the materials that are supplied to us. I must admit in the spring review, for example, I was quite surprised at the depth.

Mr. GIAIMO. Is that the first time you went through them?

Mr. LYNN. Yes, because I am a new Director of OMB. In the spring review I went through a number of the materials. It is in substantial depth. When I use that expression, I want to express some caution because as was the case with HUD, you have large items for personnel, for example, and just like with every other agency, OMB does not go into what each and every person or subgroup of people do within the agency.

Mr. GIAIMO. While OMB may not know the particulars of the S. & E. account or some other account at HUD, the difference is that all you have to do is pick up the telephone and ask for the figures. I am sure that OMB, being what it is, will get them.

Mr. LYNN. And Mr. Giaimo, the relationship, as far as I have been able to see is between OMB and the intelligence community, is that OMB can do precisely the same thing with the intelligence community.

Mr. GIAIMO. Would they furnish you with budget items of accounts in areas where admitted wrongdoings have already taken place?

Mr. LYNN. We are talking about human beings.

Mr. GIAIMO. No, we are not. We are talking about governmental agencies.

Mr. LYNN. There is always an opportunity for a person in and out of the Government to fabricate or be less than totally forthcoming. I hope that is not a relationship between these agencies and OMB.

Mr. GIAIMO. If you were to telephone the intelligence community asking for detailed budgets on former paramilitary secret wars, would the information be furnished to you?

Mr. LYNN. Let me make my answer again apart from any particular kind of activity, whether engaged in or not engaged in. That would be that I have no reason to believe that if we asked specific questions we would not get an answer. Let me go on and say that it might be that in some given theoretical instance that the Director of Central Intelligence might feel it is so sensitive that he would want to go to the President of the United States with regard to it or make me do that but I am not aware of any such circumstances ever having happened.

Mr. GIAIMO. Isn't it so that under the law the Director of Central Intelligence has expenditures which are exempt from the usual scrutiny of OMB and that the mere certification of those expenditures by the Secretary of Defense, for example, is sufficient?

Mr. LYNN. I am not aware of any, sir.

Mr. OGILVIE. He does have the authority to obligate funds for which his certificate is sufficient voucher for audit purposes; nonetheless OMB reviews all of the funds in the CIA budget.

Mr. GIAIMO. Would he provide whatever OMB were to request?

Mr. OGILVIE. I can think of no instance where we have not gotten the information.

Mr. GIAIMO. You are not answering the question.

Mr. LYNN. We can only give you what the experience has been.

Mr. Ogilvie, who has been there longer than I have is saying he cannot recall any instance where we have asked for information from the Agency that they have not given us a substantive answer with regard to it.

Chairman PIKE. Mr. Stanton.

Mr. STANTON. Thank you, Mr. Chairman.

Mr. LYNN, I would like to welcome you again as an old friend.

Mr. LYNN. It is good to be here, Mr. Stanton.

Mr. STANTON. Are you satisfied, Mr. Lynn, with the oversight performance of the administration over the intelligence community?

Mr. LYNN. I don't know, Mr. Stanton. We have the President's Commission on the CIA, which has now reported. There also has been, of course, substantial news with regard to the CIA. Your committee and the Senate are looking at it. What I have done within my own area of responsibility has directed my people to take a hard look at this whole area with us and come to our own conclusions because I do believe that in light of the things that have been said and that I have read about and have heard by way of allegations in some cases we all better take a hard look as to whether or not we are carrying out our oversight responsibilities within our own sphere of jurisdiction in the right way.

Mr. STANTON. Do you feel the GAO should play a role as an independent arm of the Government in the accounting and auditing procedures of the intelligence community, particularly the CIA?

Mr. LYNN. I must say I really have not given that a lot of thought. As you know, the GAO is an arm of the Congress. I can say that we do—

Mr. STANTON. It is an independent arm. Go ahead.

Mr. LYNN. As I pointed out in the first 21 pages of my statement, we do not engage in auditing generally in OMB. On the other hand, even GAO does not audit every book and record of every department. They do it on sampling.

Mr. STANTON. We have the testimony of the Comptroller General that as far as the CIA is concerned, since 1962 he has been able to do nothing in terms of any type of auditing. Do you think that that should be allowed to continue?

Mr. LYNN. I just don't know, Mr. Stanton. I will say to you that looking at the statutes that have been passed in this area with respect to trying to give proper respect on the one hand to the need for classification of sensitive documents and on the other hand a natural desire to have outside points of checking, I think we have a balancing act to do. I want to think about it some.

I must admit I have not given that a lot of thought.

Mr. STANTON. I would deeply appreciate your thoughts on it if you want to submit something later on.

You said to Mr. Giaimo you felt there was substantial depth to the procedures by which you examine the records of the intelligence community. Would you be able, to take a hypothetical situation, to assure the American public that they got value for their dollar in the investment of a contract that was executed by the CIA to a particular company without competitive bid, such as the *Glomar Explorer*? In other words, would you know of any procedure that was established to assure that there was not some kind of deal between the company that executed that contract and the people in the CIA or did the CIA submit to OMB procedures by which they showed and justified the value of that contract?

Mr. LYNN. Let me try to answer the question broadly. Whatever the hypothetical situation you referred to, let's take any large project.

Mr. STANTON. That is a large one.

Mr. LYNN. As I said, I would just as soon not get into one way or the other any discussion—

Mr. STANTON. When was the first time you heard of the *Glomar Explorer* contract?

Mr. LYNN. I think to get into the specifics of whether or not there is or is not any such arrangement takes us into a classified area, as to which I will have no comment.

Mr. STANTON. Mr. Colby released testimony on that. So you cannot have it both ways.

I would like you to answer the question in regard to the initial instance. When did you first hear of the *Glomar* contract?

Mr. LYNN. I would prefer to answer your question by alluding to any large project.

Mr. STANTON. Fine.

Mr. LYNN. From what anybody has seen in the newspapers if there were arrangements of this kind it was a large project. But let's talk about large projects of any kind. OMB will look at a large project. It will necessarily come to its attention, particularly if the project involves major items of hardware.

I would assume—and Don Ogilvie can fill in further on this—that one of the things we will look at is whether or not the particular project is being acquired in the most economical way for the benefit of the taxpayer. That is a role that OMB traditionally prepares. Is there a cheaper way of doing something that should be done?

Is that fair, Don?

Mr. OGILVIE. I think that is correct, yes.

Mr. STANTON. How would you make that value?

Chairman PIKE. The time of the gentleman from Ohio has expired.

Mr. TREEN.

Mr. TREEN. I have just one question, Mr. Lynn. In the budget process what persons are involved in classifying information?

Mr. LYNN. In classifying material or doing work that involves classified material?

Mr. TREEN. Classifying information as security information—in other words, not to be made public. What person is involved in that process?

In your budget process who attaches the labels to information, documents, et cetera, that come to your attention and that you utilize in the budget process?

Mr. OGILVIE. Mr. Treen, there are within the executive branch some published regulations with regard to who is able to classify information, what individuals and what specific agencies. I simply do not know all of the agencies involved on that list at this point or all the individuals but I can give you some idea of the level of people within the Office of Management and Budget that perform the classification function if that would be useful to you.

Mr. TREEN. I would like to know that, and I would like to know whether OMB simply accepts a classification from an agency.

Mr. OGILVIE. All right. Within OMB the people within the National Security and International Affairs section, of which I am the head, permitted to classify information are myself and the three major division chiefs who directly report to me. Certain other individuals within OMB, in addition to the four of us, also are authorized to classify information under the prescribed criteria if they have work with classified information such as the ERDA and other areas that are classified.

The Director is able to classify it, the Deputy Director is able to classify it and a number of other individuals.

Mr. TREEN. Or to declassify it, presumably. If on your level a decision is made to classify then the Director, or Deputy Director, can declassify, right?

Mr. OGILVIE. Yes.

Mr. LYNN. Except I would like to add that under Executive order a particular agency who has the operational responsibility, and that agency's head—say, Mr. Colby in CIA—has the primary responsibility to put the lines around information that should be classified.

Our function is more or less an interpretive function as to what is within those general guidelines to carry out within our own shop what his overall determination has been. As you know, that authority stems basically from statutes.

So we have to mechanically perform a function on our own material that we are working on within our own shop. The general guidance as to the categories of things that have to be classified comes from the people delegated that authority under the Executive order.

Mr. TREEN. I am trying to determine whether OMB has any impact on the classification process.

If I understand you correctly. If when you receive material it is classified by an agency, you don't reverse that, nor do you take unclassified material and stamp it classified in the OMB, correct?

Mr. OGILVIE. We do originate some classification ourselves.

Mr. TREEN. Do you have written criteria for that within OMB?

Mr. OGILVIE. I believe they are written; yes, sir. Let me also point out that whenever we classify a document within OMB if it is not someone else's document, if it is something we originated, the name of the individual who classifies that document is written on a special stamp on the front page which says this document has been classified at a certain level of classification, by Donald Ogilvie in this case, and then sets out the procedures for declassifying it according to a prescribed set of schedules.

Mr. TREEN. You have written documents that set forth this classification procedure?

Mr. OGILVIE. Yes.

Mr. TREEN. How many levels of classification do you have?

Mr. OGILVIE. Confidential, secret, and top secret are the standard classification levels.

Mr. TREEN. Thank you.

Chairman PIKE. Mr. Dellums.

Mr. DELLUMS. Thank you, Mr. Chairman. Mr. Lynn, can you tell me first what security classification you hold?

Secondly, what procedures did you go through and when did you go through those procedures in order to obtain your security clearance?

Mr. LYNN. I know that I hold the classifications through top secret. In connection with the budget activities which, as I say gets into substantial detail, I was asked to sign additional documents that made me aware of the particularly sensitive nature of the materials and what my obligations were under the law with respect to those materials.

I believe I signed four such documents.

Frankly, I think it was a useful procedure. The documents did not say anything more than I would expect to do as a person in my job.

Mr. DELLUMS. When did you go through those procedures?

Mr. LYNN. Before I had my first briefings with respect to the intelligence community. That was some weeks or a month beforehand, I don't remember which.

Mr. DELLUMS. Is it a fact that of the six or so employees assigned to the Intelligence Community Branch that three are former CIA agents and at least two have at least 10 years' service?

Mr. LYNN. I believe that is true, sir.

Mr. DELLUMS. Do you feel that would in any way affect the objectivity of those persons dealing with the CIA and especially other intelligence agencies?

Mr. LYNN. I would certainly hope it would not, sir.

I believe you have to look at each person for his or her own ability, imagination, drive, and ability to do a job. I certainly would think that knowledge acquired over a period of years, assuming it is put to work properly, is extremely useful. I feel that way not only about the intelligence community, but also a number of other economic and social areas. That doesn't mean we should have everybody coming from a given industry or group like the CIA. And there is room for generalists or I would not be sitting here this morning; but on the other hand, to say that a person cannot serve because he has had prior experience with a particular agency, I don't think that is right. I might point out that the man on my right, the Deputy at OMB, had his start in the systems business at the Veterans' Administration. I don't think I would want to disqualify Paul O'Neill from looking at Veterans' Administration matters.

Mr. DELLUMS. I can understand that with respect to Veterans' matters. However, the highly sensitive nature of the information with respect to the function of intelligence community certainly raises some critical and serious questions with respect to objectivity of those persons overseeing the function. As a lay person, representative I am sure of millions of people in this country, my first question would be where are the priorities in terms of loyalty, to OMB or to the agency that trained them for 10 years, recruited them? How do you handle that issue?

I know you are talking about fine persons but what procedures do you use to build in objectivity and at what point do you evaluate whether or not that particular person or those particular persons are being subjective or that their preliminary loyalties are to the company rather than to OMB and to its overall function that you have?

Mr. LYNN. You do as exhaustive a job as you can in the recruitment process and you continuously look at a person's judgment on various matters to see where loyalties are.

I don't limit that to the CIA. When I was in the Commerce Department and had people that came from the business side, I would always look at it the same way. I will say my general experience in the 6½ years that I have been in this town is that although there may be exceptions—and there are always exceptions—the general thing I find is that when people come from a given sector, they are kind of like Caesar's wife, if anything. To show they don't have any bias, they will lean over the other way. That is not always so, but if you count majorities, that is what I have found generally.

Mr. DELLUMS. Mr. Lynn, in your position with OMB, have you had an opportunity to look at the instances of CIA—former CIA employees working in any other agencies, and do you have any particular idea with respect to the numbers?

Mr. LYNN. I have not taken a personal look at any of that, sir.

Mr. OGILVIE. If I could add to that, sir; for all agencies and departments OMB reviews the numbers of people on detail to any one agency, and we treat the CIA no differently in that regard.

Chairman PIKE. The time of the gentleman has expired.

Mr. Murphy.

Mr. MURPHY. Thank you, Mr. Chairman.

Mr. Lynn, under the functions of OMB, one of the official functions includes the following:

To keep the President informed of the progress of activities by agencies of Government with respect to work proposed, work actually initiated, and work completed.

From that general description of the functions of OMB and your duty to inform the President of activities proposed, activities actually initiated, and activities completed, would it be safe to assume then that in intelligence activities of a major undertaking such as the Cuban invasion, the President of the United States would be aware of whatever activity is proposed of that magnitude?

Mr. LYNN. Again, just using this as a base in your question for size of activity, and again drawing on my experience as a layman—because I was not even with the Government at that time and was reading about those descriptions in the paper—whoever organized all of this, I would think the President of the United States would be aware of activities of that kind.

Mr. MURPHY. Would he be informed of a transfer of ownership or control of a number, a large number, of former World War II warplanes to a private domestic corporation for transfer or sale to an outside country or corporation?

Mr. LYNN. I don't know, sir.

Don, can you be of any help on that?

I just don't know.

Mr. OGILVIE. Are you referring to some specific event that occurred?

Mr. MURPHY. I am referring to a sale of aircraft, 25 or 26 World War II bombers.

Mr. LYNN. If there were such a thing, would the President know?

Mr. MURPHY. Would the President know of a transfer of that magnitude?

Mr. OGILVIE. Let me see if I can answer this way, Mr. Murphy. The DOD has an official program to dispose of surplus military hardware. That is a routine function that goes on all the time. Some aircraft and other military vehicles are routinely sold or disposed of within this country. I believe, although I am not sure of this, that foreign countries are also eligible if they receive the proper permission to acquire that type of materials, also. Whether the President would be specifically aware of each and every sale, I don't think it would be fair to say he would be of each and every sale.

Mr. MURPHY. Would he be aware of a transfer from any other department to CIA?

Mr. OGILVIE. It is hard to take a hypothetical example and say he was or was not aware. He certainly could be aware, and there are details, records kept of all transfers and sales.

Mr. MURPHY. One of your functions is to keep him advised of inter-agency activities?

Mr. OGILVIE. That is correct.

Mr. MURPHY. My 5 minutes is fleeting, but what is the total amount spent in all intelligence agencies?

I don't think that should be classified since it would not involve details. I am looking for a lump sum figure.

Mr. LYNN. I wondered how long it was going to take to have that question raised. I would refer to the sections of the law that very carefully provide for a method so that that figure or any figures on these budgets are kept classified and are kept secret. There are statutes passed by the Congress to prevent that kind of thing from becoming a public figure.

While I do believe it is a very legitimate inquiry area for this committee to consider and make recommendations as to how much, if any, of that budget information should be made public, I do not believe that I can in public session give those figures.

Mr. MURPHY. Not even the total?

Mr. LYNN. No, sir. I believe first of all that I would be violating the laws of the United States to do so.

I believe the intent of Congress on the whole is pretty clear from the statutes that have been passed. Now, again in closed session with appropriate security arrangements, we want to be as cooperative as can be. I think with the directions given by these statutes and with the laws that I am even told by counsel may involve criminal violation on my part, I don't believe I can do that in open session.

Chairman PIKE. Mr. Murphy, your time has expired.

I am going to come slightly to your rescue here if I may interject. Mr. Lynn. We do have in the committee certain overall numbers which have been provided to the committee. You are certainly entitled to see them. The reason I started off my own questioning the way I did as to how these things are defined is because I frankly find the numbers, no matter how closely classified, designed as much to conceal as they are to reveal—not out of bad motivation, but just because nobody really knows what is included in and what is included out.

You can include all kinds of things in, and you can include all kinds of things out. We have some numbers. They are available for all the members of the committee.

Mr. LYNN. Mr. Chairman, I don't know what level of figures you have been given.

Chairman PIKE. Since you have the security clearances, I will send it down to you.

Mr. LYNN. Are you sure you do not want to check first?

Chairman PIKE. I presume that a person of your stature in the President's establishment would breeze through a security clearance rather easily.

Mr. LYNN. Thank you, Mr. Chairman.

Mr. Chairman, what I would have to say is I am sure you can get much more detail than that—

Chairman PIKE. You are not only sure we can get much more detail—

Mr. LYNN. We have more detail than that. Mr. Colby has even more detail than that and I would suggest under the appropriate arrangements of the session that you can get into quite a bit of depth.

Chairman PIKE. We are going to get into depth and let there be no question about that.

My point is not whether we can get more detail than that. My point is that those particular numbers do not include huge chunks of dollars which are used in gathering intelligence. That is my only point.

Mr. LYNN. If you have that feeling, Mr. Chairman, again I think in closed session, primarily with Mr. Colby, where we can be of assistance, of course, we would be happy to help.

Chairman PIKE. We will go into that in executive session. I would certainly not expect you to go into this in open session.

Mr. Kasten.

Mr. KASTEN. Thank you, Mr. Chairman.

Mr. LYNN, what happens to intelligence agency funds that are left over at the end of the fiscal year? Are they returned to the Treasury?

Mr. LYNN. Mr. Kasten, respectfully, I think that we ought to leave that for closed session if we might.

As I say, we are perfectly willing to testify on that and I know that Mr. Colby is, but I think we should do that in closed session.

Mr. KASTEN. Would it be possible for a given agency to retain unexpended funds and to develop an ongoing slush fund that could be used and the expenditures from that slush fund, if this were possible, would not be reflected in the budget statement of that agency?

Mr. LYNN. I think my answer should be the same.

Mr. KASTEN. Would it be possible for an agency to develop a fund like this and that fund would not be recycled through an appropriate process?

Mr. LYNN. Mr. Kasten, again I will, in closed session with Mr. Colby, be more than willing to get into the whole area of how funds come in, how funds go out, what our role is, what the possibilities are for abuse, if any, and so on, but I don't believe in public session I should do so.

Mr. KASTEN. The Rockefeller Commission Report on pages 74 and 75 states the following: "Although the Director [of the CIA] has statutory authority to spend reserve funds without consulting OMB, administrative practice requires that he first obtain the approval of OMB and the chairmen of the Appropriations Subcommittees of the Congress."

"Administrative practice requires" is the phrase I am concentrating on. What does this really mean, in fact?

I think you can understand the question by—and I don't want to use up the time—

Mr. LYNN. I am trying to find where you were quoting from.

Mr. KASTEN. I haven't the document before me. "Although the Director [of the CIA] has statutory authority to spend reserve funds without consulting OMB, administrative practice requires that he first obtain the approval of OMB and the Chairmen of the Appropriations Subcommittees of the Congress."

What, in fact, does this mean? The question is, does the CIA Director legally have to obtain congressional and/or OMB approval or does he receive such approval merely as a courtesy to the Congress?

Mr. OGILVIE. I think the best way to describe it is that it is an OMB-established requirement. The Director of CIA is not able to use such funds without the approval of the Office of Management and Budget.

Mr. KASTEN. OMB has established this requirement. Does the CIA Director legally have to obtain congressional and/or OMB approval to spend such funds or does he seek such approval merely as a courtesy to OMB and the Congress?

In other words, if the Director of the CIA chose not to seek such approval, would he be in violation of the law?

Mr. OGILVIE. I don't honestly know whether there is a statute prohibiting the Director of CIA from doing that. I do know he would not in fact do it without our approval.

Mr. LYNN. I think, Mr. Kasten, we have many rules at OMB, quite apart from the intelligence community, that go back to our basic function, our basic operation, and the operation is defined very generally in the law dating back to 1920 and 1921, and when we do put out a rule or establish a practice, agencies and departments are supposed to follow it.

Now, I suppose if some person in any agency chose to contest that rule, we would end up, the both of us, with the President of the United States as to whether the rule were appropriate. That would be true in the intelligence community or another department or agency.

Mr. KASTEN. On another subject, it is my understanding—and this is going back to a question of the gentleman from California, Mr. Dellums—that basically five individuals at OMB do day to day work on the foreign intelligence budget.

Mr. LYNN. Six.

Mr. KASTEN. One supervisor and five people who are doing the work is the way I interpreted that six.

Mr. LYNN. I would hate to say our supervisor doesn't do any work.

Mr. KASTEN. Is one of these people a Mr. Emory Donaldson who spent 20 years at the CIA and came to OMB directly from CIA in 1969?

Mr. OGILVIE. He works for us.

Mr. KASTEN. Did one William Mitchell spend 10 years with CIA before coming directly to OMB from CIA in 1963?

Mr. OGILVIE. That is correct.

Mr. KASTEN. Is the Director of the group of five people a Mr. Arnold Donahue who spent 5 years with CIA before coming to OMB directly from CIA in 1967?

Mr. OGILVIE. That is correct.

Mr. KASTEN. That is three out of five directly from the CIA. Am I correct that their counterpart at the CIA, Mr. Taylor, who is the Deputy Comptroller of the CIA, is a former CIA budget examiner for you, for OMB?

Mr. OGILVIE. I can't answer the question about Mr. Taylor because I don't know Mr. Taylor, but I can tell you it is three out of six instead of three out of five.

Chairman PIKE. The time of the gentleman has expired. He has used it very well but his time has expired.

Mr. LYNN. Incidentally, Mr. Kasten, we would be very pleased to put the biographical sketches of all six of the people in the record.

There has been no secret about the past experience of these people. We consider them knowledgeable.

[The biographical sketches referred to are printed on pages 529 to 535 of the appendix.]

Mr. KASTEN. When we come around again I will try to get back at the question.

Chairman PIKE. Mr. Aspin.

Mr. ASPIN. Thank you, Mr. Chairman.

To follow up a little bit about the OMB's oversight of the CIA, you say you have six people working on this budget. Without saying the amount of money in the budget, if that same amount of money were in a civilian function, how many people would you have working on it?

Mr. LYNN. More or less. The Social Security Division has one budget examiner and you know how much money is in the Social Security Division.

Mr. ASPIN. That is a slightly different kind of a problem.

Mr. LYNN. My point is—the size of the budget has no direct correlation to numbers of people.

Mr. ASPIN. You would say if it were a comparable kind of thing, a domestic operation, you would only have six people working on it?

Mr. LYNN. Absolutely, sir. Incidentally, Mr. Aspin, one of the big surprises to me when I moved from HUD to OMB was how few people they have overall. Coming from a large department, when somebody told me the total number of budget examiners in the whole OMB, 150 for the whole Government, I was flabbergasted. They do a lot of work for that number of people.

Mr. ASPIN. Perhaps I should ask Mr. Ogilvie: has the OMB ever canceled a CIA project?

Mr. LYNN. I would answer that one, Mr. Aspin.

OMB, in and of itself, has no authority to do a thing.

Mr. ASPIN. But they can approve or disapprove.

Has OMB ever disapproved a project of the CIA or of any of the intelligence agencies?

Mr. LYNN. OMB has never disapproved, to my knowledge, except in a couple of very limited things where we have operational authority, like reclamation projects, public buildings, advisory committee accounts, anything. We can disagree with an agency, but when we do it escalates to a higher level. We have no authority of our own to disapprove anything.

Mr. ASPIN. Have you recommended the disapproval? Has OMB ever recommended the disapproval of an entire CIA project?

Mr. OGILVIE. Yes.

Mr. LYNN. The answer is yes and from my own reading in this area there have been a number of disagreements. I would say, looking at them, it looked more or less like the same kind of give and take that I had at HUD.

Mr. ASPIN. I only have 5 minutes.

Mr. LYNN. I am sorry.

Mr. ASPIN. Ultimately were those recommendations of the OMB to cancel the program, were they upheld, or did the project go ahead?

Mr. LYNN. Like every other agency, you win some, you lose some.

Mr. ASPIN. So there were some projects that the OMB recommended be canceled and the President or higher authority upheld the OMB and canceled the project. Is that a true statement?

Mr. LYNN. Ordered OMB to what?

Mr. ASPIN. Ordered that the project be canceled.

Mr. LYNN. Yes, on our recommendation.

Mr. ASPIN. Does OMB get the budget—for example, the NSA budget and the DIA budget, do those come directly from those agencies to OMB or do they come through Mr. Colby? Do you deal with Mr. Colby on the NSA and DIA budget or do you deal with the Department of Defense?

Mr. OGILVIE. The formal official submissions from any agency incorporating any intelligence community funds come from the agencies involved.

Mr. ASPIN. And they are not from Mr. Colby then?

Mr. OGILVIE. That is right.

Mr. ASPIN. When you deal with the NSA budget or the DIA budget or the services budget, you are dealing with the Department of Defense, or the heads of those particular agencies, not Mr. Colby.

Mr. LYNN. Mr. Colby performs a coordinating review role so therefore his responsibility to make recommendations cuts across not just his own agency but the others.

Mr. ASPIN. From where do you get the budget? Do you get it from Mr. Colby? Does he centralize the budget before sending it to you?

Mr. OGILVIE. Let me see, Mr. Aspin, if I can make a distinction because I think it is an important question you are asking and an important distinction to be made. The normal budget submissions themselves come from the agencies themselves, but the Director of Central Intelligence, Mr. Colby, provides a comprehensive, all-inclusive set of recommendations and budget figures to the President through the Office of Management and Budget.

Mr. ASPIN. But it is not the way the Secretary of Defense would forward the defense budget, in other words? Colby does not forward the intelligence budget the way Schlesinger would forward the defense budget. It is a separate way of treating it.

Mr. OGILVIE. He submits to the President through OMB his recommendations on the comprehensive intelligence budget.

Chairman PIKE. The time of the gentleman from Wisconsin has expired.

Mr. Milford.

Mr. MILFORD. Thank you, Mr. Chairman.

Mr. Lynn, in order for us to gain a proper understanding of the intelligence community, we need first to identify that community, the various elements and its overall organizational structure. In that regard, sir, would you please prepare for us a chart and an associated summary that will depict and describe the entire intelligence community?

This should include an organizational chart depicting the chain of responsibility or command, including names and titles of key people, and all advisory or coordinating boards and commissions, including names and titles of members.

This should be prepared for each of the various intelligence agencies and departments, and then fixed with flow lines or descriptive language showing interagency coordination and control.

I realize, sir, such a document may be classified and I therefore ask that you submit the material in accordance with the usual manner of handling classified material.

Mr. LYNN. We will be happy to work with Mr. Colby on that and the other agencies.

[The requested charts were subsequently submitted by the CIA and are printed in the appendixes of these hearings.]

Mr. MILFORD. I think the vast majority of Americans understand the need for secrecy in conducting intelligence activities and the need to severely limit access to all intelligence-related information. However, it would also be reasonable, I believe, for the average American to insist that his intelligence dollar be spent wisely.

I think he would rest a bit easier if he knew that your office or some office was acting as a check factor to be sure that highly secretive intelligence agencies are not wasting or improperly using funds.

So far this committee has been told by the Comptroller General that he has made neither significant audits nor has real knowledge about how intelligence funds were spent.

In that regard, do you regularly monitor funds spent by such agencies as CIA and FBI, particularly those funds that the Director may spend simply upon his certificate?

Mr. LYNN. As I mentioned, Mr. Milford, in the first 12 pages of my testimony, we do not perform an audit function in the sense of seeing whether money that was allocated in the budget was used—actually went to this particular person or that particular person and whether the money was actually transferred. That is an audit function. The audit function is not performed by OMB of any agency or department. That is done essentially by the departments, each of which has an Inspector General, or an administrative staff that does that.

GAO also performs that kind of audit function but OMB does not for any agency or department. We prepare budgets. We see the budget execution, but the auditing as to whether the funds were actually used in that building, if it is HUD or to that contractor, if it is HUD, is something that is done by the internal auditing staff of each department and checked on a sampling basis, upon request of Congress or on their own initiative by the GAO.

Mr. MILFORD. I wasn't referring to it in an audit sense, but what I am wondering here is whether we just hand a big lump of money to these people?

Mr. LYNN. No, sir. During the spring reviews, for example, we were identifying questions and although the nature of the subject matter was different, they weren't any different than the kinds of questions—when it came to the money—that I would ask on any other program. You wanted to keep it down to the absolute minimum from a standpoint of budget and you don't want to spend any more than you have to.

I particularly, having been in a domestic program, would like to see as much money as we can have for the domestic programs of the United States.

Now, does that mean that we will catch every bit of waste that there might be in a CIA budget?

The answer to that is no, but you don't catch it either in any other department agency. All you can do is keep plugging away at it and keep trying to uncover places where you can save some money and that is what we try to do.

Mr. MILFORD. In that sense would the same procedures help to ferret out any potential duplication that might occur within the various intelligence agencies?

Mr. LYNN. Yes, sir. I think the procedure where these budgets are all brought together from the various agencies, where we answered Mr. Aspin's question, lend themselves to identifying at least the questions of overlap and lack of coordination. That again doesn't mean we will catch them all, but if you see some items that look the same, you ask, are they the same? Is there any justification for having them the same, Are you handling a different piece of it from somebody else, and it is one part of the procedures to do that.

Now Mr. Colby also, in his DCI role, has a responsibility for looking for that sort of thing too, as does, in its over-review function, the NSC.

Mr. MILFORD. To your knowledge, within the administration, is there any sort of internal audit made of these various intelligence agencies?

Mr. LYNN. How are you using audit this time, sir?

Mr. MILFORD. Audit as a CPA would audit.

Mr. LYNN. We do not do that kind of audit, but Mr. Colby, for example, within his agency and the other agencies of the Government, each have independent auditing staffs to perform that kind of work. We do not in OMB do that for any agency, and, so far as I am aware, these are the only kinds of audits done are by agencies and departments themselves supplemented to some extent by GAO.

Mr. MILFORD. Thank you, Mr. Chairman.

Chairman PIKE. Mr. Johnson.

Mr. JOHNSON. Thank you, Mr. Chairman.

Mr. LYNN, it has been established that any expenditure under the contingency reserve fund comes as a request from the Director of the Central Intelligence Agency and then receives the approval of the OMB, so that we are not dealing in a sensitive area there.

Mr. LYNN. Who has testified—

Mr. JOHNSON. You submitted it a little while ago and Mr. Ogilvie said that the OMB approved this through their regulations or through the law. He didn't know what the origination of it was, but they did approve the requests. They had to give their endorsement or approval of these requests for expenditures from the contingency reserve fund.

Mr. OGILVIE. There are certain sums of money that require these procedures and I think that that will make your point and we could probably leave it that way for the record without going into much more detail on locations and so forth.

Mr. JOHNSON. I thought that was clearly established under this dialog that you two had.

The law requires that any covert activities have to be authorized by the National Security Council directly as to the CIA.

My question to you is, if you have a covert activity and they want to spend money out of the contingency reserve fund, do you, in the process of giving your approval, check the National Security Council directives?

Mr. OGILVIE. Yes, sir.

Mr. JOHNSON. You do check them?

Mr. OGILVIE. Yes, sir.

Mr. JOHNSON. Do you then check to see that the Security Council directive is being followed by the CIA in the expenditure of these funds?

Mr. OGILVIE. We follow that type of activity in the same way we would follow any other type of intelligence activity.

Mr. LYNN. Again, Mr. Johnson, we shall make a distinction between a general overview of expenditures and an audit. We don't audit money.

Mr. JOHNSON. I understand, but you have some idea as to what they are doing, what they are ordered to do and for what they are going to spend the money?

Mr. LYNN. That is correct, and then in the next year's budget, for example, or at the next review meeting, questions will be asked as to what is going on in that regard. Has this been carried out or hasn't it, and in the next budget cycle the figures will be shown with a description of what was the activity.

Mr. JOHNSON. So this is not a pro forma kind of endorsement then?

Mr. OGILVIE. No, sir. We review those types of requests in every bit as much detail as we do a normal budget request.

Mr. JOHNSON. Do you have National Security Council directives, if there were any, since 1973, that would request the CIA to engage in these kinds of covert activities which you then had to approve? Do you have those in your file?

Mr. OGILVIE. I can only speak for the last 11 months and I know we have seen copies of all the documents to which you refer for this period. My suspicion would be that we have seen all of the documents that you have referred to, but I have not personally seen them because they were before my time.

[Mr. Ogilvie subsequently amended his response as follows: "I can only speak for the last 11 months and I know we have seen copies of all the documents to which you refer for this period. My suspicion would be that we have seen all of the documents that you have referred to, but I have not personally seen them because they were before my time."]

Mr. JOHNSON. Mr. Chairman, I wonder if it would be possible for the committee to see those Security Council directives since 1970 or 1973?

Chairman PIKE. Let me say this: As far as the chairman is concerned, it would certainly be possible. I would be delighted. What do you think, Mr. Lynn?

Mr. LYNN. I really don't know, Mr. Chairman, one way or another at this point.

The lawyer in me raises a number of questions but that doesn't mean the answer wouldn't be yes.

Chairman PIKE. I can only assure the gentleman that we will try.

Mr. JOHNSON. Who on the National Security Council staff writes these directives, that you know?

Mr. OGILVIE. I don't know the specific name of an individual. I would be surprised if one individual wrote them all.

Mr. JOHNSON. There are some CIA employees on the National Security Council staff, are there not?

Mr. OGILVIE. That is my understanding.

[By letter of November 12, 1975, Mr. Ogilvie responded to Mr. Johnson's request as follows:]

OMB does not retain copies of "National Security Council directives" which request CIA to engage in covert action activities. New covert action projects which require supplemental funding through an OMB-approved release from CIA's contingency fund are reviewed at the time funds are needed. In these cases, OMB staff conducts a hearing with appropriate CIA officials, including representatives of the CIA Comptroller's office and the appropriate program manager, to review the program and financial aspects of the project. In addition, National Security Council papers are reviewed in NSC staff offices to determine that the project has appropriate approval. Such review has included, since January 1975, confirmation that each such project has been certified by the President under Section 662 of the Foreign Assistance Act. OMB staff findings and recommendations are then submitted for consideration to the appropriate OMB official responsible for apportioning agency funds. For ongoing CIA projects, planned expenditures are reviewed at the time of the annual budget submission, and covert action projects are examined in the same detail as the planned expenditures for other activities included in the submission.

Mr. JOHNSON. So we do have a situation where you can't get a covert activity authorized without coming from the National Security Council. The staff is made up of CIA employees who then make the request to the CIA, who then makes the request for approval to OMB, who have three of the six individuals who also have been affiliated with the CIA. We have that kind of a roundrobin situation in existence, don't we?

Mr. OGILVIE. I think that may be overstating the case a little bit. As far as I know, there is only one employee detailed from the CIA in the National Security Council, but that is a subject that you probably ought to ask of the National Security Council because I don't know that much about their personnel situation.

Mr. JOHNSON. The CIA funds are not subject to authorization, is that correct? Specific authorization by the Congress? Is that the way they identify it, they say they are not subject to authorization?

Mr. OGILVIE. That is correct.

[Mr. Ogilvie subsequently amended his response as follows: "It is correct that CIA funds are not subject to annual authorization; however, Congress enacted an authorization for CIA's activities in the CIA Act of 1949."]

Mr. LYNN. I think that is provided by statute, Mr. Johnson.

Mr. JOHNSON. Are there other funds used in foreign intelligence programs also not subject to authorization?

Mr. OGILVIE. I don't know the answer to that; I could check that.

[By letter of November 12, 1975, Mr. Ogilvie responded to Mr. Johnson's request as follows:]

To my knowledge, there are no funds used for foreign intelligence programs which are not subject to authorization. To clarify my response to questions at the August 1 hearing, I would note that all CIA funds, of course, are authorized by the CIA Act of 1949, even though there is no specific annual authorization for CIA which is identified publicly.

Mr. JOHNSON. Does CIA handle other intelligence activity funds beyond what its own budgeted amount might be?

Mr. OGILVIE. As you know, Mr. Johnson, the CIA receives funds under two acts of the Congress: The CIA Act of 1949, and the Economy Act, which is applied to all Government agencies and departments. The CIA, like any agency and department, can receive funds under the Economy Act as well.

Chairman PIKE. Mr. Hayes.

Mr. HAYES. Mr. Lynn, does OMB have in its custody any documents or the results of any studies, for example of the CIA budget which have been made to determine whether or not spending programs are wasteful and to which the OMB has directed a judgment that they should be eliminated?

Mr. LYNN. I am confident there must be such memoranda. There are in OMB for every department and agency that I am aware of.

Mr. HAYES. Are you describing to the committee one particular such document or file which is part of a study, or a complete study where OMB has determined that the spending program was wasteful and therefore ought to be eliminated?

Mr. LYNN. In closed session we would be happy to give you examples of all of this, but I don't believe that we can in open session.

Mr. HAYES. Can you describe to what extent, if any, you would have records where the White House itself limited the access of OMB examiners to the Central Intelligence Agency or to any intelligence agency?

Mr. LYNN. I have only been in OMB 5 months but I am certainly not aware of any such instances.

Mr. HAYES. I didn't ask about the instances. I asked whether or not there are records in the Office of Management and Budget which would describe such a limitation?

Mr. LYNN. Since I don't know of any such activities, I don't know if there are any records.

Mr. HAYES. Your answer is you do not know?

Mr. LYNN. I certainly don't.

Mr. HAYES. Does anybody else with you know?

Mr. OGILVIE. I do not know either.

Mr. O'NEILL. No.

Mr. HAYES. If such records existed, who would know at the Office of Management and Budget?

Mr. LYNN. Proving a negative is always very difficult, Mr. Hayes. I suppose what you would have to do is go through—if we were to try to do that.

Mr. HAYES. You understand?

Mr. LYNN. I certainly do. I certainly do. What we would have to do would be to go to people who are in authority and keeping records and say, "What files possibly would you look to to find something that you don't know is there" and that is done many times.

Mr. HAYES. Then the Office of Management and Budget would never make a record if the White House overrode or interfered with any of this particular function?

Mr. LYNN. I didn't mean that at all, Mr. Hayes.

Mr. HAYES. I didn't ask what you meant. Do you mind answering that question? Do you maintain any records of that?

Mr. LYNN. What I am saying here is none of the three of us are aware of any such activity so how can we answer the question whether there are any records of it?

Mr. HAYES. Let me put it this way then: Do you know of any instances where an intelligence agency has appealed a particular decision of the Office of Management and Budget in regard to a particular examination or in regard to one of its functions?

Mr. LYNN. Sure.

Mr. HAYES. And do you maintain records?

Mr. LYNN. Oh, absolutely.

Mr. HAYES. And those are available and can be provided to us?

Mr. LYNN. Yes. We have files with regard to various kinds of actions where we have had disagreement with an agency and it goes to the President.

Mr. OGILVIE. If I might clarify that to be sure we have it clear for the record, I think Mr. Lynn is referring to programmatic or budgetary issues where we have a difference of opinion.

Mr. LYNN. Right.

Mr. OGILVIE. I sensed that maybe your question was whether or not if we wanted to examine a particular aspect of the intelligence community and that fact, or that request was appealed to the President, would we or would we not have a record and Mr. Lynn and I and Mr. O'Neill were speaking, I thought, to the second question which says that we know of no such activity and therefore we have no record. They do frequently appeal our recommendations on budgetary action.

Mr. LYNN. That is what I meant, Mr. Hayes.

Mr. HAYES. I know what you meant.

The fact that the CIA operates by concealing its activities, and certainly must therefore operate to conceal its funds, surpluses of funds and so forth, are facts that are well known.

Is it a matter of practice that OMB does not attempt to inform itself of those concealment techniques and general practices within, for example, the CIA?

Mr. LYNN. I am not quite certain I understand the question, Mr. Hayes. Concealment techniques from whom? I mean concealment techniques in their various activities they perform?

Mr. HAYES. Yes, sir.

Mr. LYNN. I don't believe we get into that kind of a matter at all. Maybe I am wrong, but I don't think so. As to how they go about protecting their sources and so on, as a newsman would say?

Mr. HAYES. That is correct.

Mr. LYNN. I don't believe we do generally.

Mr. OGILVIE. I am having a little trouble, Mr. Hayes, figuring out some specific examples. We do get into sources and methods and types of procedures that the intelligence communities use, but I am afraid I don't understand your question either.

Mr. HAYES. Would the Office of Management and Budget at the time make an evaluation as to whether or not a particular use of funds needed to be concealed, or did not need to be concealed, by an intelligence agency itself in order to perceive what was being done with the money or perceive how much of it was there even?

Mr. OGILVIE. In order to make that public knowledge as opposed to——

Mr. HAYES. No; within your own Office of Management and Budget.

Mr. OGILVIE. What you suggest we would do would be to move it from a clandestine——

Mr. HAYES. I simply asked whether or not you challenge at any point the method of concealing activities or the uses of funds within intelligence organizations?

Mr. OGILVIE. I think the answer to that is no.

Chairman PIKE. The time of the gentleman has expired.

Mr. Lehman.

Mr. LEHMAN. Thank you, Mr. Chairman.

I'd like to go back a moment to your statement about your four major phases of the budget process and the two that you are basically responsible for, the formulation and the execution.

You have a great deal of detail more or less in the formulation but not much of a statement about the execution. The formulation is this: You make up the budget and it comes out as a single line item, is that not true? The CIA budget? Is not the CIA budget a single line item?

Mr. LYNN. It isn't in the Presidential budget as a presentation at all.

I say in my statement, in the process I believe it is one figure.

Mr. LEHMAN. The CIA budget is one figure when it comes out in the President's budget presentation?

Mr. OGILVIE. Funds for the CIA are contained in larger appropriation categories contained in the President's budget.

Mr. LYNN. We are really sorry, Mr. Lehman, because we are really not in any way trying to avoid answers, but every time we get a question we have to say to ourselves, "What is classified and what isn't" and we are doing our best to answer questions but not violate the law.

Mr. LEHMAN. I am trying to determine how you perform budget execution and in this respect how can you perform budget execution without an auditing process and how do you do an auditing process when you depend on the CIA itself with an internal audit to know whether the budget, as you prepared it, is properly executed.

Mr. LYNN. Let me try generally.

First of all, there are review sessions throughout the year and in those review sessions there is an opportunity to ask questions and find out what has happened since the budget and the appropriation process.

Second, the ultimate time is when you come back again, there is a laying out of what has been done, again from a budgetary standpoint, in detail, with many numbers—

Mr. LEHMAN. May I interrupt you, Mr. Lynn? My time is pretty tight.

Those numbers you get are all coming back to you from CIA.

For instance, in any of the transfers of funds within the CIA, any of the reassignment of funds, or the reprogramming of funds, during that period of time, have you ever been in conflict with the redistribution or the reprogramming of funds during this particular fiscal year in your budget execution?

Do you disapprove of it? What kind of money are we talking about? If you did disapprove of the reprogramming or the reassignment, what would you do about it?

Mr. LYNN. If we disagreed with it?—

Mr. LEHMAN. Right.

Mr. LYNN. We would tell them. Second, if they were not able to explain it to our satisfaction, and we continued to disagree, we would take it to a higher level.

Mr. LEHMAN. Have you done that so far?

Mr. LYNN. I don't know, sir. As I say, I haven't been there very long. Have there been occasions of that?

Mr. OGILVIE. I can't think of any.

Mr. LEHMAN. Have you been in conflict with CIA in any reassignment of funds or any reallocation of funds within the CIA budget in your so-called budget execution effort?

Mr. OGILVIE. Mr. Lehman, I can only speak for the year I have been in this position. There have been no such occasions during the time that I have been at OMB.

Mr. LEHMAN. So far you have—I don't want to put the code name out, but so far, you more or less rubberstamp what CIA does or take their word for it?

If Mr. Staats can't find out what is happening and there is no auditing process, I don't think there are any teeth in your budget execution role. I don't see what it is accomplishing.

Mr. OGILVIE. Mr. Lehman, OMB, first of all, reviews very carefully what all the intelligence agencies, including the CIA, budget money for. We then receive periodic reports from each intelligence area, showing the expenditures of funds, which we also review very carefully, and we have periodic meetings with the appropriate financial people in each area of the intelligence community, during which time we review the activities they are engaging in. So we look at it very carefully, and we do follow quite closely the activities of the intelligence community to the same degree we do other areas of the Federal Government.

Mr. LEHMAN. I know in the south Florida area there has been a great deal of intelligence activity, and I wondered if you were aware of that and whether it was in conformance with your budget execution duties.

Thank you very much.

Chairman PIKE. Mr. Field.

Mr. FIELD. Thank you, Mr. Chairman. I'd like to follow up on Mr. Lehman's questions on this reprogramming. I would like to try to make it a little simple because it is a fairly complex issue.

As I understand the way the appropriations process works, an agency or department has line items, and they cannot shift money between line items without approval of Congress or OMB.

The CIA is somewhat unique because they have one line item. Now, how do you check when they shift funds between the programs? They have come to Congress, we have appropriated funds on the basis of the programs they have laid out. When they want to shift funds now between, let's say, covert action and analysis, do they report that to you? Do they have some understanding with you as to how that will be handled?

Mr. OGILVIE. We are generally aware, Mr. Field, that they are not required to formally report it.

Mr. FIELD. But do they do that as a matter of either understanding or some kind of practice?

Mr. OGILVIE. As a matter of practice, we are generally aware of changes in activities.

Mr. FIELD. Is there some level? Obviously, you don't go after every nickel, but is there some level of \$10,000 or \$500,000 below which they would not have to report this to you, or that they would not as a matter of practice report this to you?

Mr. LYNN. I don't know that there is any specific rule of thumb that an OMB examiner is given in these programs or others that says "disregard expenditures of less than x thousand dollars or million dollars" or whatever it is.

Mr. FIELD. It would seem appropriate if you were trying to exercise any kind of awareness of this, there would have to be some level, probably not too high, so that obviously if a major amount of funds were being shifted, you would know about it.

Mr. LYNN. Mr. Field, certainly the approach is to do the best job you can with the time you have on any agency or department, and you look, therefore, first at the big ticket items and look at them hard, and then you work down into the others. But something may just stand out to you. You may see something even though it is very small and say, "That looks absurd to us. Why are you doing that at all?"

Mr. FIELD. Stopping right there, isn't it a fact in the last few years the CIA has shifted literally millions of dollars in one case between programs, and OMB has not found out about it until after the fact?

Mr. OGILVIE. Mr. Field, that may well have happened. It happens frequently in the Defense Department.

Mr. FIELD. How can that happen? How can somebody shift millions of dollars? We don't have any role now because Congress assumes the program was approved. It was sent forward, the money was to be spent in a certain area, let's say some kind of reconnaissance or something, and now somebody over at CIA says, "No; I am going to take millions of dollars and put them over here." The only reliable check we have is OMB, and this happens and you don't know about it. What kind of a system do you have that could break down at that level?

Mr. LYNN. First of all, you have made an implication that OMB is the only person in this loop that would be involved in oversight, and that isn't true. Certain kinds of activities that the intelligence community might want to do have to go through a review process that may or may not involve us.

Mr. FIELD. After the budget is approved, I believe OMB is the only agency or office that would have that kind of check and balance.

Mr. LYNN. No; I don't believe that is so, Mr. Field, because depending on what they—

Mr. FIELD. Could you identify the other office or persons?

Mr. LYNN. What I am saying is, there is NSC review. Mr. Colby, given what kind of action it is he wants to reprogram for, would have to go to them for approval of that direction.

Mr. OGILVIE. There are procedures to do that.

Mr. FIELD. We will ask them if they knew of this particular situation.

Anybody else who would have this kind of review besides NSC and OMB?

Mr. LYNN. I think the organizational matters of that kind, Mr. Field, can be explored with us and others in closed session.

Mr. FIELD. Mr. Lynn, how would you handle the approval of bribes or payments to informers? How do you know that that money is ac-

tually going to an informer and is not, let's say, going to somebody for a favor, or somebody's friend?

Somebody says, "We are going to spend x million dollars this year on bribes and payments to informers."

How do you know it is going to informers?

Mr. LYNN. We don't know and there is a statute that makes it clear—

Mr. FIELD. I think the first part of your answer answered the point.

Mr. LYNN. The statute makes it clear many expenditures are made solely on the certificate of the Director. That was done, I think, with a balancing of the competing equities and goals that we have.

Chairman PIKE. Mr. Lynn, the other day, in the absence of the President, it was up to you to castigate the Congress when they overrode a veto pertaining to some legislation and you said this: "Today's override of the President's veto of S. 66 indicates that Congress is not yet willing to share the President's resolve to make the hard choices necessary to reform Federal programs and get us back to fiscal responsibility."

Well, that is a good speech.

When Congress wants to choose between national priorities and the amount of money which is spent in area Y is concealed from 90 percent of the Members of Congress, how does Congress make the choice?

Mr. LYNN. We don't conceal anything from the Congress, Mr. Chairman.

Chairman PIKE. Oh; come on.

Mr. LYNN. No; we don't. The Congress has put together its own procedures for review of appropriations in this regard.

Chairman PIKE. Do you prepare the budget of the United States?

Mr. LYNN. Does OMB prepare it for the President?

Chairman PIKE. Yes.

Mr. LYNN. Yes.

Chairman PIKE. You prepare the budget. Does the budget admit that we have a CIA? Is it in the budget?

Mr. LYNN. In the budget presentation?

Chairman PIKE. Is it in the budget?

Mr. LYNN. No. We certainly admit it is in there somewhere.

Chairman PIKE. That's real fine.

Can Members of Congress find the NSA in the document you prepared?

Mr. LYNN. No; it isn't, sir, because 50 U.S.C.—

Chairman PIKE. You don't need to cite the statute to me.

Mr. LYNN. It is not to be put in the budget of the United States.

Chairman PIKE. I say to you Congress is not aware and not being aware they can't make the choice.

Mr. LYNN. What I disagreed with was your word "conceal."

We are not concealing anything. This is in conformance with the law.

Chairman PIKE. When you can't find it in the budget, but you tell us it is there, I submit that it is legitimate to characterize that as being concealed.

Mr. LYNN. Then it is concealed by a statute.

Chairman PIKE. All right.

Mr. LYNN. Not by us.

Chairman PIKE. But it is concealed.

Mr. Johnson went into the possible old school tie effects of the CIA relationship of some of your employees and I think maybe I am the only one for whom it might be appropriate to raise this particular issue.

Mr. Ogilvie, in your shop—first of all, you went to Yale, is that correct?

Mr. OGILVIE. That is correct.

Mr. LYNN. And Stanford. He went to the east coast and west.

Chairman PIKE. Do you also in your shop have a man named Stubbing who studied at both Harvard and Princeton?

Mr. OGILVIE. Yes, sir. He works in the National Security Division.

Chairman PIKE. And a man named Donahue who studied at Princeton?

Mr. OGILVIE. That is correct.

Chairman PIKE. And a man named Mitchell who not only studied at Princeton, but also taught at Princeton?

Mr. OGILVIE. That is correct.

Chairman PIKE. And did the Director of Central Intelligence also go to Princeton?

Mr. LYNN. Oh my God.

Chairman PIKE. Mr. Lynn, if it will make you feel better, I went to Princeton, but I am simply pointing out to you that—Mr. Field went to Princeton, and there came a point at which time I said to Mr. Field, "Enough of this Ivy League personnel. Let's get off it."

Don't you think it is just possible that a staff which was somewhat more representative of America might help you in the operation of your machine?

Mr. O'NEILL. Mr. Chairman, I wonder if the Chair has my pedigree?

Chairman PIKE. I don't know whether we have or not. Yes, we have.

Mr. O'NEILL. I will be happy to give it for the record. I think you will note that I have not been whatever it is one gets when he is exposed to an Ivy League education.

Chairman PIKE. I think it is just great you know that you are there and did not get an Ivy League education. I really do, but for heaven's sake——

Mr. LYNN. I went to a midwestern college and went to the Harvard Law School.

Chairman PIKE. There you go. We are back to Harvard again.

My point is that it is just conceivable that there is too much leaning in certain elements of your operation in favor of former CIA employees, former Ivy Leaguers, and I just wonder if this particular thought had ever crossed your mind?

Mr. OGILVIE. Mr. Pike, I wonder if I might at this point make a few comments because you have pointed out the individuals who work in this business that have had Ivy League or former intelligence affiliation; what we do in OMB, across the board, is to try to develop a balanced staff, and I stress the word "balanced" and I think with your permission, Mr. Chairman, I would like to tell you about the other balance of the other members of the staff that work on intelligence——

Chairman PIKE. You may certainly put that in the record.

Mr. OGILVIE. I would like to tell you a little bit about some of the other people.

Chairman PIKE. You can put it in the record, but you are not going to do it on my time right now.

[The information appears on pages 529 to 535 of the appendix.]

Chairman PIKE. The final question I want to ask, Mr. Ogilvie, is: You said you did in fact win a few, and the OMB did in fact have some programs disapproved by your recommendation by the President. What percentage of the budget of the intelligence community did those disapprovals represent?

Mr. LYNN. I think that could be handled—I think if we are going to get into this kind of thing, Mr. Chairman, we should explore this kind of an area in closed session.

Chairman PIKE. Even the percentage?

Mr. LYNN. Yes, because I think percentages are meaningless because—

Chairman PIKE. Percentages of nonexistent numbers I guarantee you are meaningless.

Mr. LYNN. What I am saying to you is, issues to us can be very important, whether they involve a large percentage or a small one.

When I was Secretary of HUD, believe me, we went to OMB and got into some dispute with OMB on some very small ones and many times OMB would take me up there on some very large ones that I was convinced I was going to win on because I was right, and I did.

Chairman PIKE. The committee will stand in recess until 1:30 this afternoon.

[Whereupon, at 11:50 a.m., the committee was recessed, to reconvene at 1:30 p.m., the same day.]

AFTERNOON SESSION

Chairman PIKE. The committee will come to order. It is the intention of the Chair, with the agreement of the members, to go through the list of members again, starting with Mr. McClory, in open session, and then if the majority of the members feel it advisable to do so, to go into executive session.

Mr. McClory?

Mr. McCLORY. Thank you, Mr. Chairman.

Following up on some of the questions of the chairman before the recess, is there any tacit agreement between any of the upper echelons of the OMB? Do you have any special private agreements with respect to confidentiality that apply only to you and you guard the secrets among yourselves?

Mr. LYNN. You mean upper echelons on an organization chart of OMB as opposed to lower echelons in OMB?

Mr. McCLORY. Well, yes.

Mr. LYNN. Let me see if I have it, Mr. McClory.

[The organizational chart of OMB is printed in the appendix.]

Mr. McCLORY. Reference was made to the Ivy League characteristics of some of the upper echelon in the OMB personnel. Is there any little clique among yourselves that applies?

Mr. LYNN. No, sir; we look wherever we can for the best possible talent we can get, and that is the rule.

Mr. McCLORY. Do you have any practice with regard to marking documents secret which apply solely within the OMB?

Mr. LYNN. I believe Mr. Ogilvie testified earlier, where we generate documentation that we know is within classification limits, we then so mark those with that classification.

Mr. McCLORY. And then those are limited, then, to OMB eyes; is that right?

Mr. LYNN. No; those will be documented sometimes where we will be providing an analysis from our standpoint, the way we see it to the intelligence community agency.

Mr. McCLORY. With respect to a large expenditure, for instance, the reference was made to the *Glomar Explorer*. Would it be possible, in your opinion, to keep such a project secret and at the same time to have open competitive bids for the ship, for instance?

Mr. LYNN. I just don't know, Mr. McClory. As I said, I think if we are going to discuss particular projects, whether they existed or did not exist, or the like, we had better do that in closed session.

I can see, just as a layman in the area, that if you had a large project of one kind or another, it might be extremely difficult to do it under a competitive bidding technique.

Mr. McCLORY. For instance, as I understand, the *Glomar Explorer* project had something to do with raising a Soviet submarine and perhaps receiving the information that is on board there, the codes of the Soviet Union, the way the sophisticated armaments are manufactured and other secret information that would be solely in the hands of the Soviets.

Do you make any kind of value judgment as to the value of that kind of a project for the national security, the defense of our Nation?

Mr. LYNN. Without specific reference to the matter you raised, let me just say that with any large project we look at it, as do other people, from the standpoint, is it worth it; is in duplicative of something else; is the expense worth the kind of information that you would get.

Now, we don't have primary responsibility for determination of the priorities as to the kinds of intelligence that is collected, but we do look upon it as our duty in OMB to ask these questions, because we do have the job of trying to keep the expenses down wherever expense occurs in the Federal Government.

Mr. McCLORY. In your statement you said that when there are significant changes, that the CIA makes some of these significant changes, and they make transfers, but these are not normally approved by you. Are they known by you?

Mr. LYNN. They become known in reports, as Mr. Ogilvie testified and also by way of the numerous meetings that occur between us and the various agencies, many of those meetings also involving in many cases other parties.

Mr. McCLORY. Questions have been raised with respect to your lack of knowledge of what expenditures are made by CIA for certain purposes. Under the law you are required to approve expenditures or expenditures are entitled to be made on the basis of certificate, solely at the direction of the Director; is that correct?

Mr. LYNN. Yes, sir; the statute specifically provides that the Director may act on certain types of expenditures solely by delivery of his certificate. In other words, the intention of the law is clear that no one is to look behind that certificate.

Mr. McCLORY. And you don't feel you have any statutory authority to look behind it?

Mr. LYNN. I think that is right, sir.

Chairman PIKE. Mr. Giaimo.

Mr. GIAIMO. Thank you very much.

Mr. LYNN, would it be a correct inference from all of your testimony here today is that OMB is pretty knowledgeable about all the activities of the intelligence community?

Mr. LYNN. That is a little broad.

Mr. GIAIMO. Then let's narrow it down a little. Are you aware of their major intelligence activities?

Mr. LYNN. I understand, sir. Certainly major from the standpoint of large expenditures of money on particular projects.

Mr. GIAIMO. Although we never did get a definition to the chairman's original question as to what are intelligence activities, does that apply to all intelligence activities which, I assume, include covert operations, clandestine operations, and the like?

Mr. LYNN. Yes, sir.

Mr. GIAIMO. Can you give us some reassurances? Can you reassure us—the committee and the American people—that there are no unwarranted expenditures of money, illegal in nature, involved in the intelligence community budget which would deal, for example, with assassinations?

Mr. LYNN. We cannot give that assurance, sir.

Mr. GIAIMO. Can you assure us that at this very date no funds are being spent by the intelligence community for covert monitoring, surveillance, or interceptions of communications of any kind of American citizens?

Mr. LYNN. This line of inquiry, sir, gets me very close to closed session, but let me explain a little more.

Mr. GIAIMO. You say you know about the budget and what they are doing.

Mr. LYNN. Let me give you a little explanation on the budget.

Mr. GIAIMO. Are they in any way doing what I enumerated?

Mr. LYNN. Let me give an explanation on the budget. There is in every agency a large category or large categories for personnel. For example, and particularly in areas where there is no large project charge associated with some given matter, an agency can take upon itself to do things with its personnel that we would not know at the time they did it that they chose to do it.

Mr. GIAIMO. Let me rephrase the question. Do you know if there are any large-scaled expenditures of money in these areas, and can you assure us that there are not?

Mr. LYNN. Of what kind, sir?

Mr. GIAIMO. Are there any large-scale expenditures of moneys used for covert activity in monitoring, surveilling or intercepting communications of American citizens?

Mr. LYNN. I really, Mr. Giaimo, with all respect, would prefer to go into this line of questioning in the closed session.

Mr. GIAIMO. I am sure you would prefer to, and what we are trying to do here is to maintain necessary secrecy, but part of this investigation and congressional activity is brought about because some of

us think there has been too much secrecy in government insofar as the American people are concerned. There have been instances and admissions where mail was intercepted, for example.

Did OMB know about those activities and the expenditures used to intercept those mails by the intelligence community?

Mr. LYNN. I do not know.

Mr. GIAIMO. Do you know whether your predecessors in OMB knew?

Mr. LYNN. I would suggest, sir, you might call and ask them that.

Mr. GIAIMO. Then let's get to the next question. Do you know if they are intercepting communications today?

Mr. LYNN. I don't know that they are, but I have certainly seen statements to the effect that activities that—

Mr. GIAIMO. You wouldn't want to assure me that they are not today, or that they are? You don't know, I think, was your statement.

Mr. LYNN. I think from our own processes I could not know of every activity they conduct.

Mr. GIAIMO. Then my next question is: What is the nature of your being aware of the budget of the intelligence community? Obviously you know its size, obviously you know the categories.

Mr. LYNN. That is right.

Mr. GIAIMO. What do you know of the specific activities?

Mr. LYNN. We know in a general way as to what their justifications are for those given activities.

Mr. GIAIMO. What do you mean in a general way?

Mr. LYNN. May I give you an example?

Mr. GIAIMO. Yes.

Mr. LYNN. As is true with every department and agency of the Government that has an R. & D. budget, for example, we will receive justification from that department which will include itemization of the major kinds of things they intend to do with the R. & D. budget. Now if they go out and take part of that money and do something with it that we don't know of, we would not be aware of it.

Mr. GIAIMO. I understand. Would you know of huge expenditures of money for operations of an unstated purpose, for example, surveillance by ships or by interceptions of communications of American citizens and the like?

Mr. LYNN. Of American citizens?

Mr. GIAIMO. Interception of communications. I think it is very clear what I mean.

Mr. OGILVIE. I think the short answer to the question is that we would be aware and are aware of all large projects conducted in the intelligence community.

Mr. GIAIMO. Can you give us assurances that none are committed?

Chairman PIKE. The time of the gentleman has expired.

Mr. MURPHY. Could I give 2 minutes of my 5 minutes to Mr. Giaimo? I am interested in this line of questioning.

Chairman PIKE. Is there objection? Without objection.

Mr. GIAIMO. Can you give us assurances that there is no—and I use the exact words—covert monitoring, surveilling or interception of communications of any kind—mail, telephones, wire services or the like—of American citizens here or abroad?

Mr. LYNN. No; I don't think we can do that, Mr. Giaimo, because the activities that are conducted by them are done in secrecy, and if someone within an agency should decide deliberately to try to do something of this kind outside of these figures, it is possible that they could do it. Let me add to that: I think you will never be able to do anything about that beyond the integrity of the people that work there.

Mr. GIAIMO. If it were to come to your attention that such activities were conducted, what would you do about it?

Mr. LYNN. That were known to me to be illegal?

Mr. GIAIMO. Yes.

Mr. LYNN. I would certainly bring it to their attention, and if I didn't get satisfaction there, raise it higher.

Mr. GIAIMO. You would bring it to the attention of the intelligence agency, that they are committing an illegal act?

Mr. LYNN. Well, that is right; I am talking about one that——

Mr. GIAIMO. What do you mean by satisfaction?

Mr. LYNN. Prospective, you are saying?

Mr. GIAIMO. Yes, but you are made aware of an illegal act; you bring it to the attention of the intelligence communities. Now I am sure you have read in the newspapers where certain peoples involved in criminal action in the intelligence community had a working arrangement, allegedly, with the Department of Justice to take care of their own matters.

Mr. LYNN. I have read in the CIA Commission Report that there was a working relation. As I read the report, I believe they recommended that something be done about that.

Mr. GIAIMO. You are telling me that if you learned of an illegal act you would take it up with the intelligence agency?

Mr. LYNN. As the first step.

Mr. GIAIMO. What else would you do?

Mr. LYNN. If I did not receive satisfaction there——

Mr. GIAIMO. Before we go further, what do you mean by receive satisfaction?

Mr. LYNN. That it wouldn't be done. I said prospectively. If it had already occurred, that could be a different matter.

Chairman PIKE. The time of the gentleman has expired. We do have a record vote on at the present time. I would suggest the committee stand in recess until 2 o'clock.

[Brief recess for the Members to vote.]

Chairman PIKE. The committee will come to order.

Mr. LYNN, I apologize for this interruption. I can only predict it is going to happen several times before the day is over.

Mr. LYNN. Mr. Chairman, I understand that completely.

Chairman PIKE. We will do the best we can. When we said 2 o'clock, we found there was going to be another vote in 5 minutes.

Mr. Stanton may inquire.

Mr. STANTON. Thank you, Mr. Chairman.

Mr. LYNN, in your statement on page 17 regarding the reprogramming of funds in which you state that you believe that significant changes in the use of funds do not occur without your knowledge. I don't question the sincerity of that belief, but I wonder about its validity. Upon

what fact do you base that belief in view of prior statements you have made in terms of not being able to account for shifting of funds on previous questioning?

Mr. LYNN. In the course of the year, as we have testified, there are numerous meetings; in other words, even when the budget process was over, we participate in numerous meetings in which we are given, with others, an update report of activities, and also, in addition to that, at the end of the period, again, we get a full report in connection with the next budget cycle.

Mr. STANTON. Does that mean that you monitor, for example, the contingency reserve fund?

Mr. LYNN. Without getting into specifics of one fund or another, there are funds, Mr. Stanton, where releases from them require OMB consent, as well as Appropriation Committee consent—not committee, excuse me, chairman consent.

Mr. STANTON. What controls, if any, does OMB place on that fund?

Mr. LYNN. I think, Mr. Stanton, if we are going to get into the specifics of a particular fund, we should do that in closed session.

Mr. STANTON. Mr. Ogilvie, when you got out of school, just out of curiosity, what did you do after you got out of school? What was your career? We got historical data on you, and Secretary Lynn said it explained everything, but yours seems to have some deficiency. You got out of college when?

Mr. OGILVIE. Yale University, 1965, I went to the Stanford Graduate School of Business and graduated in 1967. In June of 1967, I joined the Office of Systems Analysis in the Department of Defense and worked with Secretary McNamara for 2½ years. I then left—

Mr. STANTON. Did that give you a deferment when you joined the Department of Defense?

Mr. OGILVIE. I did have a deferment at that point; yes, sir.

Mr. STANTON. Thank you.

No further questions.

Chairman PIKE. Mr. Treen.

Mr. TREEN. Mr. Chairman, I think we have exhausted the generalities, and I am going to yield my time back so we can get to executive session.

Mr. DELLUMS. Will you yield to me?

Chairman PIKE. You are going to be recognized next. I know what you are trying to do. That is why I said you will be recognized next.

Mr. Dellums is recognized.

Mr. DELLUMS. Thank you, Mr. Chairman. I will not pursue the line of questions I raised with Mr. Lynn this morning, since Mr. Kasten has indicated the desire to continue, but I would say, Mr. Chairman, that I have a hunch that by the time we finish this investigation, what we may very well uncover is a pattern in the administrative and regulatory agencies of either employees or former employees of the intelligence community handling the transactions of the CIA and other intelligence agencies in those administrative and regulatory agencies which, in my estimation, raises some extraordinary questions with respect to the potential for abuse by building a quasi-closed society clearly minimizing accountability with a rather large network of closed and parochial relationships. That is to say, if members of the intelli-

gence community are in administrative and regulatory agencies ostensibly for the purposes of maintaining the cover of the activities of those agencies, where is the civilian accountability? I think my question with respect to half of the OMB staff being former members of the intelligence community, without in any way questioning the integrity of the three people before us, raises some serious issues with respect to civilian control and civilian accountability of massive networks of former agents or employers or employees in other agencies throughout the Government, who see to it that the transaction of the intelligence community is in no way disrupted.

I would like to now go to a few very specific questions. What was the extent of OMB's preknowledge of the American involvement in Chile in 1973, Mr. Lynn?

Mr. LYNN. Mr. Dellums, as I said at the outset, we will be perfectly happy to testify in areas of our competence in closed session as to specific matters that do involve classified matters, but I have to respectfully say that I don't believe we should do that in general session.

Mr. DELLUMS. I accept that. We will ask those questions in executive session. Let me go to the issue of proprietary wholly owned corporations. Is fiscal assistance defined specifically in the CIA budget?

Mr. LYNN. I didn't get the question.

Mr. DELLUMS. Is fiscal assistance for proprietaries defined specifically in the CIA budget? In other words, do you assist the CIA with respect—

Mr. LYNN. Do we assist the CIA?

Mr. DELLUMS. With respect to defining the fiscal matters of proprietary corporations? Are they listed with the CIA budget? Do you assist them in the development of their budget accountability with respect to profits and what-have-you from proprietary corporations?

Let me make it very simple: It is clear to me that the intelligence community has wholly owned proprietary corporations. Do you assist them in any way in the development, maintenance, transfer of funds, development of resources, disposition of profits, expansion of those proprietary corporations? It is a straightforward question.

Mr. LYNN. I think the most I can say in open session, Mr. Dellums, is that there are occasions when we will know about a certain area, and that would tend to be where it was of large magnitude. Beyond that, again, I think we ought to pursue that in closed session.

Mr. DELLUMS. Does OMB approve CIA proprietary decisions to expand, invest assets, sell assets, or dissolve corporations or companies?

Mr. LYNN. What I would like to do, Mr. Dellums, if you have a whole series of questions on proprietaries, we will be more than happy to answer them, but I would appreciate doing it in closed session. Unfortunately, the place we find ourselves is in a very gray area and line as to whether I am carrying out or not carrying out my responsibilities under these classification laws, and I want to tell you everything I can in open session. I want to tell you everything I can, period, in closed session, and I am not quite certain where that line is.

Mr. DELLUMS. Thank you. Then I will raise the question so you can prepare the response.

Are proprietary profits used for expansion of the proprietary? Explain the procedure for divestiture of CIA proprietaries. Does OMB approve the transfer of funds from a proprietary to other proprietar-

ies or to the CIA? Does OMB approve transfer of funds among and between CIA proprietaries? Does OMB approve CIA proprietary decision to expand, invest their assets, to sell assets, or to dissolve? To what extent does OMB review and approve CIA proprietaries, their establishment, program activities and procedures, and is fiscal assistance for proprietaries defined specifically in the CIA budget?

I will deeply appreciate it if I could get those specific responses with respect to your activity, with respect to the CIA or other intelligence communities' proprietary corporations.

Mr. LYNN. We look forward to working with you, sir.

Mr. DELLUMS. Thank you very much.

[The following information on budgetary procedures relating to CIA proprietaries and OMB involvement in those procedures is provided in response to Mr. Dellums' questions:]

(1) business records of proprietaries are maintained on a basis consistent with standard accounting procedures to which any private business is subject; these are not directly relatable to traditional governmental practices;

(2) for budgetary purposes, proprietaries are considered the same as regular commercial firms with which the agency has contracts for goods or services;

(3) CIA attempts to operate its proprietaries on a break-even basis, with income offsetting costs;

(4) funds used by the agency to capitalize proprietaries are in the regular CIA budget and are reviewed by OMB;

(5) subsidies, justified on the basis of maintenance of necessary capabilities, and CIA contracts with proprietaries are also carried in the budget and are reviewed by OMB;

(6) annual operating profits (or loss) are not reported to OMB;

(7) in selected cases where significant funds have resulted from proprietary profits (net income) or from liquidation of proprietary assets, OMB has participated in deliberations leading to the disposition of these funds.

OMB's involvement in deliberations leading to the disposition of funds can be seen in two recent examples. In 1974, with the approval of the intelligence appropriations subcommittees and OMB, a specific amount of profits from one proprietary was used to offset a part of the agency's requested appropriation. In 1975, the sizable proceeds from the sale of a proprietary were, after consultation with OMB, turned over to the Treasury as miscellaneous receipts.

Chairman PIKE. Mr. Murphy.

Mr. MURPHY. Thank you, Mr. Chairman.

Mr. LYNN, keeping in mind Mr. Giaimo's line of questioning, and your answers thereto, especially your response to his question about what you would do if you became aware of an illegal act or illegal activity. Your answer was that you would bring it to the attention of people higher than you—

Mr. LYNN. Could I amplify a little?

Mr. MURPHY. Yes.

Mr. LYNN. First of all, I was referring to prospective acts, not occurred yet.

Mr. MURPHY. I am also referring to prospective acts, because what has happened has transpired.

Have you had occasion since your employment, you or Mr. Ogilvie, or the gentleman on your right, to bring to the attention of the President of the United States any illegal activity or any illegal act?

Mr. LYNN. For myself, I would say no; I have not.

Mr. OGILVIE. No.

Mr. O'NEILL. Nor have I.

Mr. MURPHY. This committee is searching for ways to bring the intelligence agencies back to eye level with the people. I would appreciate if you would make available to this committee—and you may have to do this in executive session—a list of recommendations that OMB, or Mr. Staats' bureau, could do to keep a closer watch on intelligence activities and bring down their activity to a level where we in the Congress, at least, would be able to monitor their activities and their expenditures, where the money goes and how it goes.

I would like your recommendations. If you were free under the Federal statutes to do so, what recommendations would you have to make?

Mr. LYNN. Mr. Murphy, this will be done. The President is very concerned in this area; witness his appointment of the Commission to investigate it. He has given each of us in his Office a responsibility to work with those recommendations, as well as our own views, and put together our recommendations to him as to what ought to be done to improve this situation, and I think you will find it just a short period of time before the President's recommendations will be made and action will be taken and, of course, as part of that, changes in our area are being explored carefully.

Mr. MURPHY. I appreciate the President's responsibility in this matter, but I am speaking as a Member of Congress and our responsibility to our constituency. I don't want to get into the Rockefeller Commission, but its job on the CIA and intelligence activities is not as encompassing as the mandate the Congress has charged this committee with.

Thank you, Mr. Chairman.

[By letter of November 12, 1975, Mr. Ogilvie responded to Mr. Murphy's request as follows:]

As I reported to you in my letter of October 10, 1975, the OMB staff review concerning oversight in monitoring intelligence activities and expenditures is still underway. We will inform the Select Committee as to any decisions and activities that are taken.

Mr. DELLUMS. Will you yield?

Mr. MURPHY. If I have any time left.

Mr. DELLUMS. May I ask the Chair a question? Is the committee in possession of the 1973 Schlesinger OMB study?

Chairman PIKE. The committee is not in possession of the 1971 Schlesinger study.

Mr. DELLUMS. 1971 study, 1973 report.

Chairman PIKE. The committee staff has been given access to it, has prepared a report on it, and that report is available to you.

Mr. DELLUMS. Thank you.

May I ask, Mr. Lynn, has OMB looked at duplication and waste in the intelligence community, and, if so, when, how, what were your conclusions, and what has been done to correct the situations that you pinpointed?

Mr. LYNN. The answer to the first part of the question is yes, we do; the second part is constantly; the third part is—

Mr. DELLUMS. What were your conclusions?

Mr. LYNN. We have found waste; we found inefficiencies as OMB does with other agencies and departments, and I think, as our earlier testimony indicated, we raise these issues with the intelligence com-

munity, the factor of it that is involved, try to get change, and we sometimes do, often do. There are times where there is honest disagreement as to whether it is truly waste and where there is such a disagreement, the matter gets escalated.

Mr. DELLUMS. Do you think there is need for 11 or 12 different intelligence-gathering agencies—NASA and Defense Intelligence are in many ways gathering the same intelligence, operating in the areas—whether or not that is necessary?

Mr. LYNN. As a personal matter, Mr. Dellums, I have gotten into this for the first time in the spring reviews, and if I might, I would like a little more time to continue the work I have started before I have an answer to that, but I certainly think that is an area to be looked at, but I don't know where I come out on it at the moment.

Chairman PIKE. The time of the gentleman has expired. Mr. Kasten?

Mr. KASTEN. I want to go back to a couple of questions you weren't able to complete before. We established that three out of the six people that we were working with in OMB came from the CIA. I want to just clarify the points that Mr. Driggs, who is working in your analysis of NSA and a number of others in the military. Is it true that he, from 1969 to 1972, was working in the military intelligence agency and that he came directly from the military intelligence to OMB?

Mr. OGILVIE. Mr. Kasten, he was a member of the U.S. Army, and, at that time, worked in the intelligence area. He was in the Army.

Mr. KASTEN. Thank you. On the other side of the coin, am I correct that this person's counterpart at the CIA, particularly Mr. James Taylor, who is Deputy Controller of the CIA, is a former CIA budget examiner for OMB?

Mr. OGILVIE. I just don't know the answer to that question.

Mr. O'NEILL. The answer to the question is yes. And before his CIA assignment, I might say, he was the OEO examiner.

Mr. KASTEN. He came from—

Mr. O'NEILL. I am making a point that I think really is counter to the point and the line that you seem to be trying to establish in the record, that people who work in this area only ever work in this area.

Mr. KASTEN. I am not trying to make a point that there is any problem here, but trying to get on the record some facts that I think may be important to analysis that may come up.

Mr. Ogilvie, you were working for the systems analysis group up until December 1969. Is that correct?

Mr. OGILVIE. I think December is the right month.

Mr. KASTEN. You were released when, from the military, or from that job, June 1970?

Mr. OGILVIE. No, sir, I don't believe it was in June. I started in June of 1967, and I left a little over 2 years later, and I think it was November or December of 1969.

Mr. KASTEN. Was your last job in the military and your last job with the Defense Department in the systems analysis? Did you have a job other than the Southeast Asia job before you left, or was that your last job?

Mr. OGILVIE. That was the only area I worked in in the Defense Department.

Mr. KASTEN. And after that, you joined ICF, Inc., a Washinton-based firm; is that correct?

Mr. OGILVIE. That is correct.

Mr. KASTEN. I have done just a little bit of work, and we tried to see—ICF, Inc., or Inner City Fund, Inc.; is that correct?

Mr. OGILVIE. It was called that.

Mr. KASTEN. Neither are listed in Standard & Poors, Dun & Bradstreet's Directory, Dun and Bradstreet's Middle Market, the Consultants and Consulting Organizations' directory, according to the Congressional Research Service, but it seems to me this must be the company that was formed February 2, 1970, Inner City Fund, Inc., incorporated in the State of Pennsylvania. Is that correct?

Mr. OGILVIE. I think that is the same one; yes, sir.

Mr. KASTEN. On November 11, 1973, Inner City Fund changed its name to ICF, Inc.; is that correct?

Mr. OGILVIE. That is correct.

Mr. KASTEN. Its purpose was listed as management and economic services to Government and businesses.

Mr. OGILVIE. That is correct.

Mr. KASTEN. What is the nature of this company?

Mr. OGILVIE. It is basically what I would call a public policy consulting company. We do work for many agencies in the Federal Government, a number of State and number of local governments, as well as some private corporations. The company, with which I am not affiliated, has, I think, approximately 30 professional employees, and the bulk of their work is done in the energy business, the environmental business, a lot of work in health, a lot in education.

Mr. KASTEN. Aren't the officers of this ICF, Inc., or Inner City Fund, Inc., primarily former Defense system analysis people?

Mr. OGILVIE. There are a number of people who come out of the same office I worked in. I was one of the founding partners of the company in 1969.

Mr. KASTEN. Has there ever been or is there now any relationship between ICF, Inc., or Inner City Fund, Inc., and the CIA, or any CIA activities?

Mr. OGILVIE. Absolutely none.

Mr. KASTEN. Does OMB have any knowledge of present or former OMB employees who have subsequently worked or are currently working for any intelligence agency?

Mr. LYNN. I wouldn't know that, Mr. Kasten. I wouldn't know whether the gentlemen with me would know that.

Mr. KASTEN. If you had a person on the payroll of CIA working for OMB, you wouldn't know that?

Mr. LYNN. I would hope so. I thought it was the other way around. State your first question again.

Mr. KASTEN. My first question was, do you have OMB, does OMB have any knowledge of present or former OMB employees who have subsequently worked for or are currently working for any intelligence agency?

Mr. LYNN. You mentioned one as a possibility but I just don't know. You said, Paul, the one person—Taylor, what is his name, at the CIA, was one who worked for us.

Mr. KASTEN. Have you in your management review function ever looked into the problem of detailing of employees between intelligence agencies and other branch departments, executive branch departments, people being detailed from the CIA to executive branch departments?

Mr. OGILVIE. We look at all detailees by all agencies.

Chairman PIKE. The time of the gentleman has expired.

The committee will stand in recess. We have a record vote that should be only one record vote. We will try to be back at 2:45.

[Recess taken.]

Chairman PIKE. The committee will come to order.

Mr. Aspin may inquire.

Mr. ASPIN. Thank you, Mr. Chairman.

Let me ask this question: Did, at any time when you were doing the budget for the CIA or any of the defense agencies, at any time you were working on that budget, did it ever occur to you that perhaps in some way they were exceeding the authority which was laid down in law? That they were doing something illegal? Did that ever arise? Did any budget examiner ever raise that issue?

Have you ever talked about that among yourselves? Did the thought ever cross your mind at any time you were dealing with one of these budgets for one of these agencies?

Mr. LYNN. I haven't gone through a budget process with them yet.

Mr. OGILVIE. Let me answer, if I may, Mr. Aspin, in two parts. All during the time we were reviewing the budget last fall there have been allegations of illegal activities and abuses of authority in the intelligence world and, of course, the idea was firmly implanted in my mind—

Mr. ASPIN. Before it became public?

Mr. OGILVIE. I wasn't in this position before it became public. I have only been the Associate Director for a year now and there have been public allegations for a number of years.

I was in a lower job in the Office of Management and Budget prior to that time. In the position where I am now reviewing the intelligence community budget, I have only been there for a year and can't speak to the time before that.

Specifically with regard to whether or not any budget examiner brought to my attention an illegal act or an abuse of power, the answer is "no".

Mr. ASPIN. Or did anybody ever talk about it? Did the thought ever cross anybody's mind over there, to your knowledge—before it was made public, at which time everybody had some thoughts about it, but did it ever occur to you people who are supposed to be overseeing this budget that perhaps all was not quite legal?

Mr. OGILVIE. I can't give you a very good answer because I have only been doing it for a year.

Mr. ASPIN. From your own experience and your own knowledge as to what you have heard other people say and other people talk about, didn't anybody ever say when this came out, wasn't there any talk over coffee or lunch, "We should have known that," or "I thought this was wrong," or "when I was doing this it didn't look right?" Didn't that discussion ever occur to anybody over there?

Mr. OGILVIE. I have had no personal discussions about the specific instances that we had known about in advance.

Mr. ASPIN. If there isn't, I would find that completely incredible.

What I am trying to tell you is, you know, I have been told time and time again that the OMB oversight of the CIA is lousy and anybody who ever worked at OMB and talks about it doesn't say it is lousy but it is not enough good. They say there's not enough people on it. You say there is.

There is too much deference to the National Security Council, too much deference to the Director, too much deference to others.

You say by inference that is not true. We don't look at the overlap and the duplication. You say no, you do look at the overlap and duplication; that you don't shoot down projects. You say you do shoot down projects.

You can't have it both ways. If you are really doing this job and then somehow all of this comes out and it never occurred to anybody that anything was there, I find that incredible.

Mr. LYNN. Does anybody sitting in my job or these gentlemen's jobs in light of the allegations that have been made, and in some cases actual discussion by people involved, raise doubts in his mind as to what they might be doing? Of course, such doubts are raised. You characterized my testimony a moment ago and I am not going to stand on your characterization.

You have given a summary of my testimony that I will not agree with. I will stand on what I have said for the record, but if you care to take my testimony and put your own patina on it, and I will stand only on what I said. By not taking it point by point it no way means I agree with your characterization of my testimony.

Mr. ASPIN. Let me follow with the question, if you had doubts and if there were doubts and if you do realize now that all of this was going on in spite of the fact that you were supposedly overseeing this budget, had all of this gone on, what does that do? Was there any review, was there any report, was there any reexamination of the way OMB does their job, vis-a-vis the CIA?

Mr. LYNN. There is certainly, Mr. Aspin, a hard look being taken at it now. As we said, we think it would be advisable if you care to go into the time periods that were involved, that you call as witnesses the people who were there then.

As to our current attitude, I think the people who attended my spring review this year would tell you I was asking a number of searching questions as to (1) what is our proper role; (2) if those are the roles we can perform, how can we perform them better than we are doing now. I have asked for all that to be worked up so I can make up my own mind.

Chairman PIKE. The time of the gentleman has expired.

Mr. MILFORD. I will yield to Mr. Aspin.

Mr. ASPIN. Will there be a formal report of whatever changes might be necessary? Is there some kind of formal review in the works?

Mr. LYNN. There will be a formal review and we will make our recommendations to the President.

Chairman PIKE. The gentleman from Texas, Mr. Milford, is recognized for 4½ minutes.

Mr. MILFORD. There is a debate between Members of Congress and citizens of our country concerning public revelation of intelligence budget figures. Most agree that it would not be wise to release individual intelligence agency budget figures but a large number feel that the total intelligence budget figure should be released publicly.

Now, as a management expert, do you, sir, feel that all or any part of our intelligence mission might possibly be compromised if we should begin to release the total intelligence budget figure each year?

Mr. LYNN. I notice, Mr. Milford, that the President's Commission on the CIA recommended that consideration be given to disclosing part of the budget.

You mentioned I have some management experience. I like to think I have some. I think the only justification, however, for not divulging overall figures, even, is the security one, and on that, as to what can be told from it or not, I am frankly looking at that myself.

I don't know whether it would or not yet, but I am asking that same kind of question, but in due course, as I answered to Mr. Aspin, we will be making our recommendation.

I can see problems with it. Once you have an overall figure, changes from year to year, I suppose, could naturally signal something, and I have a hunch that may be one of the things that drove the statute Congress had some time ago. I think we all should take a look at every one of these avenues and see how can we do a better job of, on the one hand, having the kind of public debate that typifies the programs of the United States generally, and on the other hand, give due regard to the secrecy essential for intelligence operations.

I think a fresh look at this makes a lot of sense, and that is why I welcome the opportunity to come before this committee.

Mr. MILFORD. There has been some prior discussion here today concerning the fact you employed several ex-CIA people as top members of your staff. There has also been some discussion to the overall abundance of Ivy Leaguers in your staff.

Now, while the absence of graduates from the southwest conference may give me reason to question the quality of the educational levels on your staff, I am not ready to condemn your use of ex-intelligence people.

Isn't it a fact that intelligence work is a highly specialized field wherein reasonable competence on the part of your staff members requires them to have prior intelligence training?

Mr. LYNN. It is certainly extremely useful.

I would like to say, Mr. Milford, I probably should disclose that when I was an enlisted man in the Navy, I had access to secret and maybe in one or two cases top secret information as an electronics technician's mate, and I hope that wouldn't disqualify me from passing on the budget of the Navy, but what I am saying is, I like your point. I think you have to take each person as he or she is and look at them. There is always an opportunity for abuse. Whether you are talking about a person coming out of a business community to take a business job or somebody who comes out of the intelligence community to take an OMB job. I don't think we should just do some general surgery here with respect to saying, if you have been in the CIA, you better stay out of OMB; you better stay out of the rest of the Government; once you have been in the CIA, there is a kind of a mark

over you; you can't do anything else that has anything to do with the Government because you are suspect. I don't think that is the way to run the Government. You should take people as people are.

Mr. MILFORD. It would appear in a technical job of this nature, you can't take a muleskinner and make him a 707 pilot. I agree.

Mr. LYNN. If I can get that expertise and get a man of integrity, that is what I would like to have. I haven't gotten to know these people well, but from the occasions I have worked with them, they seem to be people very much dedicated to this country and dedicated to doing a job of the kind OMB is supposed to do.

Mr. DELLUMS. Would the gentleman yield briefly to me for a comment?

I would just say to my colleague, I am not trying to assert that former CIA employees should not work in the Government. I would think that would be extremely prejudicial, but it does raise a serious question with members of the intelligence community taking jobs that are in direct relationship to activity carried on by that intelligence community.

Now, that raises a serious parochial question I think we need to look at very carefully.

Chairman PIKE. The time of the gentleman from Texas has expired.

Mr. Johnson.

Mr. JOHNSON. Thank you, Mr. Chairman.

Mr. LYNN, before I resume the line of questioning we were on this morning when my time expired, I wanted to ask you do you know of any statutory limitations on covert activities that might be directed by the National Security Council?

I don't know of any. When we talk about the CIA perhaps engaging in illegal activities, as far as I know there is no statutory prohibition. That is something I hope we will look at. Anything that would tell what constitutes illegal covert activity.

Mr. LYNN. I have to say to you, sir, I have not looked at it as a lawyer from my prior incarnation. I have asked for further information myself as to what limitations there are in the statute, to become familiar with them, but I have to say to you I have not done independent legal research with respect to the issue, but it is something I want to become more familiar with, too.

In a way, all of this has been very useful to a new Director of OMB because it gives me some priorities in areas I want to look into.

Mr. JOHNSON. Is OMB making decisions as to which agencies and where CIA money is distributed within the budget?

Mr. OGILVIE. We do that jointly with the affected agencies that are involved with the intelligence community budget.

Mr. JOHNSON. Then you have records as to how much money goes into each of these agency budgets?

Mr. OGILVIE. Yes, sir, and the Secretaries of the appropriate agencies are fully informed.

Mr. JOHNSON. I would like to reiterate the question we closed with this morning. The CIA funds, we established, were not subject to authorization by the Congress.

Mr. OGILVIE. They were appropriated annually by the Congress but not subject to a specific annual CIA authorization process.

Mr. LYNN. There is oversight jurisdiction, but there are not authorizing statutes beyond the general charter given to the—the charter given to the CIA by law.

Mr. JOHNSON. So these funds are classified as not being authorized?

Mr. LYNN. In that technical sense, I think that is right.

[Mr. Lynn subsequently qualified his response as follows: "In one sense, I think that is right; however, the CIA Act of 1949 authorized CIA to use funds for the purpose outlined in the act."]

Mr. JOHNSON. Then I ask you if there were other funds used in the foreign intelligence program which are also not subject to authorization. At that point your answer, if I recall, was that you did not know. All three of you said that. Is that correct?

You did not know if there were other funds used in foreign intelligence programs which are also not subject to authorization?

Mr. LYNN. We may be getting into a semantic problem on "authorized." I tend to look at authorizations as a kind of line item authorizing language of a section 8 program in HUD or a NOAA program in Commerce, where every 2 or 3 years you have to go back to Congress and get a new authorizing statute.

I would like my answer taken that way.

As far as their being authorized by law in the broad sense, there is authorization to be found in the statute books of the United States for CIA funds.

Mr. JOHNSON. There is no specific authorization?

Mr. LYNN. Not like annual appropriations authorizations that generally go through a two-step process.

Mr. JOHNSON. Are there other funds treated similarly?

Mr. OGILVIE. I am not a technician on the authorization-appropriation process, but I believe there are other funds that are not specifically authorized in that sense.

Mr. JOHNSON. Are there other funds related to foreign intelligence programs that are treated similarly to the CIA procedure?

I will yield to Mr. Giaino but I would like an answer.

Mr. OGILVIE. I will stand on my first answer, which is I don't know. I know there are funds that are not authorized specifically that are spent by lots of agencies and they may be, under the Economy Act, transferred to the CIA, but the short answer is, I don't know whether that specifically occurs or not.

Mr. LYNN. Mr. Johnson, I think this is the area where if I were to ask you questions, or Don were, to clarify the intent of your question and we get into the answer, it would be in the closed session, but we would be happy to pursue this so we can be sure we are communicating with each other when we get to closed session. It will make the dialog a lot easier.

Mr. JOHNSON. Another question and answer this morning was whether or not CIA handled other intelligence activities funds.

Mr. OGILVIE. The CIA does receive funds from other agencies, as I mentioned this morning.

Mr. JOHNSON. Over and above their budget?

Mr. OGILVIE. Transferred from the Economy Act.

Mr. JOHNSON. Over and above their budget?

Mr. OGILVIE. Yes, sir, but they are included in someone else's budget. The same as HEW transfers funds to the General Services Administration.

Mr. JOHNSON. They are identifiable to the Congress?

Mr. OGILVIE. They are identifiable; yes, sir.

Chairman PIKE. The time of the gentleman has expired.

Mr. HAYES.

Mr. HAYES. Mr. Lynn, since 1971 apparently the Office of Management and Budget has participated in preparation of consolidated program budgets as a member—that is, represented by a senior representative on the Intelligence Resources Advisory Committee. Is that correct?

Mr. OGILVIE. I forget exactly the words that you called the consolidated budget. I believe what you are referring to is the consolidated recommendations of the Director of Central Intelligence which are provided to the President through OMB. One group which advises the Director of Central Intelligence on those recommendations and on overall resource issues is the body that you mention and OMB is a member of that, but in the technical sense of the word "budget" as this Congress uses it, it is not a formal budget.

This is the point Mr. Aspin and I were discussing this morning.

Mr. HAYES. Is that not a unique position as far as OMB is concerned? For example, you do not participate in a similar group with regard to preparation of an overall education budget or health budget or housing budget or anything else?

In other words, your usual involvement with budget preparation is as outlined particularly in the first eight pages of the Director in testimony today: is that correct?

Mr. LYNN. But, Mr. Hayes, I would say as we identify overlapping problem areas or opportunity areas in the intelligence budget we will have another program Associate Director—Don Ogilvie's counterpart, let's say between economics and general government—be there because we find so many similar, sometimes overlapping statutory programs in different territories. So in our consideration of one department's budget, we will bring in other people in OMB to check with to determine the relative priorities of those programs intended by statute to hit the same or similar problems.

Mr. HAYES. In no way under those circumstances do you participate in a formal way pursuant to any kind of presidential organization, whether formal or informal?

Mr. LYNN. No; sir. The closest we come to that is if there is a major issue involving some policy apart from dollars that may be a domestic counsel task force put together to look at those things in the policy-making mode and we will participate as a member of that task force which can involve as many as five Cabinet members.

Mr. HAYES. Do you think perhaps the position of OMB, as I understand it, as explained by Mr. Ogilvie, in regard to the intelligence resources advisory position, perhaps compromises the point of view of OMB? In this sense, that you become a participant in evaluating and in the preparation of a consolidated overall intelligence budget, along with the Director of Central Intelligence. He actually chairs that body.

Do you observe in that sense—since you have participated in the overall decisionmaking of the preparation of that budget, do you think that tends to compromise your position in being able to look at it, examine it in an objective way, as you do in regard to other agencies of Government?

Mr. OGILVIE. Mr. Hayes, I think quite to the contrary, it provides us with a unique opportunity to make our views and our recommendations known during the process that that budget—that the Director's recommendations are being formulated.

If I might take a minute to explain further because I think it is important: The recommendations that the DCI provides to the President are only that. They are not a budget as I mentioned before.

Mr. HAYES. I understand. Let me interject at this point if you will yield to me. Why is it a practice not followed then in regard to all the other agencies of government? Why don't we do it with regard to Health, Education, and Welfare, or with regard to Defense?

Mr. LYNN. Mr. Hayes, it does occur issue by issue in other departments. When I was at Commerce and again when I was in HUD, at my urging—and very frankly because I had some hopes in some of this, if you can't lick them, join them; have OMB in, so at the last minute they won't be screaming about my budget. I would have them in on our study from the very beginning on a major policy issue. Something I find they will agree with me, but when it got the Presidential decisionmaking many times even though I loved them to death and brought them into the process they are pounding the table on the other side.

Mr. HAYES. Mr. Lynn, do you not draw a distinction between the fact that the Secretary of HUD is not able to spend on his own certificate, beyond which you may not penetrate and analyze? Do you think there is a distinction between participating on that level, interjecting yourself there and doing it on your own motion and, on the other hand, operating in this Resources Advisory Committee at Presidential direction in essence?

Mr. OGILVIE. Mr. Hayes, you seem to be leaving the impression there is just DCI written authority to spend the money.

The process OMB uses to review CIA, or any other areas of the intelligence budget, is identical to the process that we use in HUD or in Labor.

We go through the same level of detail with the same degree of facts for the CIA budget that we do for the HUD budget or the Labor budget.

Chairman PIKE. The time of the gentleman has expired.

Mr. Lehman.

Mr. LEHMAN. Thank you, Mr. Chairman. I guess I kind of feel like an old-fashioned bookkeeper sometimes, but in this budget process I would like to go back to the formulation of the budget and the execution of the budget. You can talk about budgets and talk about Government costs. Sometimes in business you have not only a cost center, but a profit center. Basically the budget is made up of cost centers and profit centers. Is that more or less not correct in your general experience of forming budgets?

Mr. LYNN. I am not quite sure where I find the profit center. One of the things I found lacking in the Government is the bottom line to

measure an activity by. There isn't any "earnings per share" concept.

Mr. LEHMAN. Certainly your costs could be everything from overhead, gasoline, or even bribes. To get back to your profit centers, to determine a profit center, you have a proprietary agency.

When you make up this budget, or you look over this budget, you not only have to look over your profit and loss statement, but do you have a balance sheet that you look over also that shows assets and liability, and wholly owned proprietary agencies like CIA?

Mr. LYNN. Do we have a statement showing their assets and liabilities?

Mr. LEHMAN. Right. Do you look at that?

Mr. LYNN. I don't think that is the approach, Mr. Lehman.

Mr. LEHMAN. In pursuing that just a little bit more, if you are making up a budget and you assume CIA has some proprietary organizations and some assets—maybe they have 100 shares of stock in the stock market, I don't know—do you know whether CIA owns any stockmarket holdings?

Mr. OGILVIE. No.

Mr. LEHMAN. You don't know whether they do or they don't?

Mr. OGILVIE. I do not know whether they do or not.

Mr. LEHMAN. In that case, if in fact you don't know whether CIA owns any assets in any company—do you or do you not?

Mr. LYNN. I said a little earlier, Mr. Lehman, if there should be a situation involving a proprietary that was a major project of significant outlay, that would come to our attention and we would analyze it as a project.

Mr. LEHMAN. You are talking about big tickets.

Mr. LYNN. We would be aware of that. As to small things we may well not be aware of it.

Mr. LEHMAN. There was a big ticket operation in Miami according to a recent article in Harper's magazine. It was supposed to be the biggest CIA operation in the world. I don't know how big it is now. I know it was big at that time.

According to the information these two reporters have dug up, not counting one outfit called Venus Technical Enterprises, there were 54 enterprises in Miami headed by CIA.

How can you know about your loss before you know about your profit from the organizations? How can you make up a budget until you know what are the assets you want to sell that the CIA owns? In other words, you can dispose of certain assets or count on certain profits. These are the kind of things you have to use in determining your executive formulation of a budget.

If you are going to help CIA form a budget, then you must know what they own, what they must dispose of and the potential profit or past profit in the operation.

Therefore I am trying to find out, I guess, whether you can tell me now, what is going on in the CIA in regard to its business enterprises?

Mr. LYNN. I can give some further elaboration, Mr. Lehman, but again I think it would be good to do that in closed session but I can say to you on major proprietaries we would, where it has been brought as a project, we would know of it and analyze it as a project within the group.

Now, as to whether though as a matter of technique we would every year with this or any other agency ask for a list of their assets and what they might dispose of this year so that you could cut down the total amount net that you have to go to the taxpayers for—that is what you are after, isn't it—I doubt that they do that.

Mr. LEHMAN. I want to know whether the profit and loss disposable assets are a part of your budgetmaking process with CIA.

I have one other quick question: Looking at the university and college problems, can you tell me how much money the CIA spent on recruitment at various colleges and in which colleges it spent that kind of money?

Thank you very much and my time is up.

Mr. FIELD. Mr. Lehman indicates, and through your answers you indicate, that there are certain things OMB does not know about CIA funding and so forth and whether or not they own stock.

I would like to make a point. This might not just be a matter of a statutory-type restriction.

For example, how many people at OMB spend full time working on the CIA budget?

Mr. LYNN. One.

Mr. FIELD. Out of a total staff of six?

Mr. LYNN. Yes.

Mr. FIELD. How many people spend full time working on the NSA budget?

Mr. OGILVIE. The approximate number?

Mr. FIELD. How many work on the budget?

Mr. OGILVIE. The best answer I can give you is one.

Mr. LYNN. There are fields where, in the opportunities of the people working under the branch chiefs they are walking under each others' curve; when it gets to Paul O'Neill and me we will all be there.

Mr. FIELD. The fellow working on NSA, which is a large and expensive organization—does he spend full time on that, on the NSA budget?

Mr. OGILVIE. I would say just about full time, yes, sir.

Mr. FIELD. Isn't he also in charge for the Navy and Air Force, looking at their consolidated cryptologic program? It is a fairly sophisticated program.

Mr. OGILVIE. He does review that.

Mr. FIELD. He also reviews the advanced programs.

Mr. OGILVIE. We are getting into areas where I think we should go into closed session.

Mr. FIELD. He also reviews the training program.

Mr. OGILVIE. I can only come back to say I would prefer to discuss these and would be happy to in closed session.

Mr. FIELD. My point is, this person OMB has looking at the budget, which is huge with a lot of people and very complex, this one man is not even working on it full time.

Mr. LYNN. I could take you agency by agency, department by department in the Government and show you bigger budgets and equal numbers of programs where the situation is exactly the same.

There may be a reason here.

Chairman PIKE. If the gentleman will yield, how can you do that without telling us how big the budget is?

Mr. LYNN. That is right, and I can't do that until we go into closed session.

Mr. FIELD. I would also point out there are only 6 budget analysts, 11 totally in OMB, who can work on this. I understand analysts for other agencies can use any of the 300 or 400 people at OMB in support of their efforts, whereas these poor guys have to work by themselves and that's it.

What I am saying is that I want to make it clear that OMB really has a very few people working on a large and complex budget. A budget with lots of hidden things and transferred funds and detailed employees working for the Defense Department but also working for CIA.

This poor fellow balances this all out and makes sure it is working all right. You have strange things happening that you don't have elsewhere. It is a very difficult job, it would seem to me, for a very few people.

Mr. LYNN. Mr. Field, I do think it is a worthwhile area to explore as to whether or not, given different requirements here, there should be more. I cannot say at this point there should be, but I think a very legitimate area for us to look at is this area.

If you look at the programs from the standpoint of complexity, if you take it apart from the idea that there may not be other checks and balances, but just complexity of program, size of program, number of programs, what you describe is the situation throughout the OMB.

Mr. FIELD. I would say it is probably much more intensified in this particular area.

Mr. LYNN. That is not true. That is the point I am trying to make to you. As far as somebody in OMB helping the HUD examiners you go over to the new Executive Office Building or the old Executive Office Building and look at the formal quitting time of 5:30. You won't see anybody leaving the place. These people work as hard as anybody in the Government. They don't have time to go over and help somebody else crosscut. They are all busy and working very, very hard.

Mr. FIELD. Other departments the size of NSA would have one part-time person working on that desk?

Mr. LYNN. When we get into closed session, we can give you some comparisons that I think will prove my point well.

Mr. O'NEILL. You should understand the relationship and I think that is made well by the Social Security case. Whatever the number is, for intelligence activities, I think you will find it is hard to believe we are spending \$75 billion as we are in Social Security—and that particular agency has something approaching 100,000 people—and we have one person who has worked in that area.

I think with regard to the statute for Social Security I doubt if there is a person in the whole world who any longer comprehends what is in there.

Mr. FIELD. We researched that and we understand that is a case where he has support from people in OMB. We will be happy to receive back the report on that.

Chairman PIKE. The House is now having a record vote. Before we go over there, I would be very happy to entertain a motion.

Mr. McCLORY. Mr. Chairman, I move the committee do now resolve itself into executive session and I ask for a recorded vote.

Chairman PIKE. The rules require a recorded vote. The clerk will call the roll.

The CLERK. Mr. Giaimo.

Mr. GIAIMO. Aye.

The CLERK. Mr. Stanton.

Mr. STANTON. Aye.

The CLERK. Mr. Dellums.

Mr. DELLUMS. No.

The CLERK. Mr. Murphy.

Mr. MURPHY. Aye.

The CLERK. Mr. Aspin.

Mr. ASPIN. Aye.

The CLERK. Mr. Milford.

Mr. MILFORD. Aye.

The CLERK. Mr. Hayes.

Mr. HAYES. Aye.

The CLERK. Mr. Lehman.

Mr. LEHMAN. No.

The CLERK. Mr. McClory.

Mr. MCCLORY. Aye.

The CLERK. Mr. Treen.

[No response.]

The CLERK. Mr. Kasten.

Mr. KASTEN. Aye.

The CLERK. Mr. Johnson.

Mr. JOHNSON. Aye.

The CLERK. Mr. Pike.

Chairman PIKE. Aye.

Ten ayes, two noes. The committee will go into executive session. While we are voting, I will ask that the room be cleared.

U.S. INTELLIGENCE AGENCIES AND ACTIVITIES

Part 1: Intelligence Costs and Fiscal Procedures

MONDAY, AUGUST 4, 1975

**HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON INTELLIGENCE,
*Washington, D.C.***

The committee met, pursuant to recess, at 10 a.m., in room 2118 Rayburn Office Building, Hon. Otis G. Pike [chairman], presiding.

Present: Representatives Pike, Stanton, Dellums, Murphy, Aspin, Milford, Hayes, Lehman, McClory, Treen, Johnson, and Kasten.

Also present: A. Searle Field, staff director; Aaron B. Donner, general counsel; John L. Boos, counsel; Roscoe B. Starek III, counsel; Roger Carroll, Charles Mattox, Edward Roeder, and Emily Sheketoff, investigators.

Chairman PIKE. The committee will come to order.

We are pleased today to have as our witness the Director of Central Intelligence, Mr. William Colby, who will be testifying today in that capacity. On Wednesday he will assume his other hat and come and testify as the head of the Central Intelligence Agency.

You may proceed, Mr. Colby.

STATEMENT OF W. E. COLBY, DIRECTOR OF CENTRAL INTELLIGENCE, ACCOMPANIED BY MITCHELL ROGOVIN, SPECIAL COUNSEL TO THE DIRECTOR OF CENTRAL INTELLIGENCE

Mr. COLBY. Mr. Chairman and members of the committee, I am pleased to have this opportunity to present to you today the structure of the U.S. intelligence community, and to provide what I hope will prove to be insight into how it is organized and how it operates. I understand that you ask that I focus today on the community as a whole, and turn to CIA specifically on Wednesday. I also understand that you wish especially to cover our budget procedures and the budgets themselves, as a way of investigating the degree of what might be called the command and control of this important activity. I will cover as much as I believe possible in this open session; I will then seek your agreement to cover the remainder in executive session.

I know we will debate the need for such a step, but I would hope we could proceed first with the open part.

"Community" is a particularly apt phrase to describe the structure that performs the important task of providing intelligence to our Government. The intelligence community exists in the same sense as does any other group of people involved in a common endeavor. It is a set of bodies (in this case, Governmental ones) operating within a fairly

well understood procedural framework which enables its members to pursue a common objective: Providing intelligence to those who need it.

COMMUNITY MEMBERS

The intelligence community involves all or part of the activities of several departments and agencies of the executive branch:

The Central Intelligence Agency, Defense Intelligence Agency, the Bureau of Intelligence and Research, Department of State, National Security Agency, Army, Navy, and Air Force military intelligence organizations, Federal Bureau of Investigation, Treasury Department, and Energy Research and Development Administration.

There are, in addition, a variety of intelligence-related activities which, while not a part of the community as such, nonetheless make significant contributions to information available to the overall U.S. intelligence effort. Among these are general reporting from our embassies abroad and the intelligence activities integral to our military force structure, referred to as tactical intelligence.

This community reflects the basic intelligence concept contained in the National Security Act of 1947. This established the Central Intelligence Agency under the National Security Council to advise the National Security Council concerning foreign intelligence activities of the other governmental departments and agencies, to recommend to the National Security Council the coordination of the intelligence activities of other departments and agencies, and to perform services of common concern centrally. It was provided, however, that other departments and agencies should continue to collect, evaluate, correlate, and disseminate what was identified as departmental intelligence, that is, intelligence for department purposes.

The act clearly contemplates the present structure of the agencies and departments working on their own on matters of individual interest but coordinating and collaborating with the Central Intelligence Agency to provide the best service to the National Security Council.

[The National Security Act of 1947, as amended (50 U.S.C. 402, et seq.), and the Central Intelligence Act of 1949, as amended (50 U.S.C. 403), are printed on pages 403-08 and 409-17 the appendixes.]

THE DCI'S ROLE

Under the provisions of a Presidential memorandum issued in November 1971, which was reaffirmed by President Ford, I have been charged to report to the President and the Congress on "all U.S. intelligence programs." Specifically, I am under instructions to assume leadership of the intelligence community; improve the intelligence product; review all intelligence activities and recommend the appropriate allocation of resources.

CONGRESSIONAL OVERSIGHT

The community keeps the Congress informed of its activities through the mechanism the Congress has established: The designated subcommittees of both the House and Senate Armed Services and Appropriations Committees. We appear before these subcommittees to discuss

and report on U.S. foreign intelligence programs and to support the detailed budgetary aspects of the programs. Through formal executive session presentations, testimony, and question and answer sessions, senior intelligence officers provide information to the appropriate level of detail desired by committee members. For example, in considering the fiscal year 1976 intelligence community program now before Congress, I appeared before the Defense Subcommittee of the House Appropriations Committee on six separate occasions—four times on the community program and twice on the CIA budget. In addition, I provided written responses to over 200 committee questions. In addition, Dr. Hall, the Assistant Secretary of Defense for Intelligence, testified on the DOD portions of the community programs and provided written responses to about 200 committee questions.

Various individual program managers provided similar extensive testimony.

I also appear regularly before various congressional committees and subcommittees—in addition to these oversight groups—to provide briefings and intelligence analyses on world affairs. I also maintain daily liaison with the Congress through my legislative counsel and provide substantive inputs to questions as they are raised in the normal course of business.

GUIDANCE

Within the executive branch, there are a number of sources of guidance to the intelligence community. I have direct contact with the President and the Assistant to the President for National Security Affairs. In addition to this personal contact, several organizational mechanisms exist which provide direction or guidance to me as leader of the intelligence community and as the Director of the Central Intelligence Agency:

The National Security Council, consisting of the President, the Vice President, the Secretaries of State and Defense, and, as adviser, the Chairman, JCS—military adviser—and myself as intelligence adviser;

The various committees and groups of the NSC, particularly the NSC Intelligence Committee—NSCIC;

The President's Foreign Intelligence Advisory Board; and

The Office of Management and Budget.

THE NSC MECHANISM

In addition to being an adviser to the National Security Council itself, I am a member of, or am represented on, various NSC groups and committees. In these, I provide information and judgments about foreign developments which impact on national security policy. While my participation is involved primarily with the substance of intelligence, I also receive guidance and important insights concerning the management of the U.S. intelligence effort.

The NSC Intelligence Committee is charged directly with providing direction and guidance on national intelligence needs, and with evaluation of intelligence products from the viewpoint of the user. This committee is chaired by the Assistant to the President for National Security Affairs. Members are the Under Secretary of State for

Political Affairs, the Deputy Secretary of Defense, the Under Secretary of the Treasury, the Chairman, JCS, and myself.

The 40 Committee of the National Security Council provides policy guidance and approval for any CIA activity abroad other than intelligence collection and production—the so-called covert action mission. It is chaired by the Assistant to the President for National Security Affairs. Its members are the Deputy Secretary of State, the Deputy Secretary of Defense, the Chairman, Joint Chiefs of Staff, and me.

THE PRESIDENT'S FOREIGN INTELLIGENCE ADVISORY BOARD (PFIAB)

This Board is the direct descendant of the board of consultants recommended by the second Hoover Commission in 1955. President Eisenhower created the President's Board of Consultants on Foreign Intelligence Activities by Executive Order in 1956. It has been continued by all Presidents since then. The Board, now known as the President's Foreign Intelligence Advisory Board (PFIAB), was most recently continued by President Nixon's Executive Order 11460, dated March 20, 1969. It consists of prominent Americans from outside the Government appointed by the President: Adm. George W. Anderson, Jr., U.S. Navy, Retired, Chairman, Dr. William O. Baker, Bell Labs; Mr. Leo Cherne, Research Institute of America; Dr. John S. Foster, Jr., TRW; Mr. Robert W. Galvin, Motorola; Mr. Gordon Gray; Dr. Edward Land, Polaroid; Mrs. Clare Boothe Luce; Dr. Edward Teller, University of California; and Mr. George P. Shultz, Bechtel. Vice President Rockefeller was a member of the Board until he assumed his present office. Its purpose is to strengthen the collection, evaluation, production, and timely dissemination of reliable intelligence by both military and civilian Government agencies and to assure the President of the quality, responsiveness, and reliability of intelligence provided to policymaking personnel.

The Board operates under a very broad charter which directs it to review all significant aspects of foreign intelligence and related activities in which the Central Intelligence Agency and other elements of the intelligence community are engaged. It reports periodically to the President and makes appropriate recommendations.

THE BUDGET PROCESS

Now, with respect to the budgetary processes, the national foreign intelligence program (NFIP) is formulated on the basis of substantive and fiscal guidance provided by the President, through the Office of Management and Budget. The individual intelligence program budgets which make up the NFIP are developed in accordance with the same guidelines applicable to other Government agency programs—Office of Management and Budget Circular A-11, "Preparation and Submission of Budget Estimates."

Program plans are developed and reviewed by each agency of the intelligence community during the spring and early summer to ensure that the general scope, size, and direction of the plan are in accordance with the objectives and priorities contained in the overall guidance.

These plans are reviewed and approved at the various levels of the member agencies up to the head. They then form the basis against which detailed budget estimates are developed and submitted to the Office of Management and Budget in the fall.

These budget requests are then reviewed in detail by the Office of Management and Budget; by my intelligence community staff; by the Staff of the Assistant Secretary of Defense (Intelligence); and the Comptrollers of Defense and of CIA. Based on these reviews, the approved budget requests for the individual intelligence programs are included within their parent department and agency budgets and form an integral part of the President's overall Federal budget. After consulting with the member agencies, I then provide to the President my independent assessment of the intelligence community resource requests, along with my overall recommendations for the national foreign intelligence program.

My annual recommendations do not constitute a budget in the traditional sense, as I have statutory authority only for the CIA. Rather, in accordance with the President's November 5, 1971 directive, these recommendations represent my view as to the appropriate substantive focus and allocation of resources for the U.S. intelligence effort during the coming 5-year period. The Director has presented three such sets of consolidated community program recommendations to the President and the Congress—for fiscal years 1974, 1975, and 1976.

Once the national foreign intelligence program recommendations are submitted (in early December), they are considered by the President. I then defend the community's portion of the President's budget before the congressional committees, in addition to CIA's, as outlined above.

The national foreign intelligence program is contained in about 20 Department of Defense appropriation accounts and 1 Department of State appropriation account; all of which require annual appropriation by congressional appropriations committees. Of these, about half require annual authorization, which falls under the purview of the Armed Services Committees. I have also participated in these reviews, speaking for the community.

THE INTELLIGENCE COMMUNITY MANAGEMENT STRUCTURE

President Nixon's memorandum of November 5, 1971 was reaffirmed by President Ford's memorandum of October 9, 1974. The President's guidance and direction, enunciated in his November 5, 1971 memorandum, were incorporated into National Security Council Intelligence Directives (NSCID's) in an extensive update and revision of NSCID 1 (basic duties and responsibilities); all other NSCID's were also re-examined, and the entire set was reissued on February 17, 1972. These NSCID's are supplemented by Director of Central Intelligence Directives, or DCID's issued after consultation with the community members, which specify in greater detail the policies and procedures established by the NSCID's. Each agency then develops its internal regulations in conformity with these policies. In addition to creating the NSC Intelligence Committee, the 1971 memorandum directed the creation of an Intelligence Resources Advisory Committee (IRAC).

This committee, chaired by the Director, consists of senior representatives of the Departments of State and Defense, the Central Intelligence Agency, and the Office of Management and Budget. The Director, since IRAC's inception, has invited the Director, NSA and the Director, DIA to participate regularly in the IRAC as observers in their capacity as national intelligence program managers. A representative of the NSC staff also participates regularly as an observer. Other community program managers are invited as appropriate.

The IRAC meets approximately once each quarter, except at the end of the calendar year, when more frequent meetings are needed to formulate the annual budget.

The principal role of IRAC is to advise the Director on (1) the allocation and use of intelligence resources and (2) the formulation of the DCI's national foreign intelligence program recommendations to the president.

Another board, the United States Intelligence Board (USIB) is responsible for providing advice to the DCI on matters of substantive intelligence. It is designed to assist me in the production of national intelligence, establishing requirements and setting priorities, supervising dissemination and security of intelligence, and protecting intelligence sources and methods.

The Board is chaired by the Director and meets weekly. Members include the Deputy Director of Central Intelligence (vice chairman); Director of Intelligence and Research, Department of State; Director, National Security Agency; Director, DIA; and representatives of the Secretary of the Treasury, the Director, FBI, and the Administrator of the Energy Research and Development Administration. The intelligence chiefs of the military services have observer status on USIB and participate in its meetings.

USIB is supported by 14 subordinate committees, organized along functional lines and drawing upon all elements of the intelligence community for membership. These committees also serve IRAC as required.

To assist in assuming the more comprehensive management of the intelligence community called for in the November 5, 1971 presidential memorandum, the President directed that the DCI strengthen his personal staff. This has led to the formation of two groups: The National Intelligence Officer structure and the intelligence community staff.

THE NIO STRUCTURE

The National Intelligence Officers were established in October 1973, replacing the former Board of National Estimates. The group is headed by a deputy to me for NIO's. Each National Intelligence Officer has a specific area of geographic or functional responsibility for which he or she is responsible. Each NIO's *raison d'être* is to provide substantive expertise to support me and to be responsible for insuring that the community is doing everything it can to meet consumer needs. The NIO staff has been kept deliberately austere—each NIO is limited to an assistant and a secretary—on the philosophy that it is the NIO's job to stimulate the community to produce the intelligence, not to do it himself. There are presently eleven NIO's dealing with subjects as diverse as strategic forces, the Middle East, and interna-

tional economics and energy. The NIO's identify the key intelligence questions needing action in their area, review and develop our collection and production strategy, insure that our intelligence is responsive to our customers' needs, and evaluate how well we are performing against our objectives.

THE INTELLIGENCE COMMUNITY STAFF

The IC Staff provides management and evaluation support to the DCI. It is headed by an active duty military officer at the three-star level and is a composite of individuals drawn from CIA, NSA, DIA, active duty military—from all services—and private industry. It is organized into three main divisions: management, planning and resources review; product review; and collection and processing assessment. The titles are descriptive of the functions performed.

MANAGEMENT VEHICLES

Since I do not exercise command authority over the component organizations of the intelligence community—other than the CIA—I rely on a family of management devices to provide guidance, stimulate the proper program direction and balance, and provide a basis for evaluation.

Each year, I issue Perspectives for Intelligence, a document intended to provide a broad framework to guide program development over the next 5 years. Perspectives provide the community with my views of the environment within which the community must prepare to operate. It attempts to identify, in broad terms, where the heaviest demands on the community will come from.

I have also asked that the three major collection programs develop plans to portray the direction each is taking over the next 5 years and to serve to identify major strengths and weaknesses.

Each year, following a very extensive and detailed program development and review cycle, I submit to the President my national foreign intelligence program recommendations. Because of the large concentration of community resources within the Defense Department—over 80 percent—the process leading up to the NFIPR is dovetailed carefully with the defense planning, programing and budgeting process. This document provides the President with my independent view of the national intelligence aspects of the budget he submits to the Congress. The NFIPR is prepared by the IC staff working closely with all members of the community.

Each year I also issue a set of national intelligence objectives and submit them for NSCIC approval. At the end of the year, I submit an annual report to the President on community performance against these objectives.

These are supplemented by key intelligence questions issued by me after consultation with the U.S. Intelligence Board and the national intelligence officers. These focus the national intelligence effort on the main problems the Nation faces in the world.

This extensive management structure focuses, of course, on the objectives and programs of the intelligence community. It also provides a basis for evaluation of the effectiveness of the community on a regu-

lar basis. The detailed financial auditing and controls are conducted within the member agencies of the community, however, according to their specific departmental regulations. On Wednesday, I will discuss this in some detail with respect to CIA. The other members of the community have extensive audit and review structures, which will be addressed tomorrow by Dr. Hall, the Assistant Secretary of Defense for Intelligence, and by other agencies as they appear before you.

You are interested, I know, Mr. Chairman, in what this process produces in terms of budgets. I am also interested in showing you what it produces in terms of results—the best intelligence in the world. As an introduction to these subjects, I would like to illustrate the intelligence problem our country faces. We live in a free society, which means that much of the information about our society is freely available. This chart shows rather graphically, I believe, the comparison between the kinds of material which are freely available in our society but which are carefully controlled in the Soviet Union.

[The chart referred to follows:]

FREEDOM OF INFORMATION ON POLITICAL & ECONOMIC INTELLIGENCE

in U.S.		in U.S.S.R.	
	FREE	CONTROLLED	
Newspapers	X		TASS
Wire Services	X		Radio (FBIS Monitored)
Radio-Television	X		Books
Journals & Magazines	X		Magazines
Books	X		Newspapers
Government Publications	X		International Commerce
Economic Info. Services	X		
Congressional Hearings	X		
Professional & Cultural Exchanges	X	X	Professional & Cultural Exchanges
International Organizations & Negotiations	X	X	International Organizations & Negotiations
Government Exchanges	X	X	Government Exchanges

We have some controlled information also, and I believe we must have. But the availability of full and accurate information about our country should not lead us to think that the world follows our example. For instance, it is clear that Tass produces only what the leadership wants it to produce. Radio Moscow says and shows only

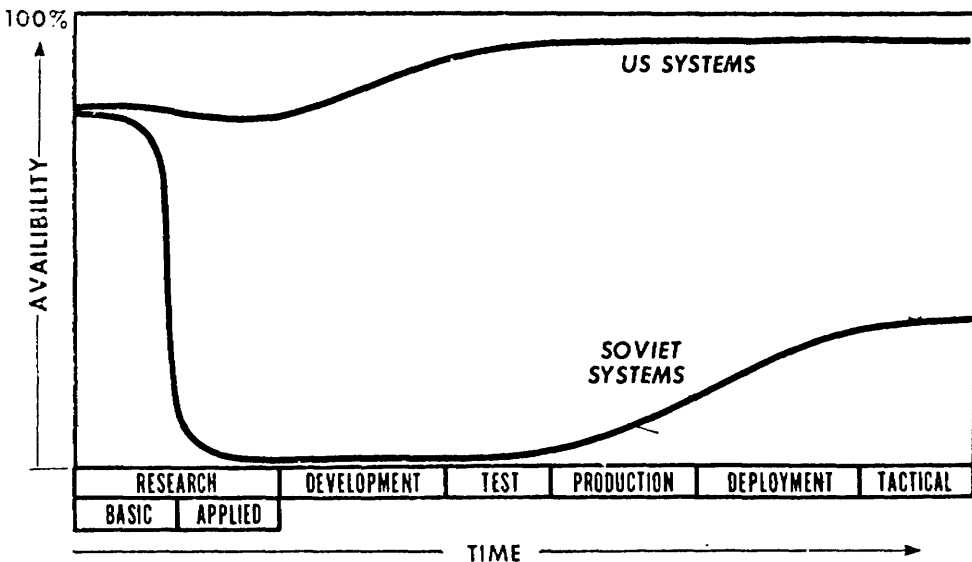
what is selected, and Soviet books, magazines and technical journals reveal only what has been approved. Our intelligence budget is how we overcome this difference in the availability of information. We read what is made available, but we must learn more than that if we are to protect our country.

This chart gives a conceptual representation of our problem. It compares the availability of open information about United States and Soviet weapons systems during the different stages of their development and deployment. As you can see, the U.S. process is not entirely revealed, but a large amount is reflected in our technical journals, in our congressional hearings and debates, and in the press at large. On the Soviet side, much of the basic research is published and included in scientific exchanges. Applied research, however, and the subsequent stages of test, development and deployment are conducted with only a slight degree of visibility.

[The chart referred to follows:]

US/USSR Weapons System Evolution

AVAILABILITY OF INFORMATION

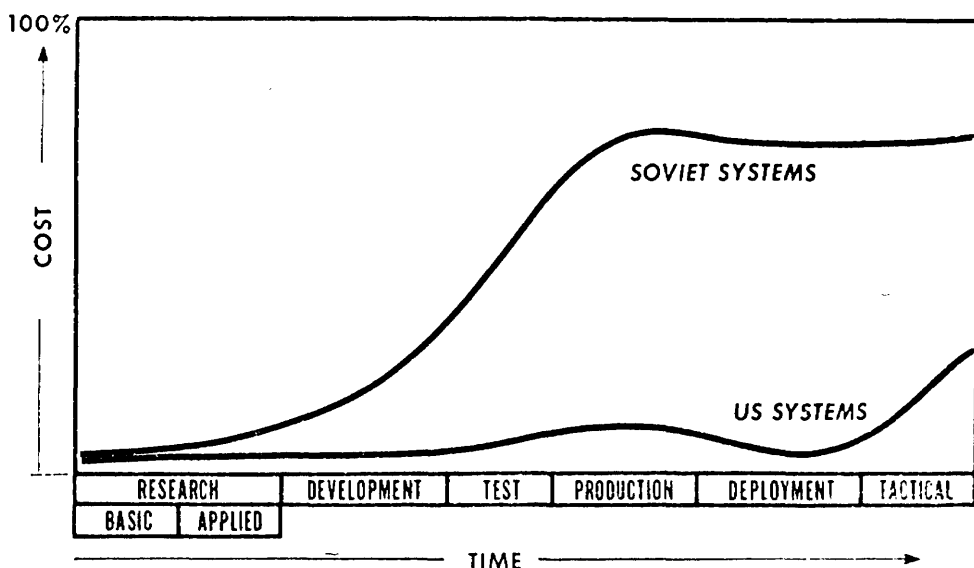


This next chart, again conceptual rather than specific, shows what this means in intelligence budgets, how much must be spent by each nation to learn what it must know about the other. Because of the free availability of much of our information, small expenditures are needed on the Soviet side, and their major expenditures are thus placed on the tactical coverage of the possible use and disposition of our weapons systems.

[The chart referred to follows:]

US/USSR Weapons System Evolution

COST TO ACQUIRE INFORMATION



This is reflected in their extensive use of signals intercept ships and their other ways of closely following the tactical movements of our forces. On our side, however, we must commit the substantial budgets I will discuss with you, to be able to determine the subjects of their applied research, the characteristics of the weapons systems being developed, and their production and deployment rates. Without these funds, we would be unaware of many of these steps. We could face the surprise with which the world received the news of the first Sputnik. We would be years behind in the development of appropriate countermeasures to a new weapons system. We would have large areas of uncertainty about Soviet forces which could argue for excessive U.S. defense expenditures as insurance.

Most of all, we would be unable to negotiate, agree upon and monitor limits on such systems such as SALT to bring about a more stable world.

In this investigation, Mr. Chairman, you will discover the revolutionary advances which have been made in our technical, analytical and operational intelligence activities by the member agencies of the intelligence community. I believe you will find these investments necessary to our country, they are products of great value, and the budgets carefully managed and proper.

Now, Mr. Chairman, with respect to the specific figures of the community budget, I regret that I must ask you to go into executive session for this aspect of my testimony.

On July 25, at your request, you were briefed with respect to the budget of the intelligence community in general and that of the CIA in particular. I would be pleased to give a similar briefing to all mem-

bers of the committee and answer any questions they may have. I respectfully request, however, that such testimony be given in executive session.

In making this request, I am mindful of the need for the intelligence community to win the confidence of the American people, and I am aware that a request to present a portion of my testimony "behind closed doors" appears to run counter to such an objective. Nonetheless, I believe the request is in conformity with the Constitution, the laws, and the long-established congressional procedures. I also believe it proper and just.

As you know, I am bound by law to protect the foreign intelligence sources and methods of this Nation. (50 U.S.C.A. § 403(d)(3); § 403(g); 18 U.S.C.A. § 798; E.O. 11652, March 10, 1972.) I am, like the members of this committee, bound by my oath of office and by my own conscience to carry out the duties assigned to me—including that one—as fully and effectively as possible. The issue of whether the budget should remain secret is a fair one for debate, and I welcome this opportunity to be heard on it.

It is clear from the legislative history of CIA's enabling legislation that the Congresses of the post-World War II period believed that the financial transactions related to intelligence simply had to remain outside of public gaze. Subsequent Congresses have consistently reaffirmed that position over the years—most recently in the Senate last June, when a proposed amendment requiring release of an annual budget figure for intelligence was rejected by a vote of 55 to 33. Both Houses of Congress have also adopted internal rules designed to provide for a combination of detailed congressional oversight of Agency activities and maximum protection of sensitive information about intelligence operations.

Existing laws and procedures are a focal point of your current investigations and hearings. When this committee and the Senate Select Committee complete their proceedings and submit their recommendations, the Congress may decide to change the ground rules under which we operate.

If this happens, we will of course conform. But I must testify that I believe the Agency's budget must be kept secret and that revealing it would inevitably weaken our intelligence.

Many have contended that the secrecy of the Agency budget is in conflict with article 1, section 9, clause 7, of the Constitution, which states that "No money shall be drawn from the Treasury, but in Consequence of Appropriations made by law; and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time." (As noted by the Supreme Court in *United States v. Richardson*. — U.S. —, 41 L. Ed. 678 (1974), "Congress has taken notice of the need of the public for more information concerning governmental operations but at the same time it has continued traditional restraints on disclosure of confidential information. See: Freedom of Information Act, 5 U.S.C. § 552; *Environmental Protection Agency v. Mink*, 410 U.S. 73 (1973)" at 687.)

In fact, that very clause of the Constitution was settled on after debates in the Constitutional Convention that are part of another, less widely understood American practice—that concealment of certain

expenditures can be in the public interest. The so-called "Statement and Account" clause just quoted was not part of the original draft. The language first suggested by George Mason would have required an annual account of public expenditures.

James Madison, however, argued for making a change to require reporting "from time to time." Madison explained that the intent of his amendment was to "leave enough to the discretion of the Legislature." Patrick Henry opposed the Madison language because it made concealment possible. But when the debate was over, it was the Madison view that prevailed. And the ability of the drafters of the Constitution to envisage need for concealment is further indicated by article 1, section 5, clause 3: "Each House shall keep a journal of its proceedings and from time to time publish the same, except such parts as may in their judgment require secrecy."

The option of confidential expenditures was given to Congress; it was first exercised at the request of President Washington, who in his first annual message sought a special fund for intelligence activities.

Congress agreed and provided for expenditures from the fund to be recorded in the "private journals" of the Treasury. A later Congress passed a secret appropriation act providing necessary funds to enable President Madison to take possession of parts of Florida. President Polk used secret funds to send "ministers" to Central America to gather information. Many aspects of budgets have been kept confidential throughout our history and intelligence activities have consistently received special treatment. In this respect, they are similar to other well-established American secrets—of the ballot box, of grand jury proceedings, of diplomatic negotiations, and many more. If secrecy is required to enable an important process to work, we Americans accept it. Intelligence is such a process—it is important to our country, and it will not work if exposed.

Confidentiality about information having to do with intelligence organizations and their activities is a worldwide practice. A check on our part has not turned up even one example of a government that publishes its intelligence budget. There are intelligence organizations in Western democracies that are not in any way accountable to their legislatures. Indeed two newspaper editors were jailed in Sweden a couple of years ago for publishing the fact that Sweden has an intelligence service and that it had relations with the United States.

I do not refer to these foreign examples to urge that we copy them. We Americans want a responsible American intelligence service. Thus, CIA's practice is far different from the foreign examples. Our relationships with the Hill have been close over the years and oversight is far more extensive than may be realized. As the 94th Congress has organized itself, four subcommittees with a total of 38 Members have oversight responsibilities for CIA.

Under existing guidelines, operational activities are reported solely to them (except that, pursuant to Public Law 93-559, ongoing covert actions are also reported to the two foreign relations committees). I hold no matters secret from the oversight committees; instead, I have and exercise a responsibility to volunteer to them matters of possible interest. On substantive intelligence questions, I appear before many committees—notably those dealing with military and foreign affairs, atomic energy, space and economics.

In the first 7 months of this year, I appeared personally before congressional committees some 39 times. So far as the Agency budget alone is concerned, I have made two presentations to the Defense Subcommittee of the House Appropriations Committee and one each to the congressionally designated subcommittee of the House Armed Services, Senate Armed Services and Senate Appropriations Committees. Additionally, I reported to them on the community budget. And my formal budget appearances are only the most prominent part of the fiscal exchange.

I frequently answer questions on the budget during appearances on other matters. A very large number of my subordinates brief congressional bodies on various aspects of their activities. In connection with appropriations processes, we have so far provided written answers to well over 100 congressional questions on the fiscal year 1976 budget for this Agency.

My emphasis on the worldwide and American practice of treating intelligence budgets as secret is not an argument for concealing the CIA budget from a strong oversight mechanism. This I have welcomed on many occasions, as I believe it an important element of the responsible intelligence service we Americans must have. The better the external supervision of CIA, the better its internal management will be, to the benefit of all Americans.

Instead, the need for a secret budget reflects the widespread conviction on the part of intelligence professionals, grounded in their intelligence experience, that public revelation of fiscal information would inevitably hurt our intelligence effort. The publication of a total budget figure for a single year, without more, might not be thought to be a calamity. But limiting the public record in that way is not practical. The precedent would be established under which we would at the very least have to reveal a budget total every year. A trend line would be established, and a not-so-hypothetical intelligence analyst in another country would have something to work with. And there are intelligence analysis techniques which could easily be applied to such data.

Look at this problem as we in intelligence look at foreign problems. For example, the Chinese have not published the value of their industrial production since 1960. But they have published percentage increases for some years without specifying the base, both for the nation and most of the provinces. It took one key figure to make these pieces useful: When the Chinese publicly reported that the value of industrial production in 1971 was 21 times that of 1949, a figure which was public at the time. We could then derive an absolute figure for 1971. With this benchmark, we could reconstruct time series both nationally and province by province. If we begin releasing intelligence budget figures, others will be able to take scraps of information about the Agency and generally known financial trends such as inflation, and use a similar kind of analysis to draw conclusions or even identify hypotheses that would put some of our operation in jeopardy.

For example, let us look at the development of the U-2. Our budget increased significantly during the development phase of that aircraft. That fact, if public, would have attracted attention abroad to the fact that something new and obviously major was in process. If it had been supplemented by knowledge (available perhaps from technical magazines, industry rumor, or advanced espionage techniques) that funds

were being committed to a major aircraft manufacturer and to a manufacturer of sophisticated mapping cameras, the correct conclusion would have been simple to draw. The U.S. manufacturers in question, their employees and their suppliers and subcontractors would have become high priority intelligence targets for foreign espionage.

And I have no doubt that the Soviets would have taken early steps to acquire a capability to destroy very high altitude aircraft—steps they did indeed take, with eventual success, but only some time after the aircraft began operating over their territory—that is, once they had knowledge of a U.S. intelligence project.

Moreover, once the budget total was revealed, the demand for details probably would grow. What does it include? What does it exclude? Why did it go up? Why did it go down? Is it worth it? How does it work?

There would be revelations—even revelations of facts not in themselves—particularly sensitive but which would gradually reduce the unknown to a smaller and smaller part of the total, permitting foreign intelligence services to concentrate their efforts in the areas where we would least like to attract their attention.

We—and I specifically mean in this instance both intelligence professionals and Members of Congress—would have an acute problem when the matter of our budget arose on the floor of the House or Senate. Those who knew the facts would have two unpleasant choices—to remain silent in the face of all questions and allegations, however inaccurate, or to attempt to keep the debate on accurate grounds by at least hinting at the full story.

My concern that one revelation will lead to another is based on more than a “feeling.” The atomic weapons budget was considered very sensitive, and the Manhattan project was concealed completely during World War II. With the establishment of the AEC, however, a decision was made to include in the 1947 budget a one-line item for the weapons account. That limitation was short-lived. By 1974, a 15-page breakout and discussion of the atomic weapons program was being published. Were the intelligence budget to undergo a similar experience, major aspects of our intelligence strategy, capabilities and successes would be revealed. The obvious result would be a tightening of security practices by hostile, secretive, closed foreign nations to deprive us of the knowledge we would otherwise obtain about their plans and capabilities to hurt us and our allies.

In summary, Mr. Chairman, I have tried to view this question dispassionately, as both an American and an intelligence official. I would like to be able to tell the American people about our activities. There is a great deal about the best intelligence service in the world we would be proud to tell, to bring into perspective what we have had to say recently about the missteps or misdeeds of the past. I am a long way from being an advocate of secrecy for the sake of secrecy; we have deliberately opened as much of our intelligence effort for public inspection as we can—during this last year, for example, we have briefed and answered the questions of some 10,000 members of our public, from community leaders to the press, to visiting high school groups.

But I do not believe that there is any constitutional or legal requirement that our budget be publicly revealed. Doing so would inevitably hurt our intelligence product. It is reviewed privately in

depth and in detail in the executive branch and in the appropriate committees of the Congress. Knowledge of the Agency budget would not enable the public to make a judgment on the appropriateness of the amount without the knowledge of the product and the ways it is obtained. And such exposure to our citizens could not be kept from potential foreign foes, who, thus alerted, would prevent us from obtaining the intelligence opportunities we need to protect ourselves in the world today. We have lost intelligence opportunities through exposure already. I believe it is my job under the statute to prevent this, so I urge that our intelligence budgets be kept secret and be discussed by this committee only in executive session.

Mr. COLBY. Thank you, Mr. Chairman. I would be glad to answer your questions.

Chairman PIKE. Thank you very much, Mr. Colby. You have certainly given us a very fine and broad overview of the intelligence community. You state, and I would tend to agree with you, that we have the finest intelligence-gathering operation in the world. Do we know what the Soviets spend for intelligence?

Mr. COLBY. We have some very rough estimates, Mr. Chairman, but we do not have anything I could give you as very solid. We make estimates from what we can see of their intelligence activities. The people we see abroad, their technical operations that appear in the world, and so forth.

Chairman PIKE. When you say "very rough," are they rough plus or minus \$1 billion, or are they rough plus or minus \$100 million; what do you mean by "very rough"?

Mr. COLBY. There is an asymmetry in the intelligence activities of the two countries that makes it very hard to compare them. The KGB is a combination of the CIA, FBI, and the State police of the various States. It is a very large institution in the Soviet Union. It has a foreign intelligence mission as well, of course. It is supplemented by the G.R.U., the military intelligence organization which conducts a large intelligence effort both abroad and through technical devices.

Chairman PIKE. Well, I heard what you said——

Mr. COLBY. I can't really——

Chairman PIKE. You didn't answer my question. I am asking you for a frame of reference as to how closely we can estimate their intelligence budget.

Mr. COLBY. Well, we did make a rough estimate of how many people might be involved in intelligence in the entire Communist world. That includes both the Soviets and the others, although the Soviets are the major element. It came in the neighborhood of 500,000 people.

Chairman PIKE. All right; 500,000 people, roughly. And that is our estimate of their intelligence effort. Do you think the Soviets know what our intelligence effort is?

Mr. COLBY. They know a good deal about it, from the various books that have been published by ex-members of the intelligence community.

Chairman PIKE. Do they have a pretty fair idea of what it costs?

Mr. COLBY. I think they have some estimates, but, no, I do not think they know precisely what it costs.

Chairman PIKE. I didn't say precisely. I said a pretty fair idea of what it costs.

Mr. COLBY. Well, I think they have the same problem that we do. Mr. Chairman, where does intelligence stop and operations begin? There are estimates——

Chairman PIKE. Now we get into another area, which is a question of definition. I agree with you that is a very major problem. I was a little surprised to find the other day that the Director of the Bureau of the Budget couldn't understand the question as to what is included in intelligence gathering and what is excluded. But my point is simply this: We can make estimates about how many people the Soviets have in intelligence-gathering operations; we are a tremendously open society and the Soviets probably make pretty accurate estimates about what we are spending for intelligence. So in the final analysis, the people who really don't know it are the taxpayers who are paying for it, in the United States of America.

Don't you think really that the Soviets have a far better estimate of what we are spending for intelligence than the average taxpayer in America has?

Mr. COLBY. I think they have put a great deal of time and attention trying to identify that, and they undoubtedly have a better perception of it than the average taxpayer who just takes the general statements he gets in the press. But—and that comes from the careful analysis of the material that is released. This does help you get a more accurate estimate of what it is. But there are still things in our budget that are clearly concealed, and it would be a surprise to the Soviets.

Chairman PIKE. Believe me, I don't doubt for a minute there are things in our budget that are clearly concealed. You say at one point in your testimony that the foreign intelligence budget, I think it was, is found in some 20 different appropriations requests. Well, that not only conceals this foreign intelligence budget but it also makes all of these other figures in which it is concealed inaccurate, does it not?

Mr. COLBY. Well, they are in general terms. Generally, most of them are defense expenditures and most——

Chairman PIKE. Yes, but they are not defense expenditures for the purpose for which the budget says they are defense expenditures, are they?

Mr. COLBY. In all cases, no, there are certain expenditures——

Chairman PIKE. So not only are you concealing your own budget, but you are fuzzing up all of the items in which these concealed items are hidden so that they are wrong too; is that not correct?

Mr. COLBY. And the Appropriation Committees of the Congress know about this and they are informed, specifically the Appropriations Committees that handle these matters.

Chairman PIKE. Mr. McClory.

Mr. McCLORY. Thank you, Mr. Chairman.

I want to join in commending you, Mr. Colby, on the excellence of your presentation, the very helpful manner in which you have approached this problem that we have jointly here——

Mr. COLBY. Thank you.

Mr. McCLORY [continuing]. Of our investigation and your problems of trying to cooperate and yet guard, as you must, the secrecy and confidentiality of much of the work that you carry on. I would judge that the American citizens know far more about their intelligence activities and the costs than the Soviet citizens know about their KGB.

Mr. COLBY. And the citizens of any other country in the world, Mr. McClory.

Mr. McCLORY. Right. And that the American citizens probably know more about the KGB than the Soviet citizens know about their own KGB.

Let me say this with respect to the major projects that are carried on, such as the U-2, and we have heard more recently about others, the CIA doesn't carry these activities on independently of authority from either the President or the President knowing about it or approving it or at least having available to him knowledge and the opportunity to approve or disapprove?

Mr. COLBY. Certainly, any major project may actually be taken to the President. Certainly the expenditures, the budgets covering a variety of smaller projects are explained and justified to the Office of Management and Budget and to the National Security Council.

Mr. McCLORY. Would you regard the U-2 operation, for instance, as extremely valuable to our country as far as our national security is concerned?

Mr. COLBY. It not only was a breakthrough in our judgment of things in the Soviet Union from 1956 to 1960, a very large breakthrough in our knowledge of certain things there, it has been extremely useful ever since and is still being used.

Mr. McCLORY. We have heard more recently about another major project which is described as the *Glomar Explorer*. You have heard of that operation, haven't you?

Mr. COLBY. I have heard about it, Mr. McClory. I am not at liberty to talk about it.

Mr. McCLORY. Would you place that in the same category as the U-2 as far as its value for national security purposes; could you answer that?

Mr. COLBY. I think I would rather just ask your permission not to discuss this in public session.

Mr. McCLORY. Very well.

Mr. COLBY. I certainly would be prepared to discuss anything of this nature in executive session.

Mr. McCLORY. It seems to me that one of the major objectives of this committee is not only to try to find out what our intelligence operations are costing and to determine whether or not we are getting value for what we are spending, but also to see if we can't improve the community so that it operates much better as a coordinated operation. Do you feel that there is opportunity for improving the overall intelligence operations?

Mr. COLBY. There are always things that can be improved in any large organization, in operations such as this. Second, the technology is advancing, the problems of the world are changing, and we have to make our community flexibly respond to those changes.

Mr. McCLORY. Isn't it a fact that the defense intelligence units, the Air Force, Army and Navy, operate quite independently of the CIA and their budgets are developed independently or not in the same kind of coordinated way with you, as the nonmilitary intelligence activities?

Mr. COLBY. No. I participate in a review of the military intelligence budgets and I make independent recommendations to the President about them. In the actual working, day-to-day working, there is an extensive effort to bring the working levels of the agencies together on both the CIA and the DIA.

Mr. McCLODY. You are satisfied with the way they operate and the way they manage the financing of their operations, are you?

Mr. COLBY. I have no major problem. Certainly there are differences of opinion which come up from time to time on minor things, but I think the broad range of it works very well.

Mr. McCLODY. Don't you think it is time for another Schlesinger committee or another Katzenbach committee to review the manner in which the intelligence community is operating and to try to get it to work a lot more efficiently and a lot more cooperatively in order to get better results from the intelligence activities that are carried on?

Mr. COLBY. I think that review is going to be conducted by this committee and by the Senate select committee in the coming months, very clearly. I think that in the course of this review, the committees will be informed of the excellent degree of coordination and cooperation that does exist in the intelligence community, the changes that have been made in recent years, and it may identify a few additional changes that need to be made. I wouldn't have any problem with that. But I think you will be impressed with the fact that it has moved ahead very vigorously.

Mr. McCLODY. Thank you, Mr. Chairman.

Chairman PIKE. Mr. Stanton.

Mr. STANTON. Thank you, Mr. Chairman.

Mr. Colby, who pays for the expenses of the intelligence community? Not for the CIA, but for the community.

Mr. COLBY. The community staff is paid from the CIA budget. It is a part of the CIA budget.

Mr. STANTON. About 99 percent—the expenses are about 99 percent paid by the CIA; is that correct?

Mr. COLBY. Of that particular staff. It is a very small staff, as Government staffs go, Mr. Stanton.

Mr. STANTON. Where is the community operation located?

Mr. COLBY. It is located—it is located in the CIA Headquarters in the sense that the staff is centered there, but we expend quite a bit of effort wandering around to the other areas—

Mr. STANTON. That is in Langley, Va.?

Mr. COLBY. Yes.

Mr. STANTON. How many committees does the intelligence community's U.S. Intelligence Board have?

Mr. COLBY. Well, there are the three main committees there, the U.S. Intelligence Board and—

Mr. STANTON. The total number.

Mr. COLBY. The three main committees that I mentioned.

Mr. STANTON. Aren't there 13?

Mr. COLBY. There are 13 subcommittees of the U.S. Intelligence Board.

Mr. STANTON. Fine. Of those 13 committees, how many chairmen are CIA employees, and how many represent the rest of the community which by your own statement spend 80 percent of the intelligence dollar?

Mr. COLBY. They all have representatives of all the agencies that are affected by that problem on them.

Mr. STANTON. What is—the question is, how many chairmen are CIA employees, and how many represent the rest of the community, which by your own statement spends 80 percent of the intelligence dollar?

Mr. COLBY. Most of the committees are headed by CIA employees or ex-employees.

Mr. STANTON. Is it not a fact that 12 of them are headed by CIA, one of them—is it not a fact?

Mr. COLBY. No; I think there are at least two. One is headed by a——

Mr. STANTON. Is Mr. Don Moore, a retired FBI, the only exception to that?

Mr. COLBY. No; there is one committee which is headed by General Wilson, who is presently—it is presently headed by General Wilson.

Mr. STANTON. And he had no previous CIA affiliation?

Mr. COLBY. Well, he is an active-duty general in the U.S. Army.

Mr. STANTON. He took over—when did he take over?

Mr. COLBY. He took over about a year ago.

Mr. STANTON. About 2 days ago, did he actively take over his committee?

Mr. COLBY. No, no; he has been the head of the Human Sources Committee——

Mr. STANTON. OK, 11 out of 13. Is Dr. Foster, a member of the TRW Corp., a member of the President's Foreign Intelligence Board?

Mr. COLBY. Yes.

Mr. STANTON. Isn't it also true that TRW employees serve as staff members for the U.S. Intelligence Board?

Mr. COLBY. As staff members?

Mr. STANTON. That is correct.

Mr. COLBY. I can't think of any offhand, but I know we occasionally make contracts and analysis contracts with various corporations, and I wouldn't be sure one way or the other whether TRW has——

Mr. STANTON. Would you refresh your recollection when you go back and supply that answer for the record?

Mr. COLBY. Certainly.

[The CIA subsequently advised the committee that no TRW employees serve as staff members for the USIB.]

Mr. STANTON. Moving from the Intelligence Board to the other major group that serves the community, the Intelligence Resources Advisory Committee. I understand it has no committees. So my question is, how many full-time staff does it have?

Mr. COLBY. Very few. It has—part of the intelligence community staff services that committee.

Mr. STANTON. Would you say two and then maybe about four part time?

Mr. COLBY. Yes; something on that scale, yes, more or less. It is merely designed to gather things together and surface issues.

Mr. STANTON. Right. Are they both full-time CIA employees even though CIA represents only 15 percent of the community's resources?

Mr. COLBY. The members of the Board are the——

Mr. STANTON. Answer the question directly, Mr. Colby. Are they both full-time CIA employees?

Mr. COLBY. One of them was—has only recently joined CIA, the principal——

Mr. STANTON. Are they both?

Mr. COLBY. They are carried on the CIA budget.

Mr. STANTON. Thank you.

Mr. COLBY. Yes.

Mr. STANTON. You answer the question.

Mr. COLBY. They are carried on the CIA budget for convenience.

Mr. STANTON. Thank you. Where are their offices?

Mr. COLBY. In Langley.

Mr. STANTON. At the CIA Headquarters?

Mr. COLBY. Yes; and they work for me as Director of Central Intelligence, and they do not work for me as the Director of the CIA.

Mr. STANTON. Right. Mr. Colby, isn't the intelligence community concept just a sham, just a way to keep the CIA's budget small by putting the dollars into some other department's budget, particularly the expensive equipment dollars, but all the while making sure CIA controls the whole thing by means of this so-called intelligence community structure?

Mr. COLBY. No; it is not so, Mr. Stanton. The CIA has a function, particular function, of clandestine collection, of analysis, and of some of the more venturesome and further out scientific endeavors. These are the main functions that CIA focuses on. It does not involve the large expenditures that involve the entire intelligence community effort. The intelligence community concept is an attempt to insure that the activities under the military which are undertaken for military reasons are coordinated with the other intelligence activities, so that we do not look at just a part of the pie, but we look at the whole pie.

Mr. STANTON. Isn't it true, though, that, Mr. Colby, you in fact in your dual capacity exert the primary influence and control over all of these activities by the intelligence community and that the original design was set up by your predecessors?

Mr. COLBY. The President's directive to me is to take leadership of the community, and certainly I consider that as an obligation, but I do not control the whole community by a long shot. My job is to get it to work together well, and this is in conformance with the concept of the National Security Act of 1947 which sets up the function of the Central Intelligence Agency and its Director as a centralizing work but allows the different departments to do departmental intelligence also.

Mr. STANTON. My time is up.

Chairman PIKE. Mr. Dellums.

Mr. DELLUMS. Thank you very much, Mr. Chairman.

Mr. Colby, I have a series of questions that I would like to ask you, most of them will probably—you will not be able to answer in open session as I begin to sense a pattern of responses.

Mr. COLBY. Right.

Mr. DELLUMS. I am sure over today and Wednesday we will have ample opportunity to raise many of these questions but I would like to just start off with a few extemporaneous remarks that you have made.

Mr. COLBY. Right.

Mr. DELLUMS. First of all, you indicated that the American people know more about their intelligence budget than any other foreign government. I would like you to explain that.

First of all, of 435 Members of Congress, only a handful of people are on the Special Select Subcommittee of the House Armed Services Committee that never reports to the full committee on whatever you talk to them about. You report to a special subcommittee of the Appropriations Committee that never reports to the full Appropriations Committee; thereby the full House of Representatives never receives this information, because of compartmentalization, secrecy, need to know, classifications above and beyond the three lawful classifications, where the highest one is top secret. Can you tell me how you can justify making a statement that the American people know about their intelligence community when I would daresay that the 13 of us here know little or nothing about the intelligence community? How can the American people know about their intelligence community when we don't even know what the overall budget figure is and have to use someone's outside estimated budget of the total amount of the taxpayer's dollars going into the intelligence community? That is to say nothing of all the myriad of programs, projects, and missions that are carried out, on a daily, weekly, monthly, and yearly basis about which we know nothing. How can you justify this statement beyond its simply being a rhetorical statement?

Mr. COLBY. Because we responded to the requirements of the Congress and the way the Congress has organized itself to handle these delicate secrets. We have reported to these committees in the forms that they have asked. We are also, the American public, of course, has also benefited from a vast number of leaks and statements about the size of the intelligence budget and what it does. Some of those leaks have hurt us rather badly, some of them have merely served to inform the population generally of what our general activities are.

Mr. DELLUMS. I have two follow-on questions, but the first one that comes to mind is, have you ever leaked any information?

Mr. COLBY. Have I ever leaked any information?

Mr. DELLUMS. Yes.

Mr. COLBY. Not consciously, no.

Mr. DELLUMS. Second. I am sure that you would agree with me—

Mr. COLBY. I have declassified a lot of things in public sessions, among other things. Now, if that's leaking, I don't know. I don't want to get into a definitional problem here.

Mr. DELLUMS. My next question is, I am sure you would agree with me there is validity to these hearings, that we have a right to raise these questions with you?

Mr. COLBY. Absolutely.

Mr. DELLUMS. The Constitution requires that we oversee?

Mr. COLBY. Absolutely.

Mr. DELLUMS. Now I have one other question before I get into my specific questions with respect to your role, and it never came clear to me in the press, with the very large budget as Director of Central Intelligence, and with I am sure an awesome army of attorneys, why is it that you employed a private attorney with Government funds? I am sure that you have a battery of attorneys that could fill this entire room to provide you with information? I would like very much to know why a public agency responding to a public body is using a private attorney in these proceedings.

Mr. COLBY. I can answer that with great pleasure. We do not have a large army of attorneys in the Agency. It would not fill this room, the number we have. We do have—

Mr. DELLUMS. Do you have access to the Justice Department, which is a Federal executive agency?

Mr. COLBY. We have access. Our attorneys—our general counsel's office these days is completely occupied in responding to the Freedom of Information requests, of which we now have something like 5,000 pending. It is engaged in a series of legal cases around the country that have been brought against us and it was not able to man itself satisfactorily to handle the enormous increase in our legal problems here in the past year.

Mr. DELLUMS. Thank you.

Mr. COLBY. Therefore I went out and deliberately thought it would be useful to engage an outsider who could come in and look at our problems from the fresh look of the outside, and I think I have gotten an extremely able and capable man, and I am very happy that we have done so. We checked this out with the Department of Justice before we did it, and the Civil Service Commission. We found no inhibition against doing so.

Mr. DELLUMS. Thank you. The reason that these hearings are taking place is because what you call leaks were made to the press. Just for a moment not even questioning that, let's assume that in a free society, a democratic society, that the freedom of the press is very important. This is the same press that opened up the falsehoods of our involvement in Vietnam, opened up Watergate, opened up the impeachment and perhaps in front of us now are opening up the abuses of the intelligence community. Would you not agree that in a democratic society the press has a responsibility when they have information with respect to abuses that would force you to be accountable to the American people in a free and open society, that they would print those accounts and our responsibility would be to follow up as to whether those allegations are legitimate and your responsibility is to respond to us?

The information that I have is, if no one ever opened this process up, many of these abuses might still be going on, and the intelligence community would continue to be shrouded in secrecy.

Mr. COLBY. I have two points to make on that, Mr. Dellums.

Yes, I do believe that the first amendment and the role of the press in America is an important part of the way we like to run our country. That is the reason we like to serve it because I believe in that kind of a country.

The second thing is that these investigations are occurring because of some leaks that did occur but I think an investigation, in your investigation, you will find that the various things that were done wrong

in our past were looked at by the Intelligence Agency itself in 1973, and that in that process we looked back at things and we corrected possible misdeeds. We did not need the outside stimulus to correct ourselves. We are getting the outside attention at this time because that experience eventually leaked.

Chairman PIKE. Mr. Kasten?

Mr. KASTEN. Mr. Colby, it is my understanding that no funds can be spent on a covert action project like bribery or sabotage or surreptitious entry unless such a mission is approved by the National Security Council.

Is that correct?

Mr. COLBY. There were two steps in that, Mr. Kasten. First, the previous rule was that any activity, any politically sensitive or major activity other than intelligence gathering would have to be approved by the committee of the National Security Council. Since last December there is a provision of law that says that no activity can be conducted by CIA other than intelligence collection abroad, unless it is found by the President to be important to the national security, and second, is reported to the appropriate committees of the Congress.

We are in conformity with that law today.

Mr. KASTEN. So the CIA would be violating that law if one of CIA's employees ordered one of those missions on his own; is that correct?

Mr. COLBY. Either the CIA or the individual would be, yes.

Mr. KASTEN. Our staff has interviewed a CIA employee who served in the White House in recent years as a staff member of the National Security Council. He was not the CIA liaison man to the National Security Council staff. I want to quote from that staff interview without at this time revealing his name.

To begin with, Mr. X would remain on the CIA payroll. This arrangement was evidently dictated by a rather small NSC budget at that time, and I might add parenthetically that he remained on the CIA payroll of the Covert Action Section of the CIA.

Continuing on—Mr. X often had occasion to author draft recommendations for United States action in given areas. This draft would be cleared through Mr. X's immediate supervisor and sent to Dr. Kissinger who would then pass on the recommendation and send it to the President for his approval.

Now comes the important part: These recommendations at times included covert action projects.

Mr. Colby, you are aware that nonintelligence covert action is illegal unless it is something and I quote from the law: "the National Security Council may from time to time direct."

Were you aware that such directives were coming from one of your own employees who had spent more than 20 years with the CIA, who at the time was on the payroll of the Covert Action Section of the CIA, and were you aware that this was happening while you were the Director of the CIA?

Mr. COLBY. I am aware that we have certain people detailed to the National Security Council to help with the liaison and to do some other chores over there.

Chairman PIKE. Mr. Colby, may I interrupt you for just a minute?

I am going to ask these two cameramen to get out of the way. I frankly think you have done enough. When you start telling the witnesses where to sit so you can take pictures, you have gone too far.

Go ahead, Mr. Colby.

Mr. COLBY. We have detailed people there. We still do have people. When they go over there they are identified as CIA employees, and in certain cases we continue to carry them on our rolls. When they go over there, however, they work for the National Security Council, and their work for the National Security Council is as directed by the head, by the Assistant of the President for National Security Affairs.

Their recommendations to him, to the President, are that Council's business. They are not mine.

As for—it was not illegal, pardon me, it was not illegal prior to last December for an action to be taken other than intelligence gathering by the CIA provided it was approved by the President, who might not choose to go through the National Security Council. The National Security Council is advisory to the President. It is an advisory body. It is not a separate entity in that sense.

Mr. KASTEN. The law says that unless such a mission is approved by the National Security Council.

Are you saying that that is not correct?

Mr. COLBY. The overall mission is approved. The overall covert action mission is approved in a National Security Council decision memorandum.

Mr. KASTEN. Do you maintain then that one of your employees, when it is known or not known that he is a member of the CIA in the White House, is within the general guidelines of the law as you understand it, if he in fact is directing covert action operations?

Mr. COLBY. He is not directing covert action operations.

Mr. KASTEN. Recommending, excuse me.

Mr. COLBY. He is making recommendations to the boss of the unit to whom he is detailed.

Mr. KASTEN. The OMB in the process of formulating the budget must at times adopt a skeptical or an adversary attitude.

Mr. COLBY. They do.

Mr. KASTEN. In requiring of executive departments to justify these budget requests.

Do you think it is possible that this adversary relationship, this skeptical attitude, is possible with the CIA given the fact that three of the six OMB officers reviewing the intelligence budget are former CIA officials, and that the Deputy Controller of the CIA in this area is a former OMB official? Do you think that this relationship works or is possible?

Mr. COLBY. I think it does work because I have seen it work. I have seen these questions being taken all the way up to the President, where the OMB has taken one side of an issue and I have taken the other.

As for the ex-employees of CIA when a man leaves CIA I do not think he should be branded for life. I think he has the same constitutional rights as any other American.

Mr. KASTEN. Thank you, Mr. Chairman.

Chairman PIKE. Mr. Murphy?

Mr. MURPHY. Thank you, Mr. Chairman.

Mr. Colby, could you explain to us the arrangements or agreements between the CIA and the FBI on surveillance and counterintelligence responsibilities both in the United States and abroad?

Mr. COLBY. It requires a great deal of detail but I think I can give you the rough outlines of it. Essentially, it is that the FBI is in charge of our internal security and counterintelligence activities in this country.

Mr. MURPHY. Getting specific on that, does the CIA furnish the FBI any technical assistance along the lines of intercepting wire communications or phone communications here in the United States?

Mr. COLBY. With respect to the FBI, from time to time in the past we have given them equipment that they use.

Mr. MURPHY. How about personnel? Have you lent personnel?

Mr. COLBY. We have—I can't think of any that we have detailed over there to work with them. At times we work together on a foreign intelligence project which may exist here in this country. There are many aspects of foreign intelligence that can be gathered in this country.

Mr. MURPHY. Can you recall at any time that the CIA aided the FBI with intelligence gathering devices or personnel on some prosecution here in the United States?

Mr. COLBY. I can't recall any. I certainly can't recall any on domestic investigations in that sense although undoubtedly if we gave them equipment they may have used it for their own purposes wherever. I can't remember any personnel on that sort of an activity, and the directives are quite clear on that, that we will have nothing to do with any active domestic activity. Our people will have no involvement in it.

Mr. MURPHY. To your knowledge has that ever been violated?

Mr. COLBY. I have had a hard time on some of these kinds of questions, Mr. Murphy, in the past, because I don't know the past all the way back to 1950 as well as—

Mr. MURPHY. Since your tenure.

Mr. COLBY. Certainly since my tenure I have made it very clear that any collaboration by us with the FBI will be limited to foreign intelligence matters.

Mr. MURPHY. So there have been no violations since you have been Director.

Mr. COLBY. There should have been none.

Mr. MURPHY. Regarding the celebrated case in Chicago about the Thai national and his working for your Agency, and his immunity from prosecution, would you supply to this committee the details of that incident?

Mr. COLBY. I can tell it in general right offhand. What happened was that this Thai gentleman was working for us in Thailand. He came here and, in the course of coming here, he smuggled some I believe it was opium in here.

We discovered this in some fashion, and CIA took the case to the authorities, saying that this had happened. There were several other people involved in the incident.

When the question came for prosecution, we said that if he was prosecuted he was going to use, he was going to reveal the names of a lot of our officers and a lot of our activities in that part of the world, and consequently we urged that he not be prosecuted, that he be thrown out of the country but not prosecuted.

Mr. MURPHY. Mr. Colby, I have only 5 minutes and I wish you would supply the detailed history of that case.

Mr. COLBY. I would be pleased to, Mr. Murphy.

[The response to Mr. Murphy's request is printed on pages 547 to 551 of the appendix.]

Mr. MURPHY. You mentioned in your opening statement about the people in the United States and what they know about their intelligence community as opposed to the people in the Iron Curtain countries. One of the things that disturbed me, Mr. Colby—

Mr. COLBY. In other democratic countries.

Mr. MURPHY. In other democratic countries. How would you personally reconcile morally and philosophically the idea that your Agency or operatives for your Agency could ever engage in or contemplate assassinations? I would like your personal viewpoint on that.

Mr. COLBY. Mr. Murphy, I put out a directive in 1973 which said that CIA would not encourage, support, assist, or participate in an assassination. That has been my position for many years. I have consistently turned down any such suggestion, so I don't have any moral justification, although I confess that I would not have resisted helping out the effort against Mr. Hitler in 1944.

Mr. MURPHY. This is what I think is bothering the people of this country, not that we have an intelligence-gathering agency. I think we all would agree, at least I would agree personally, that we need it, but it is the activities that allegedly it has been engaged in, and this information just doesn't gibe with the principles of our country.

You brought out the fact that our Founding Fathers provided for a secret budget on a number of things. I can find nothing in the Federalist papers or in my study of history where they ever contemplated assassinations.

Mr. COLBY. I agree. I do not believe it. I am against it, and I have so stated a number of times, and I have so written directives to that effect a number of times.

Mr. MURPHY. Thank you, Mr. Chairman.

Chairman PIKE. Mr. Aspin?

Mr. ASPIN. Thank you, Mr. Chairman.

Mr. Colby, I would like to pick up on a question a little bit about the funding of the intelligence community, if I might. We have had some discussions here now for a couple of days about how much control OMB has over it, and how much control Congress has, and whether the numbers should be made public.

I would like to ask about another part of that question. That is, is it possible that funds come to members of the Defense or organizations within the Defense community from a nonappropriated source?

Let me give some hypothetical examples that have appeared in print, that the proprietary companies of the Agency make money, that they play the stock market, that they print money, that, for example, ITT offered the CIA money to destabilize in Chile.

Now that offer was turned down but it was not turned down in a way that sounded, made everybody sound horrified, and Mr. McCone was involved and he was involved in the CIA. It kind of indicates that maybe that is not an outrageous request and maybe those kinds of requests had appeared before and maybe some had been accepted.

The Shah of Iran is in that position because of the help that the CIA gave him back in the 1950's. Maybe he might be willing to funnel a little money into the CIA.

What I am asking is, is it possible that there is money that the CIA has available or other Defense Intelligence Agency organizations have available to spend which does not come through the OMB and congressional process at all?

Mr. COLBY. Our rules on that are quite strong, that we must rest only on appropriated funds. However, in the process of our operations we do develop proprietary organizations which have an existence and a life of their own. A very few of these have made money, very few. Most of them lost money, but very few of them have made money.

Mr. ASPIN. What is the legal status of the money which they make?

Mr. COLBY. The money in the past could be used for the current operations of that particular project.

Mr. ASPIN. You mean that company?

Mr. COLBY. Of that company; yes.

Mr. ASPIN. Any other related activity from that company?

Mr. COLBY. Second, on an occasion in about I think it was 1973 we reported to our oversight committees that we had some surplus funds in one of these, and we wanted to make sure that it was known to the Appropriations Committee. The arrangement made at that time was that a certain amount of that money would be used by us in the subsequent year, approved by that oversight committee, and with a saving of the appropriation necessary for the Agency for that period.

We have since reviewed that procedure, and our general counsel has said that that is not appropriate. It doesn't go through the entire appropriations process, so any surplus funds or any termination funds—we are terminating several of these companies now—has been and will be turned over to the Treasury. That is the only disposition.

Mr. ASPIN. Without commenting possibly in open session on the validity of these various different sources, is it now the case that there is no possibility that any money being spent by the Defense intelligence community in any way would come from some other source other than through the OMB-congressional appropriations process? Can you assure us of that?

Mr. COLBY. I assure you that is our policy right now and I think that we have made the policy effective. We have put out the rules and the directives.

Mr. ASPIN. It has not always been that case, but it is the case now; is that correct?

Mr. COLBY. It clearly is the case. I really can't comment too much on the past at the moment. We have that other case that I just described a few years ago, but it is very clear in my mind, Mr. Aspin, that there are intelligence services around the world that have gotten into an awful lot of trouble by developing their own sources of income, and I think ours would also if it developed its own sources of income.

Therefore, my position is very clear. We must operate only on appropriated funds.

Mr. ASPIN. Let me ask somewhat of a related question, but in a slightly different area, to make sure that we know who controls the thing.

I noticed in your statement on page 14 you said down at the bottom there that: "The detailed financial auditing and controls are conducted within the member agencies of the community, however, according to their specific departmental regulations."

Does that mean that you as DCI do not conduct audits, financial or managerial audits, of the member organizations?

Mr. COLBY. Other than CIA?

Mr. ASPIN. Yes; other than CIA.

Mr. COLBY. No; I do not conduct financial audits of the other agencies.

Mr. ASPIN. How can you be sure that there is no duplication in that case?

Mr. COLBY. I do have a preview of their budgets and their programs and I know what the products are, and what I have been trying to do over the past 2 years is to put together a system which will measure the difference.

Mr. ASPIN. How do you do that? I mean what is your mechanism for achieving that?

Mr. COLBY. The mechanism is management by objectives if you will, kind of a process where I set out—

Mr. ASPIN. Who does the work for you on this?

Mr. COLBY. I have this national intelligence officer staff and my intelligence community staff. We develop the objectives. We develop the key intelligence questions. We request the information from the other agencies about their programs, and how they apply to those. Then we measure performance against it. It has taken considerable time to develop this mechanism, and we are really just now in the evaluation procedure for last year's performance. We ran through a trial effort last year, but the attempt then is to measure output or product against input or budgets put into it.

Mr. ASPIN. I will ask further when we come around again.

Chairman PIKE. Mr. Johnson?

Mr. JOHNSON. Thank you, Mr. Chairman.

Mr. Colby, your prepared remarks are directed primarily toward the intelligence gathering activities of the intelligence community; are they not?

Mr. COLBY. Yes; they are, almost entirely.

Mr. JOHNSON. And, of course, it is those intelligence-gathering activities which prior to World War II resulted in the breaking of the Japanese code. Those kinds of activities I don't think anybody would argue with. It is the disclosure of the covert activities which have shocked the Nation so much, and to which I would like to address my remarks.

Evidently you feel that covert activities such as assassinations should be stopped.

Mr. COLBY. I do.

Mr. JOHNSON. And you have made that kind of directive, but that directive could be changed by yourself or by subsequent directors of the intelligence community.

Mr. COLBY. I suppose it could. That is my position but—

Mr. JOHNSON. Would you favor a statutory prevention or prohibition of that kind?

Mr. COLBY. It would be a little hard to write it, but I think I would have no problem with it. I agree with the directive that we not be allowed to do that. The actual writing of the statute might be a little difficult.

Mr. JOHNSON. That would be our responsibility, of course.

Mr. COLBY. Yes.

Mr. JOHNSON. If we could do it that would be fine. You would not disagree with that.

Mr. COLBY. I would not disagree with it.

Mr. JOHNSON. What would be your attitude then with respect to some of the other kinds of covert activities which have received so much attention, such as the paramilitary operations in Laos and Cambodia and the assaults on Cuba? Would you have the same attitude toward them?

Mr. COLBY. No, I would not have the same attitude toward that. This, of course, is an activity that is almost entirely CIA alone. I think that CIA has done a very fine service for our country over the past 20-odd years in this field. We have made some mistakes. The Bay of Pigs didn't work obviously.

Mr. JOHNSON. These are generally not intelligence gathering activities however.

Mr. COLBY. No, they are beyond the intelligence gathering.

Mr. JOHNSON. When we get beyond the intelligence gathering we get into these covert—

Mr. COLBY. No, no, I believe that CIA has made a major assistance to our country in this field over the past years.

Mr. JOHNSON. I am not trying to argue that.

Mr. COLBY. Right.

Mr. JOHNSON. I am just trying to establish the policymaking activities of this kind of program as opposed to the intelligence gathering.

Mr. COLBY. Surely.

Mr. JOHNSON. You are actually involved in policymaking when you make these kinds of determinations that you are going to involve yourselves in that kind of activity.

Mr. COLBY. We say we are not involved in policymaking because policy is made by our superiors in the National Security Council or by the President. We may be recommending certain actions.

Mr. JOHNSON. Are all those kinds of covert activities approved by the President?

Mr. COLBY. Either by the President or by the committee underneath him.

Mr. JOHNSON. There is a great distinction between whether the President has done it or whether some subcommittee like the 40 Committee has done it.

Mr. COLBY. It is the question of the degree of activity. It is so important that it has to be brought specifically to his attention?

Mr. JOHNSON. There is an article by a man named Blackstock that appeared earlier this year in "The Armed Forces in Society." It has this statement in it:

Since the beginning of the Cold War, almost half of CIA's clandestine assets have been diverted from the primary task of collecting information, as envisaged by those who established the CIA in 1947, to political warfare and paramilitary or even covert military operations, as in Laos and Vietnam.

Would you care to comment on the accuracy of that?

Mr. COLBY. Without getting into specific percentages, Mr. Johnson, when CIA was established in the late 1940's and early 1950's a very substantial proportion of its budget was devoted to political and para-

military operations. This continued through the 1950's, through the 1960's, and essentially in the last 5 years has tapered down to almost nothing. There is some but not very much.

Mr. JOHNSON. We will say a large proportion then has been in the past?

Mr. COLBY. It tapered down over this time but there is no question about it that during the 1960's we were very heavily involved in Southeast Asia. During the 1950's we were very heavily involved in contesting the Communist effort to monopolize the word "peace."

Mr. JOHNSON. Were all these activities reported to the committees of Congress or the subcommittees of Congress?

Mr. COLBY. At the time I think you will find that the general policies and the programs were reported.

Mr. JOHNSON. In great detail?

Mr. COLBY. In the detail requested at the time and I think that was adequate detail for decisionmaking about them.

Mr. JOHNSON. Mr. Colby, we have in the Congress no independent means of verifying what is told to us by the Director, have we?

Mr. COLBY. Well, you have a very active press working on it and you have some investigations.

Mr. JOHNSON. They don't work for us.

Mr. COLBY. You have some investigators on the different committees of the Congress who do travel around, talk with our people abroad, look into the specifics.

Mr. JOHNSON. Isn't it true though that the information that the Congress collects comes from the Director primarily and that if the Director withholds information or distorts it or misrepresents it, that the Congress really has no independent means of establishing those facts?

Mr. COLBY. I have trouble with that because there are too many independent ways of finding things out in our society. For one thing, from the consciences of our own people, Mr. Johnson. I think the people who work in CIA are people of integrity, and they would not sit still to a coverup.

Mr. JOHNSON. My time has expired.

Chairman PIKE. Mr. Milford?

Mr. MILFORD. Thank you, Mr. Chairman.

Mr. Colby, there has been a considerable amount of discussion about congressional and public knowledge of intelligence activities. I tend to agree with your statement that public revelation of intelligence budget figures and other intelligence activities could very seriously compromise our overall intelligence missions.

Let me ask you this concerning congressional knowledge. What committees in the Congress have access to CIA and intelligence information?

Mr. COLBY. Information? Well, we have testified before a wide variety on the substance of what is going on abroad. We had testimony to the Joint Economic Committee, the Joint Atomic Energy Committee, the Agriculture Committee of the House.

Mr. MILFORD. You mentioned two committees.

Mr. COLBY. The Armed Services and Appropriations of course, and Foreign Affairs.

Mr. MILFORD. I was thinking particularly of oversight committees on intelligence matters.

Mr. COLBY. For the second level, what we do, Mr. Milford, is we testify on what you might call three levels. One level is open testimony, for example, today, in which we give as much as we can in the open. If we can't, why we stop at that point.

The second level is testimony about the substance of what is happening in the world. This may be gathered from the most sensitive of sources, and it is given to these other committees as they are interested in the problem, whatever the appropriate committee.

The third level is our operational details of how we do things, rather than what we have learned about the rest of the world. That third level we give only under the congressional precedents, we give only to the Armed Services and Appropriations Subcommittees, and of course to this committee with the charter that the House has given it and the Senate Select Committee, and in this new system started last December, we now report any activity other than intelligence gathering to the two Foreign Relations Committees.

Mr. MILFORD. Do the members of these congressional committees, this third level group that you spoke of here, have total access to all intelligence functions, budgets activities, documents, et cetera?

Mr. COLBY. They have as much as they would like. That is the commitment I have made to the chairman of those committees, that there are no secrets from them, that I will answer any question, and further that I have a positive obligation to bring to their attention things they might not know about that they should know.

Mr. MILFORD. Can you supply this particular committee with a complete organizational chart of the intelligence community including all advisory boards and committees? This composite chart should include names and titles of key officials, flow lines for command and coordination functions and should be accompanied by a descriptive narrative which will permit complete understanding of the community organization and departmental and segmental functions.

I realize that such a chart will probably be confidential and therefore would request that you submit it through the usual security procedures.

Mr. COLBY. I certainly would. I would like if possible to work with some staff member to be sure that what we have is responsive to what you are looking for.

[The materials subsequently provided in response to Mr. Milford's request are printed on pages 383 to 394 of the appendix.]

Mr. MILFORD. OK.

One final area I would like to get into.

Could you define and describe the various security classification for documents used within the administration? This is something about which I am personally confused.

Mr. COLBY. There are three general levels of security—confidential, secret, and top secret, and they are defined in an Executive order.

One of the ways you run intelligence, however, is to do what we call compartmented things. We put them in narrow compartments according to the need of certain people to know things. If you do not need to know it, then you do not get access to it. There are some things that

people working on the Far East, for example, need not know about our operations in the Soviet Union, and we obviously want to keep those to as small a number of people as possible, because as the number of people involved in a secret grows, so the chance of its exposure also grows. Therefore we have a variety of compartmented systems, which would take particularly sensitive operations, and set up certain ground rules for how that information is to be handled, distributed, made available to designated people, and this normally involves a specific briefing so that the individual is aware how sensitive it is. It then involves a commitment by him to undertake never to reveal the material he is being told in this form, and he is then given certain access to this particular material.

There are a number of those different compartments.

Mr. MILFORD. Does your office write the regulations concerning security classifications?

Mr. COLBY. Yes, my office in the sense of, yes, the U.S. Intelligence Board and the Director of Central Intelligence directives cover most of these.

Mr. MILFORD. I would finally ask you that if there is such a regulation or documents, we be supplied with a copy of them.

Thank you, Mr. Chairman.

Mr. COLBY. Certainly.

[The material requested by Congressman Milford is available in the committee files.]

Chairman PIKE. Mr. Hayes?

Mr. HAYES. Thank you, Mr. Chairman.

Mr. Colby, in your testimony before the Appropriations Committee on January 15 in the Senate, you indicated the role of CIA as you saw it, and you outlined three major functions. You said that other agencies play essential roles, but that CIA has three major functions in intelligence work.

I have been bothered by that statement. As I read the National Security Act of 1947, specifically section 102(d)(3), it would seem to read to me that CIA's role at that time, and according to the debates in committee, and the transcripts of the deliberations on that legislation, it would indicate to me that the CIA was going to be restricted.

There is much put to the words "correlate and evaluate," to those two terms. It is even emphasized further. It goes ahead and says "Provided further that the departments and other agencies of government shall continue to collect, evaluate, correlate and disseminate," so that between the writing of that act and your testimony, there appears to have been a growth in the definition and role of CIA.

Would you care to comment on that, particularly as to how you see such a statement emanating at this point that other agencies do play essential roles, but after all, CIA has these major functions?

You even said in your testimony, January 15, "To conduct clandestine operations to collect foreign intelligence." There was no place really where that role was outlined that I could see in the committee reports at the time or in the deliberations.

Mr. COLBY. I think it was clearly intended to be included under subsection 5, "To perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct."

Mr. HAYES. Yes, I thought you would say that.

If that is the case, then why did other ad hoc bodies grow up, such as EXCOM, which by the way was excluded from the chart which we saw here?

Mr. COLBY. Other bodies grew up in order to insure the coordination of the various intelligence collecting activities of the Government as a whole for one, and second, in order to allow me a vehicle through which I could participate in the decisionmaking about some of the other major programs of the Government, even those not under CIA.

Mr. HAYES. So that you don't believe that the National Security Act is adequate or has been adequate over the years to handle the input of the Director?

Mr. COLBY. No, the National Security Act was deliberately written according to the tradition of intelligence at that time to use some very broad general language, because at that time we were in the thought process that people don't talk about intelligence. You just go do it quietly, but it never comes out in the public. We are in a different world today, but that was certainly the approach used in 1947, and consequently these broad grants of authority were put in the act with the idea that they would be supplemented through classified directives of some sort, as they have been.

Mr. HAYES. And so the growth in importance then of something like EXCOM is so important that we don't even really discuss it. We don't even have a chart on this set of charts. You did in the handout that came along, that we came by here, which is not a classified document at all. Apparently it was one of the handouts that you gave us.

Mr. COLBY. I am not sure what you are referring to, Mr. Hayes. This subject I would like to go into in executive session.

Mr. HAYES. Do you think it is secret? I have the handout here and EXCOM is mentioned in three places, the program budgeting cycle of the U.S. intelligence community.

Mr. COLBY. I believe that is a chart I withdrew before sending the published version down here, and for that reason, that there are some classified matters on that.

Mr. HAYES. A la the tradition of 1947 that we don't discuss those things.

Mr. COLBY. No; there are some really useful, very useful reasons for keeping a particular area of activity secret and I hope to keep it secret.

Mr. HAYES. You see, Mr. Colby, this is one of the problems that I seem to meet.

Mr. COLBY. That may have been—

Mr. HAYES. This is one of the problems I seem to be constantly coming across as I look at testimony that you have given to the Congress over the past 6 or 7 months, and I look at the statute and I look at the debates and it would appear to me that the intent at the time was to relegate CIA to a correlation and evaluation agency, but in fact you have grown like the proverbial Topsy, and assumed certain responsibilities saying that you can do so under a broad grant of power which I really don't see evident in the statute and in the debates.

Mr. COLBY. In 1947, as I said, the debates did not discuss some of these delicate matters. I think it was very clear that the United States was reestablishing an intelligence agency—the previous model had

been the Office of Strategic Services during World War II—and that it essentially picked up the jobs done by that office. Of course the appropriations and the various reports of our activity along these lines have been generally known for years, and no objection has been made against them.

Mr. HAYES. My time has expired.

Thank you.

Chairman PIKE. Mr. Lehman?

Mr. LEHMAN. Thank you, Mr. Chairman.

Mr. Colby, would you like to comment yes or no in regard to the alleged proprietary companies, the proprietary organizations that are owned by CIA, in this open session?

Mr. COLBY. I would not like to talk about individual companies.

Mr. LEHMAN. Fine, but I ask do you own proprietary companies? Could you answer that yes?

Mr. COLBY. Oh, do we have them? Yes; we do have them.

Mr. LEHMAN. Do you think that the American public would approve in your opinion of the CIA owning such companies in our kind of a capitalistic competitive society? Do you think the American people would approve of this ownership, I mean just from the standpoint of philosophy?

Mr. COLBY. Oh, yes, I think the American people would approve of the fact that we use these for necessary purposes, and that we conduct them under a number of restraints to make sure that they do not adversely affect the free competition.

Mr. LEHMAN. On this Advisory Board, the President's Advisory Board, it seems that you have basically an elitist type of advisory group to the President. I notice in the membership there is no representative from environmental groups, no senior citizens, no church people, and no consumer advocates. Yet, this is supposed to be an advisory group of prominent citizens. To me it is an advisory group basically of the military-industrial complex.

I don't think they speak for the mainstream of American citizens in regard to the kind of intelligence community or intelligence operation they want.

Would you care to comment on that problem?

Mr. COLBY. Mr. Lehman, I have no voice on who is appointed to that board. The appointments to that board are made by the President. I think the gentleman and lady on that board are highly prominent, highly qualified American citizens. I would notice that the commission appointed by President Ford to look into the CIA's activity did include a prominent labor official. I don't recall any particular environmentalist on it but I think there has been an attempt to have that kind of representation.

Mr. LEHMAN. I won't pursue that at this point. You say it does not adversely affect the community in which these proprietary organizations operate, but, when making up your budget, do you look at the balance sheet, the profit and loss statements of these various proprietary corporations, in order to determine what kind of a budget you are going to need for the coming year, because whether they make a profit or loss would determine the kind of allocations and appropriations you would need.

Do you examine these balance sheets and profit and loss statements?

Mr. COLBY. Their accounts are very vigorously followed. They are audited every year by an independent audit and they get a great deal of attention.

Mr. LEHMAN. Do they file regular corporate income tax returns?

Mr. COLBY. They do, and if a request to look into the specifics of them come, then we would negotiate with the Internal Revenue Service about how to handle that.

Mr. LEHMAN. Just to pursue that a little bit further. In Miami, in the Dade County area that I represent, there has been a great deal of activity and there have been allegations of 50 or more different proprietary organizations. For example, I was in the used car business in Miami for approximately 30 years, and all of a sudden, in about 1960, there was a sudden economic miracle among the Cuban used car dealers. I remember, I tried to buy used cars and suddenly I was competing against a lot of new companies. If the businessmen in Miami thought we were competing against an intelligence unit of the U.S. Government we wouldn't have dared to do that. What I am trying to get at is, I think you are setting up a very dangerous situation in this country if you continue to operate proprietary companies in competition with private enterprise and small businesses, who are actually hanging on by their fingernails for their existence at this time.

I know it can be detrimental. I don't know how you can shelter these companies from not being part of the mainstream of the business community in which they deal. I think it is kind of a situation that is nonconducive to the general thrust of the American economic system.

How do you protect a filling station or a boat company from competition from CIA working capital? The most important thing a business can have is working capital to succeed. That is what I am concerned about, that you supply the working capital and make unfair competition for American business.

Mr. COLBY. Mr. Lehman, I am sure that in these investigations we will be able to reassure you that we run these kinds of operations to provide a cover for some intelligence objective. They normally lose money, and we normally do as little legitimate business as we can and still appear to be a business.

Mr. LEHMAN. The last people I want to compete against is a losing company because they are the toughest kind to compete against.

Chairman PIKE. Mr. Field?

Mr. FIELD. Thank you, Mr. Chairman, and good morning, Mr. Colby.

I would like to follow up on a few questions primarily dealing with budget and funding and that type of thing and again to try to keep it simple and make the record clear.

We have heard from GAO that they do no auditing of the intelligence community for a number of reasons. We have heard from OMB that they do no auditing of the intelligence community.

My first question is: Does the intelligence community staff or does the intelligence community in any way conduct a financial audit of the intelligence community? Do they look into the cost-benefit of various programs, particularly as they may relate across department or agency boundaries?

Mr. COLBY. There are two answers to that. The first is that the individual agencies conduct their own audits. CIA for, instance, audits its own stuff. The Defense audits its own material in the financial audit category, and the intelligence community staff does not have an independent audit in the strict sense of the word "audit."

Mr. FIELD. Could I just stop right there?

So there really isn't any sort of comprehensive audit that is taken throughout the entire community.

Mr. COLBY. There is an overall review. I would not call it an audit, an overall review of the effectiveness, which is this process that I described that we have been setting up for the last couple of years, of identifying the objectives and then developing an evaluation process to see how well we are performing against those objectives, and then relating those to the investments made in those activities.

Mr. FIELD. I would like to go through a few points. One would be that clearly the intelligence community staff as we know it, which is not very large, couldn't do this anyway.

Mr. COLBY. Right.

Mr. FIELD. So, with its small size, really what we are saying is nobody looks at the whole thing to see if there is duplication. We know in the early 1970's there was a rather critical report issued from OMB talking about duplication, saying that there was a great deal of it. It looks to me as though at the intelligence community level, there has not been an extensive effort to try and ferret this out.

Let me go down into the CIA.

Mr. COLBY. All right.

Mr. FIELD. It may happen in other agencies.

Mr. COLBY. If I may, I don't want to leave the wrong impression here. There is an attempt to evaluate the performance against investment on the part of the intelligence community staff. That is this management process.

Mr. FIELD. Is that done by the Resources Advisory Committee staff?

Mr. COLBY. It is done by the whole intelligence community staff which participates in it. There are the three main divisions: Management planning and resources review, product review, and collecting and processing assessment. In other words, those three elements of the staff, and those are the three elements, look at how those different elements of the intelligence process are performing.

Mr. FIELD. Thank you.

Within CIA you have compartments. You have compartments in other branches of the intelligence community. Is anybody cleared, is any accountant or any financial person cleared, to look across compartments? We have this compartmentation problem. Is anybody cleared to look at all the compartments from the financial point of view?

Mr. COLBY. The Inspector General has the right to look at anything he wants to in the building.

Mr. FIELD. Does the Inspector General do across-compartment reviews?

Mr. COLBY. On occasion, or the comptroller. The comptroller of CIA looks at the activities of all the different elements of CIA.

Mr. FIELD. It was my understanding that the Inspector General used to do this, and that he has stopped doing it. Is that correct?

Mr. COLBY. For the last year or two he has been almost entirely absorbed in these various investigations, and looks back into the past.

Mr. FIELD. So nobody right now is conducting an across-compartment, financial cost/benefit audit?

Mr. COLBY. Several people are doing it. The comptroller is doing it.

Mr. FIELD. He does auditing across compartments?

Mr. COLBY. Cross compartment throughout the agency, and the audit staff which is an element, a separate element, reporting to me administratively in the Inspector General's office.

Mr. FIELD. So we don't have one across the community, but we do have one across CIA?

Mr. COLBY. Yes.

Mr. FIELD. Would you be willing to provide the committee staff with this audit?

Mr. COLBY. Certainly. I expect to cover this on Wednesday.

Mr. FIELD. We have not yet identified the fact that it exists. We have asked for it.

The next question would be who really runs this community, and I think we have heard a lot of testimony, and I would like to bring it together again. We have seen how the expense of the intelligence community staff is paid for by the CIA. There are 13 subcommittees and committees of the Intelligence Board. They are chaired, 11 of them, by CIA people. The staff of the Resource Advisory Committee is CIA. You, yourself, are the head. You are the Director of Central Intelligence. Wouldn't it be a fair statement that the CIA really runs the intelligence community almost as a management group, and that the other agencies, although they do participate in management by and large, provide a lot of the equipment, facilities, manpower, that type of thing?

Mr. COLBY. No; I don't think so. I think there is a very clear difference between the people who work on community matters, although they are carried on the CIA budget for convenience, and on the other hand, the people who work in CIA on CIA affairs. There is frequently a lot of debate between people as to how they are working between CIA and another agency.

Mr. FIELD. Let me phrase my question in another way: Let's say that there was a committee that is not on this chart that we saw here, and it was a very important management committee that made executive decisions. Who would be the chairman of that committee, which has now got the executive control and the operational control of the entire intelligence community? Who would be the head of that, if that kind of a committee were set up?

Mr. COLBY. I suppose I would be. That is the concept.

Mr. FIELD. Would that not put the CIA and you in charge? Let me ask you a different kind of question: How would you tell the Secretary of Defense that he should not have a certain program?

Mr. COLBY. I tell the President that he should not. I have done that in my annual recommendations.

Mr. FIELD. Wouldn't he say what you are really trying to do is build up CIA? You say, "I think this ought to be over in CIA and not in Defense." Haven't you got a conflict of interest here?

Mr. COLBY. I obviously have two different jobs, and one job is the community job and one job is running CIA, but I try to distinguish those two jobs and try to make the community work together, and still exploit the very substantial benefits that are available from the kind of talent and flexibility that CIA represents.

Mr. FIELD. Thank you. My time is up.

Chairman PIKE. Mr. Colby, earlier in response to a question from Mr. Dellums, you stated, I am sure very accurately, that you have never leaked any information consciously but upon occasion you have declassified information. Now, this is an advantage that you seem to have over any Member of Congress, folks. You can classify information, and then when you find it appropriate to do so, you can declassify information. We are told that we can neither classify information nor declassify information.

When I write you a letter, I write you a letter and make a carbon copy of it for my files, and when you write me a letter, you write me a letter, stamp it top secret, and while I can tell people what-I said to you, I can't tell people what you said to me.

I have just sent to you a letter which you wrote me 4 or 5 days ago stamped "Top Secret," and all the letter is is a letter of transmittal. You are sending me some charts and some other pieces of paper. Would you just tell me why that letter has to be top secret?

Mr. COLBY. Because it includes with it as attachments a number of top secret documents.

Chairman PIKE. Oh, yes, but there are some other things that are included as attachments which are marked unclassified. They are not marked Top Secret. Why does the letter have to be top secret?

Mr. COLBY. Because if you don't mark it secret or top secret, and you attach classified documents to it, then the matter can be handled in an unclassified fashion.

Chairman PIKE. I am talking about the letter itself. This is a letter which you wrote to me. Why can't I show that letter to anybody I want to?

Mr. COLBY. I think there are certain things in it.

Chairman PIKE. Just the letter, not the attachments, just the letter.

Mr. COLBY. This happens frequently, this kind of a problem frequently happens with respect to our material. I can't go through every document that I produce, Mr. Chairman, and separately classify each page.

Chairman PIKE. This is your letter. Who classified it?

Mr. COLBY. I classified it. It was classified because it incorporated with it a lot of other documents. Now, I did not take the effort of separately classifying each page of these documents, and I know that the material going with this letter included a lot of highly classified material.

Chairman PIKE. Mr. Colby, earlier—

Mr. COLBY. I would be glad to review this if you want to release this particular letter.

Chairman PIKE. Oh, no, I don't want you to release that letter, Mr. Colby. I have lived with this for 14 years. I have drowned in pieces of

paper stamped top secret that had no right to be stamped top secret whatsoever. The Presidential directive that you referred to earlier establishing these categories defines top secret. The test "shall be whether its unauthorized disclosure could reasonably be expected to cause exceptionally grave damage to the national security." Now, that letter isn't going to cause exceptionally grave damage to the national security.

[Committee note: The order referred to is Executive Order No. 11652 of Mar. 10, 1972; 37 FR 5209. See pages 431-41.]

Mr. COLBY. Some of the documents attached to it would, Mr. Chairman.

Chairman PIKE. I am not talking about the documents that are attached to it.

Mr. COLBY. No.

Chairman PIKE. It also says in this same Executive order, "This classification shall be used with the utmost restraint." Do you have any idea how many documents have been classified top secret just in the last 6 months?

Mr. COLBY. No, but I know that very strict limits on who can classify things top secret have been set up and that we have procedures for reviewing these matters. We are hopefully trying to reduce exactly the tendency that you are complaining about of overclassifying and as you suggest you are right.

Chairman PIKE. Mr. Colby, that is what this Executive order was all about when the President issued it. In fact, he started off saying, "The interests of the United States and its citizens are best served by making information regarding the affairs of Government readily available to the public."

Would you be able to find out how many documents have been classified top secret in the last 6 months?

Mr. COLBY. Within CIA?

Chairman PIKE. No, within the intelligence community.

Mr. COLBY. The community as a whole?

Chairman PIKE. Yes.

Mr. COLBY. That is a little hard. I can find out how many people are authorized to classify documents.

Chairman PIKE. That really wouldn't be too helpful, because that rubber stamp can go just like that all day long classifying documents top secret.

Mr. Colby, in this same Executive order, there was set up a provision whereby, over a period of years, documents after 2 years which were top secret become only secret, and after 4 years they become only confidential, and after 10 years they are not classified at all unless an exception is made. In the case of my letter, an exception was made. Was that exception really necessary, so that that document could never be reclassified?

Mr. COLBY. There are certain things in there. It was stated that it is impossible to determine when it can be declassified. I don't know when we would be prepared to declassify it. There are some 10-year-old programs that I know are still secret, and I would imagine that some of the 10-year-old programs mentioned in some of this material 10 years from now should still be secret. Whether it will be or not is another question.

Chairman PIKE. Mr. McClory is recognized, but I would ask one of my staff to pick up that classified document before it gets away.

Mr. McCLORY. Thank you, Mr. Chairman. From what I hear when I go home among my constituents, there is a great fear expressed that these multiple inquiries that we are conducting, including the two congressional hearings, are being extremely detrimental to our Nation, to our national security, and destructive of a very valuable intelligence community. I am interested myself in getting to the bottom of all these secrets that have been withheld from the Congress, particularly with regard to any and all acts of wrongdoing, of excessive activities on the part of the CIA and other intelligence agencies which are not authorized by law or which even though authorized by law, nevertheless, seem to be improper or go beyond the intent of the Congress.

I feel, myself, that the Rockefeller Commission has unearthed a great many of the domestic activities unlawfully, wrongfully conducted by CIA. I served, as many know, about a year ago in an important Judiciary Committee proceeding, and I want to say this: That while there were extreme efforts which came to our attention of Presidential actions, and those in the White House trying to use the CIA for political purposes, and misuse it and trying to excuse a wrongdoing by trying to get the CIA involved, that those efforts were virtually fruitless, that the CIA resisted except in a very minor way. When I think of the Hunt disguise and things like that that were given for use in connection with the Dr. Fielding escapade, that was wrong, but I mean from the broad standpoint the CIA resisted, and I think they did it to their credit.

I am concerned about your reference to covert activities and your apparent intention to virtually discontinue covert activities. As a matter of fact, covert activities which do not involve any acts of violence or threats of violence are extremely valuable parts of our CIA activities, are they not? I would think they are one of the major parts of having the CIA.

Chairman PIKE. Excuse me, Mr. McClory. I didn't want to give any impression that I thought we should terminate this kind of activity. I say that as a result of the world situation today, we are not called upon to do very much of this. We are doing some which has been reported as the law requires, but I think that it is very important to our country that we keep the capability to do this kind of covert activity in the future, because the world situation can change in the next 5 or 10 years.

Mr. McCLORY. I am fearful, and I know many Americans are fearful, because of the downgrading of covert activities, that perhaps that can be accounted for as a part of the diminution of our influence around the world. I think it is something we have to be very—

Mr. CORBY. I think, Mr. McClory, I am hoping that these investigations can be thorough, can be discrete, and that we can go back to work here in another few months. There is no question that in the present atmosphere of sensationalism, that we are restrained from what we can do in various places, because we are concerned that instead of helping somebody, we might hurt them very badly, and consequently we have to restrain ourselves from activity which otherwise would be in the interests of our Nation.

Mr. McCLORY. Notwithstanding all of these inquiries, it is a fact, is it not, that no individual has been injured, or no person's safety

has been jeopardized as a result of these inquiries? Can you answer that?

Mr. COLBY. There are certainly a number of individuals who have been jeopardized by the publication of at least one book. We have lost a certain amount of intelligence opportunities by revelations over the past few months. There is no question about it that we are suffering the withdrawal of a number of our collaborators, foreigners, Foreign Intelligence Service, Americans who have patriotically assisted us, who are now afraid that they will be branded as CIA fronts.

There are a number of people who have decided that they cannot collaborate with us in the degree they did in the past, and this is hurting our intelligence.

Mr. McCLORY. I just want to say I am hopeful that in the conduct of our inquiry here that we can retain the necessary confidence, the necessary secrecy that is vital in order to preserve a strong intelligence community, while at the same time enabling us to get to the bottom of what we are supposed to be investigating.

My time is up. Thank you very much.

Chairman PIKE. Mr. Stanton.

Mr. STANTON. Thank you, Mr. Chairman.

Mr. Colby, on page 6 of your testimony, you refer to the board that was the predecessor to the President's Foreign Intelligence Advisory Board that was created out of the Hoover Commission in 1955. Are you referring there to the study done by Gen. Mark Clark?

Mr. COLBY. No; I believe that particular board was headed by—I have forgotten the Admiral, Killian.

I have forgotten the name.

Mr. STANTON. Are you familiar with Gen. Mark Clark's study?

Mr. COLBY. I know that such a study has been made. I can't reconstruct it right here.

Mr. STANTON. One of the recommendations that Gen. Mark Clark made was that in view of the CIA activities in the Intelligence Community activities in 1955, he thought that there ought to be a strengthening of the activities of oversight by the Congress. Do you concur in that recommendation today, in light of 20 years of experience that we have gone through?

Mr. COLBY. Well, as I said in my testimony, the better the external supervision of the Intelligence Community, the better the internal supervision will be, and I do basically support the idea of intensive oversight by the Congress of our activities, through a channel which can protect the necessary secrets.

Mr. STANTON. Would you recommend or would you concur that maybe a joint committee of the House and Senate would be a proper vehicle?

Mr. COLBY. That, of course, is a matter for the Congress to decide, but I would have certainly no problem with it. It might even reduce the number of committees I have to report to.

Mr. STANTON. That would help you in your functioning. Would you believe that the General Accounting Office, given express statutory authority by the Congress, would be an aid to the Congress, in terms of auditing the procedures independent of the CIA, and would that hurt you in terms of your intelligence-gathering functions?

Mr. COLBY. I think that depends on how that would be worked out, Mr. Stanton. The statute clearly says that under the statute I can sign certain things off without further review by anybody. We do have an internal audit procedure of considerable strictness. Initially we tried to separate out the sensitive from the nonsensitive material, and let them review the nonsensitive. They didn't find that satisfactory, and I can understand why, and they withdrew from the arrangement.

Since that time, we have had no external supervision. I think that any such arrangement would have to be very carefully worked out, to make sure that the material is not distributed any further than is absolutely necessary.

Mr. STANTON. You say you have had no external supervision or auditing from the GAO?

Mr. COLBY. Auditing?

Mr. STANTON. Auditing.

Mr. COLBY. Well, certain individual audits, certain individual situations have been looked at.

Mr. STANTON. Since what year?

Mr. COLBY. I think they withdrew as I remember in about 1960, something like that. Since that time they have audited a few particular problems.

Mr. STANTON. They audit the NSA, don't they, still?

Mr. COLBY. They have an audit staff there.

Mr. STANTON. Then you think that the Congress might design a functional role within certain ground rules that the GAO could function as an auditing arm of the Congress. You know so many times we in the Congress feel that the information we get goes to just one or two selected people in the Congress, and there are 433 Members, 533 Members or 532 Members that are left sort of in a blank, and we would like to enlarge that, without compromising the security of the United States or without diminishing the effectiveness of your intelligence-gathering operations, although I would like to diminish some of your covert activities. Would you concur in that?

Mr. COLBY. I really cannot concur in theory or in principle without getting into the specifics of how that would be done, Mr. Stanton. Consequently I would really like to suspend taking a position on that until I saw exactly how it was done, because my definition of adequate controls might not meet the ones that you have in mind.

Mr. STANTON. In your statement you refer to James Madison, the fact that he won the contest for having the legislature determine secret appropriations. Do you think that James Madison anticipated that Congress would be advised 3 or 4 years after the fact of covert activities in terms of appropriated money?

Mr. COLBY. I don't know that he had that in mind. I think he was looking at it as a theoretical matter. Certainly President Washington's request for a secret fund—there isn't much about it, the Congress itself had a Committee of Secret Correspondence at that time. I really don't—

Mr. STANTON. Were they engaged in destabilizing friendly governments?

Mr. COLBY. They were destabilizing the British Government here.

Mr. STANTON. They were at war, weren't they?

Mr. COLBY. They were in revolution.

Mr. STANTON. It is a little different situation, yes. Were we in revolution with Chile?

Mr. COLBY. No; and we did not destabilize. I would be very happy to clarify that once again. That has been one of those words that has been put in my mouth and hung around the neck of CIA which was never used by CIA. It is used in quotes as attributed to me. That transcript does not include those words—and I am not quibbling about semantics.

Mr. STANTON. You are not, you are denying it——

Mr. COLBY. The program we were engaged in, as I have testified many times, was not a program of destabilization. We had nothing to do with the military coup that overthrew President Allende, and our policy and program there was designed to sustain some democratic forces looking forward to the elections of 1976. It was not a destabilization program.

Mr. STANTON. I yield back the balance of my time.

Chairman PIKE. Mr. Dellums.

Mr. DELLUMS. Thank you.

Mr. Colby, in our opening colloquy following your statement that the American people know more about their intelligence community than other governments, you responded that you respond within the framework of the laws and the statutes. I would like to now ask you several questions that would specifically call upon you to make that statement meaningful before us. As you know, this year there have been allegations in testimony before the Senate with respect to the CIA's relationships with the Mafia. My first question is, prior to 1975 has the OMB or Congress ever been briefed on the full extent of CIA's relationships with the Mafia?

If so, when and with whom?

Mr. COLBY. Reference to this was made in the compilation of questionable activities conducted as a result of Mr. Schlesinger's memorandum in May 1973 and a collection gathered together. The information so collected was reported to the acting chairman of the House and Senate Armed Forces Subcommittee dealing with intelligence.

Mr. DELLUMS. Would you——

Mr. COLBY. There is just a reference to it, we didn't go into further detail. It was indicated we were not going to do anything of that in the future.

Mr. DELLUMS. I can then assume that you have never given the full extent—you said a reference, so I can assume that in response to my question, you say that you never gave testimony before OMB or the Congress on the full extent of CIA's relationship with the Mafia?

Mr. COLBY. Well, the full extent is a hard word to answer.

Mr. DELLUMS. I am saying, the whole picture.

Mr. COLBY. Every detail.

Mr. DELLUMS. It is very simple.

Mr. COLBY. A general statement of what happened was given in those two instances, but not further.

Mr. DELLUMS. My next question, was Congress and the OMB briefed on the Phoenix and CORDS program prior to their execution? If so, when and with whom? Was the objective of eliminating the infrastructure of the VC fully discussed at each briefing?

Mr. COLBY. When I was working in the CORDS program, I was on detail away from CIA. I was working first for the Agency for International Development and later for the Department of State. I worked under the Military Command. That program was conducted in Vietnam. It comprised one element of the overall pacification program. The other, the entire program—

Mr. DELLUMS. Would you yield at that point?

Mr. COLBY [continuing]. I have talked about many times.

Mr. DELLUMS. Would you yield at that point 1 second. I am asking, did you ever brief OMB and Congress prior to the execution of these programs? I am certain that we have more than ample opportunity to go into the detail of the programs themselves. At this moment, I am simply asking, have you ever briefed OMB and the Congress? If so, when and with whom?

Mr. COLBY. I have testified in extensive detail about the pacification program in Vietnam.

Mr. DELLUMS. Prior to the execution?

Mr. COLBY. In February 1970 was my first time of testifying, that was my personal time. The matter was reported. I don't know how it was reported before that time because I know it had been included in general reports sent home to Washington. The degree to which that was briefed to the Congress, I am not aware.

Mr. DELLUMS. Would you supply that specific information to this committee?

Mr. COLBY. If I can find it, Mr. Dellums, surely.

Mr. DELLUMS. Thank you.

Was the mail cover program initiated in 1953 ever discussed with Congress or OMB prior to its ostensible termination in 1974; and if so, when and with whom?

Mr. COLBY. I do not believe it was, Mr. Dellums.

Mr. DELLUMS. Is OMB and Congress briefed on the number of agents, contractors' assets that the CIA has in the United States?

Mr. COLBY. In general terms, yes. We talk about the numbers of activities and the amounts of money used for that purpose.

Mr. DELLUMS. Has the Congress and OMB been briefed on the fact that CIA operated so-called safe houses in the United States? If so, when and with whom?

Mr. COLBY. Oh, I am not sure whether this was ever included specifically in a congressional briefing. It certainly—I am sure that the OMB examiners are aware of it.

Mr. DELLUMS. Were the Congress and OMB briefed on the CIA program to assist domestic local police departments prior to the assistance being carried out? If so, when and with whom?

Mr. COLBY. I think in most cases the answer to that is probably that they were not specifically detailed or described to the Congress or to OMB, but the general fact of our relationships and assistance to other parts of the Government have certainly been covered.

Mr. DELLUMS. Are Congress and the OMB specifically briefed on the number of agents and their location who are under deep cover with American corporations?

Mr. COLBY. I think I have referred to the total number and the size of this kind of an effort and I have been prepared to answer questions, if asked. As I said in my relationship with my committee chairman,

I say that there are no secrets. I would make a considerable effort to protect information of this sort and try to dissuade somebody from into getting into the individual details of which particular American company was patriotic enough to help us.

Mr. DELLUMS. Prior to execution, who outside the agency authorized the 1967 decision to establish within CIA counterintelligence, a program to identify foreign links with so-called American dissident elements? Prior to execution, was this operation checked with the 40 Committee, OMB, or any Member or committee of Congress? The second part of the question—

Chairman PIKE. The time of the gentleman has expired. You are going to have to settle for the first part of the question being answered.

Mr. COLBY. On the first one, I think you will find in the Rockefeller Commission report, Mr. Dellums, that this program stemmed from a great degree of interest in this problem from the Office of the President, himself, both President Johnson and President Nixon.

[Expanded responses to several of Mr. Dellums' questions above were received with a classified designation. They are in the committee files.]

Chairman PIKE. Mr. Kasten.

Mr. KASTEN. Mr. Colby, I want to go back to clarify a question I had about the possible employees with the NSA. I think it is important to point out that this was before 1973, or, excuse me, before the January 1974 law took place. But I am not as concerned about that as I am with the kind of overall question here. We are talking about an individual who performed some declassification work, who occasionally dealt with OMB on arms deals and related matters; the OMB contacts probably didn't know that he worked for the agency.

I point out that this was not the CIA liaison man to the NSC staff. He had occasional contacts with the White House, people like Zeigler, Price, Timmons, et cetera. Each of them theoretically I guess could have known if they had made an inquiry that this individual had something to do with the CIA, but the fact is they didn't. He dealt once or twice with a representative of foreign government on terrorist matters, he did not deal with the news media directly but did author press releases.

Now, the point is he made recommendations, sent the recommendations to the President. These recommendations at times included covert action projects. It is not clear that on a given occasion the Secretary of State, Mr. Kissinger, on reviewing the proposal would have specifically been aware that the man making these recommendations was in fact an operational employee of the CIA and actually on the covert budget.

Mr. COLBY. But detailed to the National Security Council.

Mr. KASTEN. Detailed to the National Security Council?

Mr. COLBY. And responsive to its directions.

Mr. KASTEN. Leaving that question aside, don't you think there is a problem here with the checks and the balances in terms of the way the system is supposed to be working? In other words, here is a person who is on the payroll of the CIA, but yet all of these people, all of these contacts, all of the efforts, all of this job, many of these people aren't aware that he is an employee of the CIA. Don't you think there

is a problem there, or do you think that this is the way the system is supposed to work?

Mr. COLBY. There would be a problem if CIA were somehow manipulating him, yes. But it is my belief that CIA merely provided him to the National Security Council staff to be directed and run over there as a member of that staff. That staff has Foreign Service Officers, military officers, all the rest, and they all operate as individuals for that staff.

Mr. KASTEN. But this individual was making recommendations for covert activities with the National Security Council?

Mr. COLBY. Just as military officers are making recommendations about military affairs, too.

Mr. KASTEN. In other words, you don't believe that there is a conflict or possible conflict of interest, do you—

Mr. COLBY. If you believe that CIA was somehow engaged in a great conspiracy to penetrate and manipulate the U.S. Government, then there would be a problem. I know it isn't. And when we send a man over to work for somebody, he goes over and works for him; he is not working for us any more.

Mr. KASTEN. Whether or not there is a conspiracy or not—and I personally would agree with you that there is not—there certainly is a problem in that kind of a mechanism, there are certainly questions that could be raised; if a conspiracy in fact existed this is the way it would work; isn't that correct?

Mr. COLBY. You are way out in the hypothetical, far beyond me, I am afraid, Mr. Kasten.

Mr. KASTEN. Now, on page 9 of your statement you said that you provide the President with your independent assessment of the intelligence community resource requests. Do you also provide the Congress or specific committees of the Congress with an equally independent assessment of the appropriateness of the budget requests of the individual intelligence agencies, or do you merely define the overall intelligence community budget once it has been approved by the President?

Mr. COLBY. Well, I have essentially defended the President's budget, but if the Congress asks me for my independent assessment of a particular program I would give it to them.

Mr. KASTEN. Has the Congress recently asked you for your assessment of an individual program within the last 2 or 3 years? Has that ever happened?

Mr. COLBY. I can't recall any particular case, although there is so much staff-level discussion that it might have happened.

Mr. KASTEN. Do you think that the Congress could more effectively assess the appropriateness of the spending levels of these agencies of the various parts of the intelligence community if you in fact gave your independent views on these budgets to the Congress or to the appropriate committees; would you welcome the opportunity to provide that kind of information, agency by agency, rather than presenting the entire package?

Mr. COLBY. Well, I think—particularly the two Appropriations Committees have indeed found it useful to be able to talk to me about the budget as a whole, including the budget of the other agencies. I

believe the amount of testimony I have given stems from the fact that they have found it somehow useful. I am certainly prepared to continue that. In other words, I will certainly obviously defend the President's budget first, but under the normal rules of dealing with Congress about budgets, if the individual agency is asked for what its original recommendation was, why, it is entitled to say so.

Mr. KASTEN. Would you think that—

Chairman PIKE. The time of the gentleman has expired.

Mr. Murphy.

Mr. MURPHY. Thank you, Mr. Chairman.

Mr. Colby, earlier in your testimony you indicated that through leaks or testimony some intelligence has been lost. Could you elaborate on that a little?

Mr. COLBY. Well, I can't elaborate in great detail in open session, I am afraid, because it does cross certain limitations that I am under. But as I said by reason of the amount of the leaks and sensationalism there are individuals who previously have worked with us who have said they can no longer work with us. The risk is too great to their lives or their livelihoods. There are Americans who have previously collaborated with us who have asked will we please not approach them in the future. There are foreign services, foreign intelligence services, who have expressed great concern to us as to whether we can protect the sensitive information they share with us, or even the fact of our having a relationship with them, because they are concerned that they will be politically in trouble in their country if it comes out they have a close relationship with us.

Mr. MURPHY. Would you classify their contribution as significant?

Mr. COLBY. Yes, very much so.

Mr. MURPHY. In your testimony before the various committees in Congress, oversight committees, whether it be the Armed Services or the Budgetary Committees, have they ever made any recommendations, and if so, have these recommendations ever resulted in your desisting from a certain program or line of action?

Mr. COLBY. Yes; they have, and they have sometimes forced a choice between two activities.

Mr. MURPHY. Could you go into detail on that when we get into executive session?

Mr. COLBY. I can, certainly.

Mr. MURPHY. Mr. Colby, do you keep a record of your appearances and briefings before the Congress?

Mr. COLBY. My staff keeps some kind of records, the transcripts, things like that, I guess.

Mr. MURPHY. Is your appearance before the Armed Services and the Budgetary Committees on a scheduled basis or just certain times of the year?

Mr. COLBY. The Armed Services Committee set up a biweekly or once-every-2-weeks meeting with us some time ago. During this discussion about the formation of this select committee, that was suspended for a while, but it has resumed.

Mr. MURPHY. Would you describe this relationship and appearance before these committees as close, or is it just a periodic thing?

Mr. COLBY. No; this is every 2 weeks, either I or one of my senior officers would be up there, and we would brief them on whatever happened to be around that they needed to be briefed on. Second, with the Appropriations Committee, obviously it focuses more on the appropriations time and the budget process, but I also appear there to give a picture of the world as a whole and discuss the substantive situations around the world against which the budgets are being put together, military budgets.

Mr. MURPHY. Do you discuss covert operations that are about to take place to seek their approval, or do you tell them after the operations are underway?

Mr. COLBY. Under the present law, we are required to report in a timely fashion. I think a reading of the statute is quite clear that that is not expected to be before you initiate the activity. And I think the answer is normally no, we don't seek their advice on the matter beforehand. But in the appropriations process, there are a number of times in which reporting on an ongoing activity and requesting the budget for its continuation next year, there has been considerable debate about whether it should continue next year, and in some cases it has been as a result of the testimony.

Mr. MURPHY. So these oversight committees would never be in a position to prevent you from undertaking a program of covert activity?

Mr. COLBY. Under the strict rules of the law, no, but you know the way the separation of powers works—

Mr. MURPHY. I don't mean the strict rules of the law. Obviously you don't come to them until you are well into the program or have completed the program; is that correct?

Mr. COLBY. Yes. But under the Constitution, the way it works—

Mr. MURPHY. And you use the words "timely fashion" to get around coming to them before you initiate the program?

Mr. COLBY. That is what the statute says—in a timely fashion; it does not mean beforehand.

Mr. MURPHY. Could you not interpret "timely fashion" to mean an appearance prior to starting a program?

Mr. COLBY. No; I don't think so, because I think it says that the statute—the national statute says that we will not do these matters unless and until the President finds it important to the national security and then reports it in a timely fashion. I think the clear—

Mr. MURPHY. But you reduce the oversight committees to Monday-morning quarterbacks. In essence, that is what you do.

Mr. COLBY. Well, that is the way the Constitution works. I assure you we are very attentive to the attitudes of the Congress.

Mr. MURPHY. When you say that is the way the Constitution works. I find that hard to accept. You mean from your definition of the words "a timely fashion," Mr. Colby, you take it to mean that you do not present to these oversight committees any covert activity or line of activity that you are about to initiate until after you are well into it or until you have completed it?

Mr. COLBY. Or a continuing line of activity, of course, is brief in the sense of briefing the following year's budget. This was certainly the case for some of our activities in Southeast Asia, that went on over

several years. These were briefed each year, and each time the money was appropriated to carry on those programs. In that sense, there was a prior approval.

Mr. MURPHY. I think I would—I know my time is up, Mr. Chairman—I would take issue with your interpretation of the timely fashion and the real effect Congress had in its duty to oversee.

Mr. COLBY. I think in the detailed testimony in executive session, I can show you some examples, Mr. Murphy.

Chairman PIKE. The committee at this time will stand in recess until 2 o'clock this afternoon.

[Whereupon, at 12:29 p.m., the committee recessed to 2 p.m. of the same day.]

AFTERNOON SESSION

Chairman PIKE. The committee will come to order.

Mr. Milford may interrogate.

Mr. MILFORD. Thank you, Mr. Chairman.

Mr. Colby, you have testified that ex-employees have damaged our intelligence capabilities by writing books and that sort of thing. Are you presently taking any sort of steps through employment contracts or other legal instruments to prevent this practice from occurring in the future?

Mr. COLBY. We have long had that particular practice of an employment contract and agreement not to publish in the future without our approval the classified material learned. It is not a question of the opinions; they can publish opinions without coming to us. But it is a matter of publishing the facts that they learn in the course of their employment. This particular contract, of course, was the basis for our action against Mr. Marchetti, and the courts have sustained our position in that regard—the enforceability of that through an injunction, provided we learn of it in advance and are thereby able to get the injunction.

With respect to the people who have already published before we can hear about it, I believe our legislation is very inadequate at the moment. I have made some suggestions which I think are compatible, fully compatible with our Constitution.

They would apply only to we who consciously assume the obligation of keeping the secrets. They are comparable to the kinds of penalties that exist for people who, without authorization, reveal an income tax return, people in the Treasury who would reveal an income tax return, people in the Census Bureau who would reveal a census return, and people in Agriculture who would reveal cotton statistics, and affect the market.

I believe we can have that kind of criminal sanctions for the unauthorized revelation of intelligence sources in a fashion that would both give us better protection of our sources and, second, be quite compatible with the Constitution and the importance of the free press.

Mr. MILFORD. Thank you.

In your normal foreign intelligence missions, do you often use the cooperative, voluntary efforts of friendly international corporations and their employees? That is, companies such as American-owned international airlines, export-import companies, manufacturers and

distributors of American-made goods; are their employees recruited to work with your agency?

Mr. COLBY. We have for many years had a practice of interviewing Americans who might know something about some part of the world that we are interested in. We are revealing ourselves as belonging to CIA. We don't pay for the information. They give it to us as the voluntary act of a patriotic American.

Mr. MILFORD. Do you consider this as an important source?

Mr. COLBY. It is a very important source, for two types of intelligence, scientific and technical intelligence, and sometimes economic intelligence that enables us to get intelligence without going abroad to find it out. We have it here, it is already in America. We have promised these people that we will not reveal them as a source, and we have lost certain of this cooperation in recent months because of the publicity recently.

There is another category in which we sometimes work with them on a much smaller number, and that is where a legitimate American company offers to allow us to use their name to put some individual abroad; it is called a cover arrangement. We repay them for the costs of that kind of an activity.

Mr. MILFORD. Recently in a private, personal conversation with the president of one of these corporations, he told me that he had recently issued a directive to all of his employees that they were to refrain from any cooperation with the CIA under penalty of being discharged. This particular company president further stated that the recent news articles on congressional hearings had named some international companies as having cooperated in the past with CIA. This event then made the host nation and customers within these nations reluctant to do business with the named companies. He feared that the same might happen to his company and therefore issued the directive for all of his employees to refrain from cooperation with your Agency.

Now, is this an isolated case or have you seen a pattern of this since these hearings started?

Mr. COLBY. I have seen a number of them in recent months, a number of these cases have come—have been brought to my attention. In that kind of a relationship we have dealt with the top of the corporation. They have known they were dealing with CIA. We don't independently suborn some employee of theirs to work for us. But in that kind of a situation we have had that cooperation withdrawn in a number of cases in recent months and it does adversely affect our knowledge of the world, because it was an important source to us.

Mr. MILFORD. Thank you, Mr. Chairman. I yield back the balance of my time.

Chairman PIKE. Mr. Aspin.

Mr. ASPIN. Thank you, Mr. Chairman.

I just caught the beginning of the discussion, I think, and I missed the very first about the recommendations that you had about your law to prevent leaks in the future. But I think the problem with your recommendation goes back to what you said earlier, which is that you have not leaked things but you have unilaterally declassified them. And you know as well as I do that anybody who has been in this town long

enough knows that the real unilateral declassifications come from people at the top. They don't come from Congress, most of them, they don't come from the bureaucracy, most of them; they come from the Secretary of Defense and the Secretary of State or somebody working for the President's staff or the President himself.

Now, is your law going to apply to those people? See, the problem is, if you think that you can get a law that allows us to throw, or allows you to throw Dan Ellsberg and Mike Harrington into the pokey and yet lets Mel Laird and Henry Kissinger—

Mr. COLBY. My law would not apply to Mr.——

Mr. ASPIN. It just isn't going to wash. If it is going to be a law, it has to apply to everybody. Fat chance we are going to get a law that is going to apply to the Secretary of Defense or the Secretary of State for that matter.

Mr. COLBY. Mr. Aspin, the point here is like a pitcher full of water; the water can be poured out, the pitcher retains its integrity. If the leak occurs at the bottom of the pitcher the pitcher can never be re-filled. That is our problem. We have those leaks that are destroying the pitcher itself of our intelligence activities.

Mr. ASPIN. OK. But who decides that? You have got a situation where people like Mel Laird decide they can skim the cream off the top of the pitcher, or Secretary Kissinger decides he can unilaterally decide that he is going to deem as secret or not, and Congress, as the chairman has pointed out, is at the mercy of this system. You can't have a national secrets act in this country with this kind of a system. It isn't going to work.

The second thing—let's broaden the thing because I think the recommendations of what we are going to do here are very, very important. The second thing that bothers me about your recommendation, which is that we stop the leaks, is that there is no comparable recommendation in the things that you have recommended to prevent the illegal acts from happening in the first place. There is no criminal statute for leaking, as you point out, but neither apparently is there any criminal statute for violating the statutes or the Executive orders that govern the CIA. So if we pass your recommendation, which is to put a criminal sanction on all leaks, what we will have done is not prevent illegalities from happening in the future as they have happened now, but you will damn well prevent them from coming out. And what you are doing is just putting a cap on the bottle rather than reforming the system. Where is the recommendation for making criminal penalties associated with breaking or violating the statute of the CIA or the Executive order? Why not criminal penalties for that?

Mr. COLBY. There are a number of criminal statutes that apply to certain of these activities. There is a legal question as to whether they are applied to the particular people involved in this thing.

Mr. ASPIN. Exactly, exactly.

Mr. COLBY. Now, whether there are additional criminal statutes necessary or not, I frankly don't think there are. I would solve that problem by what I refer to as very vigorous supervision——

Mr. ASPIN. But you can't——

Mr. COLBY [continuing]. By the Congress.

Mr. ASPIN. But you can't have vigorous supervision unless you have some penalties with it.

Mr. COLBY. No.

Mr. ASPIN. Here is the problem. The problem is that the supervision can't be vigorous. We have gone round and round on this business about how good is the control through the money. I am not sure that it really is relevant. I mean, we have established here today about the audits and that you don't have very—you as DCI can't have audits into other parts of the intelligence community other than the CIA. There is compartmentalization, there's lots of secrecy, some of it for very good reasons. But there is no way that system is going to be able to be controlled. Even if you control the money very well, a lot of these really illegal things I have a feeling don't cost a lot of money. So you have to have some other mechanism to make sure that they are not being done. And you have to have criminal statutes. You can't just put criminal statutes and have criminal prosecution of Sy Hersh's sources and not have criminal statutes to prohibit the people who set up Operation Chaos or the mail surveillance or the other things.

Mr. COLBY. I think there are criminal statutes that apply to some of those things. With respect to the Operation Chaos, I think the Rockefeller Commission found that it was basically lawful. There were a few unlawful acts that took place during it. But the basic activity was lawful. I think you will find the statute is there. But as for how you control this, it seems to me I get back to supervision, and a very wise gentleman once described to me the relationship between the board of his company and the president of his company. It was a very simple one: No surprises. So that the president was at hazard, the president of that company was at hazard that the board not be surprised. I think that a vigorous congressional committee with its own investigations can find things out—

Mr. ASPIN. That can't happen.

Mr. COLBY [continuing]. In that position.

Chairman PIKE. The time of the gentleman has expired.

Mr. Johnson.

Mr. JOHNSON. Thank you.

You are familiar with the War Powers Act, I presume?

Mr. COLBY. Yes.

Mr. JOHNSON. Could the CIA in your opinion under the War Powers Act engage in the same kind of covert activity, the same kind of military operations now that the War Powers Act is in existence that it engaged in against Cuba and against Laos and Cambodia?

Mr. COLBY. Well, I think that the provision of the Foreign Assistance Act says that the agency is prohibited from doing operations other than intelligence.

Mr. JOHNSON. That is the Hughes amendment. I wanted to get to that later on.

Mr. COLBY. Yes.

Mr. JOHNSON. But could, in your opinion, if the President directed, or if a subsequent President directed a subsequent director to engage in these kind of a military operations, would it be lawful for him to do so?

Mr. COLBY. I think you are distinguishing a paramilitary operation and a military operation.

Mr. JOHNSON. Well, it is very hard for me to distinguish those two different operations.

Mr. COLBY. And either one of them would be included in the reporting necessary under this act.

Mr. JOHNSON. In the report, but insofar as your concern, I take it your answer would be that if the President directed, it would be the function of the CIA—

Mr. COLBY. I have not studied the legal aspects of that. I respectfully request that I get a chance to reply for the record.

Mr. JOHNSON. At least you are not willing to state that a declaration under the War Powers Act would prohibit that kind of activity?

Mr. COLBY. I really can't talk in detail about it now. I will submit some comments on this for the record.

[The reply to Mr. Johnson's question, dated November 14, 1975, is printed on pages 545 to 546 of the appendix.]

Mr. JOHNSON. You were talking this morning about your prohibition against assassinations, which I believe in wholeheartedly; I think that is the right thing to do. But the Phoenix Act, the Phoenix program, would you classify that as paramilitary or assassination?

Mr. COLBY. I would classify—it certainly was not, and I have testified a number of times, it was not a program of assassinations.

Mr. JOHNSON. So that would be the kind of program then that would be covered under covert activities?

Mr. COLBY. There was nothing covert about the Phoenix program. It involved—it was run by me, working under General Abrams as a part of the military command there. It was not a covert CIA operation. It was an attempt to get the various intelligence and security services to cooperate, one of which was CIA. But the program was a Vietnamese program supported by the military command and the CORDS structure that I led.

Mr. JOHNSON. You have indicated, and I think everybody has indicated who has testified, that the President and the Congress has information—those selected Members of the Congress I mean—has information about all of the covert activities that have taken place?

Mr. COLBY. The Congress is certainly—I am in compliance with this act since the act was passed.

Mr. JOHNSON. Yes, I am not speaking about that.

Mr. COLBY. All current activities.

Mr. JOHNSON. I am not speaking about your activities now; I am talking about going back to the period of the 1960's.

Mr. COLBY. Oh, no, I couldn't say that broadly. I am sure there were individual situations that were not mentioned specifically in that period in which we were very busy in a lot of different areas. I would imagine there are situations in which the Congress did not know the specifics of a particular operation. I think that is not possible any more.

Mr. JOHNSON. Why not? What has changed beyond the terms of that Hughes amendment? That is what I was getting to this morning. I said, how can we actually determine whether or not the director—not you, but a subsequent director—is withholding information or distorting it? How do we know that? Do we have any independent means of verification?

Mr. COLBY. The chairman of one of our senatorial oversight committees some years ago said in the speech on the floor, said there are some things he did not want to know.

Mr. JOHNSON. Well, that is up to him.

Mr. COLBY. Yes.

Mr. JOHNSON. But what means of verification do we as Members of Congress or the Congress have to determine whether or not we are getting all the information which you acknowledged the Congress did not get? Perhaps that is because they didn't ask or perhaps it is because previous directors didn't tell them and they didn't know what that encompassed.

Mr. COLBY. I think there was a totally different aspect then, so I am not pointing any fingers of blame at all—

Mr. JOHNSON. I am inquiring into this so we don't have that same situation again.

Mr. COLBY. Right. I think today the answer to the question is to ask the chairman of the Oversight Committee whether he has the full knowledge. I think he will devote himself to making sure that he does. He has the capability through independent investigators, through the press, and at that point he also has the ability to ask me very deliberately, "Is there anything else I ought to know?"; and if something comes out later that I have not told him about, it affects his confidence in me obviously.

Mr. JOHNSON. Doesn't it really come back to the fact that he has to rely on you for all the information he has?

Mr. COLBY. No, I think he has some independent checks.

Mr. JOHNSON. What are these independent checks? You mentioned the press. I would really question whether you are serious when you say the press has access to checking whether or not you are giving the chairman of the committee accurate information, because they have no way of knowing what you are telling him, they have no access to the chairman. That isn't a valid observation.

What other means does the chairman have?

Mr. COLBY. The chairman can do such investigations as he wants. The various staff members of the committees do travel, they look into things.

Mr. JOHNSON. Do they have total access to your operations?

Mr. COLBY. I certainly would arrange it any time they wanted, any particular thing. We would make sure they would get a full access. They can talk to the people, do anything they think necessary to reassure themselves.

Chairman PIKE. The time of the gentleman has expired.

Mr. Hayes.

Mr. HAYES. Thank you, Mr. Chairman.

When Mr. McClory, for whom I have a great deal of respect, questioned you, he asked whether these investigations were causing problems. Your answer to him was an answer pointing out deficiencies within the CIA and its own security. You mentioned leaks and sensationalism and gave an example, I believe, of the Agee book or Marchetti book, whichever one you were referring to.

I was wondering whether or not, just in order to clarify that, that you did answer in terms of your own lack of ability to be secure within the CIA. You pointed out, I think, and made reference to one instance, I believe, with Mr. Milford, when there was some inability to secure continued cooperation within a company. What steps are you taking now to continue those contacts that you have? For example,

are you having trouble with the criminal community in this country, getting cooperation from them now that certain revelations have been made?

Mr. COLBY. No, I don't think I have any problems there, because I don't think I am doing very much there. I don't know of anything I am doing there, but I don't want to make any flat statement here offhand.

Mr. HAYES. Aren't there procedures, are there not review procedures through which agents go so that a change in the attitude of a Philip Agee or a Mr. Marchetti could be determined by the Agency?

Mr. COLBY. Well, of course he changed, after he left the Agency. When he left the Agency he wrote us a very warm and friendly letter of resignation in which he thanked the Agency for his great service and great experience with it. He spoke in the highest terms with respect to the people that he had worked with and for whom he had the greatest respect, and he ended that, if there is anything he can do for us in the future he would be very happy to. He seems to have fallen in some bad company since that time.

Mr. HAYES. When Mr. Murphy was discussing the Chicago case and the case of the smuggling of illegal opium, you indicated that the CIA notified the Justice Department of that fact?

Mr. COLBY. I don't think it was the Justice Department. I think it was the Customs or somebody like that.

Mr. HAYES. But Customs did not in the first instance make that discovery and then notify Justice and then CIA followed?

Mr. COLBY. As I recall the circumstances, CIA got some tip on this and went and informed the Customs Service.

[By letter of August 5, 1975—from Mitchell Rogovin, Special Counsel to the DCI, to Mr. Pike—Mr. Colby's response above concerning the Customs Bureau was corrected. The letter and the attachment thereto are printed in the appendixes of these hearings.]

Mr. HAYES. To what degree are CIA proprietaries and things that you described in general as fronts this morning, in fact the mode of compensating those that CIA is able to induce to do contract work for them?

Mr. COLBY. Oh, no, contract work we pay for; it is a normal kind of Government contract.

Mr. HAYES. But under no circumstances would the award of a proprietary capitalized by an appropriation ever be used as the payment to the persons involved in doing the work for CIA? For example, they are going to come by ownership of an airline or they are going to come by ownership of a drycleaning establishment, or whatever. Under no circumstances is that ever the mode of contract?

Mr. COLBY. There was a question raised, as you perhaps know, it is harder sometimes in Government to stop something than to start something, and we have been stopping some of these proprietaries recently. There was a question raised as to how we should do this with respect to a couple of them. We went through quite an exercise to assure ourselves against any favoritism involved to the people, including a GAO review of the procedure we were using.

Mr. HAYES. Do you feel that the CIA's use of outside consultants is now just a bit heavy? For example, it seems to have proliferated in the last decade, the numbers of consulting agencies being made

up of former Defense Department personnel and former CIA personnel, who go into business for themselves and it would appear there is an apparent drain off of money going into those consulting operations.

Do you notice a trend?

Mr. COLBY. I think each such contract or consultation is justified at the time on the merits of the case.

Mr. HAYES. How many of those are done on the certificate of the director through which OMB or anyone else cannot penetrate, where there is no audit?

Mr. COLBY. Well, OMB—I audit my own staff audits, I have a separate staff that audits these matters. We have a very complicated procedure of contract review and contract audit which I will get into on Wednesday.

Mr. HAYES. How can a contract be reviewed if you make the decision on your own certificate to make that particular investment or to make that contract with an outside consultant, let's say; how can you then be the reviewing agency?

Mr. COLBY. Because we organize it so there is a contract review board and contracting officers below me who are audited by a staff that reports to me. Now I am not in the situation of myself making a decision and then having it audited by the auditor, even though that is technically feasible. But our normal procedure has a very complicated arrangement by which contracts are reviewed and justified. That is then subjected to an independent audit and assessment by an independent staff within the organization. Now in theory your point is correct, in practice we are aware of that danger and take steps to protect ourselves against it.

Chairman PIKE. Mr. Lehman may inquire.

Mr. LEHMAN. Thank you, Mr. Chairman.

I don't want to expand on proprietorship and the CIA at this time. But, perhaps I will get back to it at a later date when you return. The point I was trying to make is that even with the best of intentions, the CIA, or the intelligence community, unless we put proper boundaries on their activities, can really undermine the American free enterprise system by subsidizing a governmental operation with American tax dollars. That is what I don't want to do, and I think we are going to have to put safeguards around any kind of Government operation in that field, whether it is an intelligence operation or any other. I am concerned with the actual impact of the CIA operations in South Florida. I know, at one time the CIA had a very heavy installation in Miami at the Richmond Air Base, South Campus of the University of Miami, and it was categorized as probably the largest CIA base outside of the home base here in Virginia.

Would you say that the Richmond CIA Base was the largest, or one of the largest, at that time?

Mr. COLBY. Mr. Lehman, I really would not like to discuss the details of that in an open session. We obviously did have an extensive effort based in Florida, aimed at the obvious target in that part of the world. That has been very substantially reduced in recent years, of course.

Mr. LEHMAN. You say it is no longer one of the largest of your bases?

Mr. COLBY. Oh, it certainly is not a large base at this time.

Mr. LEHMAN. Let me pursue something else. Other than proprietorship organizations in Miami, has the CIA been involved with Cuban refugee operations? Has it been supportive of, did it fund, and is it still supportive and funding, Cuban refugee operations?

Mr. COLBY. During the early 1960's, as you know, there was an extensive series of relationships between CIA and various of the Cuban movements. Since that time, most of those have been eliminated, although we still have an intelligence interest in the country of Cuba and we are going to collect intelligence on it from such ways as we can.

Mr. LEHMAN. I want to ask you about one of the larger Cuban refugee organizations, in South Florida—Alpha 66. Is that organization supported basically by the Cuban community, is it supported principally by CIA funds, or would you rather not answer that question now?

Mr. COLBY. I would rather not answer the question in public session.

Mr. LEHMAN. All right.

In your relations or dealings with refugee organizations have you begun to deal with the Vietnamese refugees? Is there such a thing as a Vietnamese refugee organization? If so, do you have any CIA support involved in these kinds of organizations?

Mr. COLBY. Again that is a question I would rather not answer in public session, although I certainly will cover the details in executive session.

Mr. LEHMAN. One other area I would like to pursue relates to the fact that I am on the Education and Labor Committee. We are having a very difficult time funding, for instance, higher education for American students. They are really struggling. I would just like to know whether CIA is funding higher education for foreign students with American tax dollars.

Mr. COLBY. Well, you will remember in 1967, Mr. Lehman, there was an exposure of CIA's operations abroad aimed at various cultural and academic groups around the world, peace movements, and so on. At that time a review of that activity was conducted by a committee headed by then Under Secretary Katzenbach, and a series of guidelines were set out which essentially say that we will not support educational or voluntary associations, and we are in compliance with that act, with that set of guidelines.

Mr. LEHMAN. Mr. Chairman, I yield back the balance.

Mr. ASPIN. Will you yield?

Mr. LEHMAN. Yes.

Mr. ASPIN. In connection with that, Mr. Colby, there was a clause, kind of an escape clause that said if the President determined it was in the national interest, et cetera, et cetera, that that provision could be waived. Could you give us any information about whether that has ever been waived?

Mr. COLBY. I would rather not do that in open session, if I may.

Mr. ASPIN. Thank you.

Chairman PIKE. Mr. Field?

Mr. FIELD. Thank you, Mr. Chairman.

Mr. Colby, this afternoon, what I would like to do is to try and go through the makeup of the budget, with the specific goal of getting

some idea of how well informed Congress is when they are told of the national foreign intelligence budget.

Now, I take it you have a national foreign intelligence budget which you make up, which has a total figure, which you present to the oversight committees of the Congress. In making up that budget, does that include all of our intelligence, all our foreign-related intelligence activities?

Mr. COLBY. Well, you get into definitional problems here immediately, as to the difference—

Mr. FIELD. May I just go through a few of them and ask the questions. Does that include military tactical intelligence, for example?

Mr. COLBY. The national program does not.

Mr. FIELD. All right. Now—

Mr. COLBY. Although it includes a lot of things which are tactical intelligence.

Mr. FIELD. In the military tactical intelligence budget, it may well be a very sizable portion of the military intelligence budget.

Mr. COLBY. Well, I think rather what you would say is that those subjects covered under operational expenditures have an intelligence pay-off as well. The radar on the destroyer, the point man in a squad, in a platoon, obviously has an intelligence function but it is a part of the operational expenditure of having that destroyer or that squad. Now whether—

Mr. FIELD. The Army has an intelligence budget which they put together as sort of a best guess of what their intelligence costs them. It is about double, let's say, what your intelligence community budget is for them. This creates a confusing problem for us, because if we recommend creating an oversight committee, we will have to try to give them some parameters of what the intelligence community is. We are going to try to use the budget. Clearly there is a big difference here in what you have got. Let me go through some other—

Mr. COLBY. May I say that problem is as difficult for me as it is for you. As a result we did start a program with the Joint Chiefs of Staff last year to try to get some definitions as to which categories things fell into and give visibility to a number of things that we had not previously seen.

Mr. FIELD. I am going to run out of time. I have a lot of other things. I would like to get specific. For example, you remember a year or so ago there was all of this publicity about military spying in Berlin, Army units were spying. That sounds to me like intelligence. It is overseas. They were spying on American citizens; they weren't supposed to be, but they were also spying on foreigners at the same time, I hope. The activity in that unit would not have been included in the foreign intelligence community budget; is that correct?

Mr. COLBY. I think that the basic justification for that activity was that it was counterintelligence protection of our forces, it was so closely force related it was part of that budget—

Mr. FIELD. The simple answer is that it was not included in your budget. Doesn't that mislead Congress when they think they are looking at a budget of all of the intelligence activities of your foreign intelligence community?

Mr. COLBY. That is why I try to make very clear in my presentations the extent to which I cover, and that there are areas out beyond it.

Mr. FIELD. Are there parts of this not included in the intelligence budget?

Mr. COLBY. Yes.

Mr. FIELD. All right. Maybe up to let's say a third of the budget? I mean it is a substantial part of the work.

Mr. COLBY. It is not intelligence work but there is a portion—

Mr. FIELD. Would that include warning systems which sound to me like intelligence?

Mr. COLBY. Well, by—the President and by the arrangements that have been made, warning is a separate subject than intelligence although it does fall under what I call intelligence related and consequently I have included reference to those kinds of expenditures in my presentations.

Mr. FIELD. Going on to other areas of the budget; does it include training programs?

Mr. COLBY. It includes some. The point is that the Defense Department makes up its budget in I believe eight categories, general purpose forces, strategic forces, training—

Mr. FIELD. One of those eight categories is training.

Mr. COLBY. One of them is intelligence—

Mr. FIELD. One of those categories is training.

Mr. COLBY. Is training.

Mr. FIELD. They include in it what their estimate of the intelligence budget is; you do not.

Mr. COLBY. You see the foreign intelligence program that deal with is an attempt to cut across some of the other ways in which budgets are presented, to make more visible the national intelligence expenditure and consequently, you find pieces of it in different other places in the formal budget as they are presented.

Mr. FIELD. The piece that sounds fairly important to me in intelligence is counterintelligence. We have seen here today the enormous steps we take to keep the American people from finding out what the budget is and so forth. I would hope we are doing a lot to keep the Russians from finding out what the budget is. Counterintelligence—it has the word "intelligence" right in it, but it is not included in the intelligence budget.

Mr. COLBY. It is included in CIA's certainly.

Mr. FIELD. It is not included in the Army budget.

Mr. COLBY. It is not included in the sense that the FBI expenditures are not included in the foreign intelligence program.

Mr. FIELD. What about the Army budget?

Mr. COLBY. The Army program as I say is considered so closely force related that it is handled as a part of the force expenditures.

Mr. FIELD. Would this account for why in the early 1970's when OMB did a study and CIA had its own, OMB came out with a budget that was literally billions of dollars more than what the CIA was telling Congress intelligence was costing? And my time is up so I want to finish with more of a statement than a question: Isn't this somewhat misleading when we get the assurances that, "Look, a couple of people in Congress did know what this budget cost," and now we begin to find out that what they were told was not necessarily what the intelligence budget might have been?

Mr. COLBY. We certainly try to clarify very precisely what the CIA budget and expenditures are all about. From there on you get into definitional problems about what is and what is not a part of the national foreign intelligence program.

I attempt to clarify that there are some ambiguities as to exactly what is covered and what is not, so that we are not accused of concealing anything or putting forth a false picture. We are engaged in an effort to try to rationalize this and make it clear so that everybody can understand what is going on.

Chairman PIKE. At this point, Mr. Colby, we have gone around twice and the question now becomes whether it would be worthwhile for us to go into executive session or not.

Last Friday we sat here for several hours and the witness said over and over and over again:

I would love to respond to that question but I cannot do it in open session. If only you will go into executive session, we will be happy to give you that information.

So relying on those assurances, we went into executive session and the result could only be described as acutely disappointing. We found, first, that the witness was unable to testify until the room had been swept. And this is a term of art which I am sure you are familiar with. So everybody, Members included, removed themselves from the room and we waited about 20 or 25 minutes while electronics experts went over the room and assured us that there were no bugs or hidden devices in the room and then we came into the room. Then we were told that because the reporters were only cleared for top secret we could not get all of the information we wanted to get because, for some reason, the testimony which we sought to elicit on the budget is considered more serious than top secret. And so we went round and round for a while; and the fact of the matter is that we got absolutely nothing out of our executive session and it appears to me that what has happened is that, using the phrase, "we would be delighted to tell you that in executive session," the Members of Congress find themselves kind of maneuvered into a corner—where the public thinks that the Office of Management and Budget, for example, has indeed been forthcoming in executive session or that somebody else is going to be forthcoming in executive session. But the fact of the matter is that we learn more in open session than we do in executive session.

The question then becomes, I am just going to start by asking you: What do you think you could tell us in executive session that would be particularly useful to this committee that you cannot tell the American people?

Mr. COLBY. I think I can tell you the amounts of the budget—

Chairman PIKE. We already have these in broad categories in written form.

Mr. COLBY. The trend lines over the years. I think I can give you an idea of what this produces in terms of product that is so valuable to us. I think I can answer your questions such as we were engaged in with Mr. Field about what is covered and what is not in some detail.

I think we can answer a number of the other questions that I have respectfully asked be deferred until executive session and I think I can answer those questions. The one thing I will try to get your

approval of is not to answer names of individuals with whom we work, because these are matters which are not—not only must be protected from exposure but from the risk of exposure.

Chairman PIKE. Mr. Colby—

Mr. COLBY. But I am not raising a point of principle on that.

Chairman PIKE. No; I understand. And I think that I—and I assure you that I cannot speak for other members—but I personally would certainly try to protect the names of individuals whose lives might be endangered or whose reputations might be smeared. But what we have found thus far is a great deal of the language of cooperation and a great deal of the activity of noncooperation. My staff people, for example, are still telling me that even though they go out to your shop, rather than asking the documents be sent here, they are not provided with all of the information which they seek. Although they have all of the security clearances which Congress can give to them, we still find they are asked to sign an additional oath of one sort or another, of secrecy, before they be provided with the information they need.

I am going to leave this decision up to the committee as a whole. It takes a record vote on whether we go into executive session or not, but my experience to date has been such that we gain absolutely nothing by going into executive session except the newspapers somehow get the appearance that we are learning things which in fact we are not learning.

Mr. McCLODY. Will the Chairman yield?

Chairman PIKE. Of course, I yield.

Mr. McCLODY. I would like to make this comment and ask a few questions along the same line.

It seems to me that for us to get to what I feel are the basic and ultimate facts that this committee has to receive in order to arrive at any judgments and any recommendations, we do have to have information which you regard as secret, top, and compartmentalized, whatever. Now the question that I have is this: I feel that your relationships with the Rockefeller Commission were such that they received the information that they wanted, that the Church committee is getting what it needs and what it wants. Is there something about our rules or our procedures which would prevent you from being as completely forthright in an executive session as you are with the others?

I don't believe we should, if all executive session means is just clearing the room of the spectators and the press, I don't see any point to it at all. But if we receive things in secret, in confidence, which you feel are being retained in confidence—

Mr. COLBY. No; I have a number of things I am prepared to show you when we go into executive session.

Mr. McCLODY. You don't have any problem with the procedures and the rules that we have adopted?

Mr. COLBY. I think part of the problem that the chairman is concerned about stemmed from the first few days of our relationship when we were not informed, by mistake, I was not informed of the details of the security arrangements and I did not know there were any security arrangements when we had our first exchange.

Mr. McCLODY. You are satisfied now?

Mr. COLBY. I think your security arrangements—

Mr. McCLORY. You think the executive session would be productive?

Mr. COLBY. I think it would be, Mr. McClory.

Mr. McCLORY. Mr. Chairman, if it is in order, I would like to move that we resolve ourselves into executive session.

Chairman PIKE. Does any other member wish to be heard on the motion?

Mr. Stanton.

Mr. COLBY. So there is no misunderstanding, Mr. Chairman, I would like the opportunity to have the room swept. The court reporter I have used in other sessions with other oversight committees, so I have no reservation about him. With respect to your staff, I believe that there are certain compartmented aspects and I would ask that the staff members present be limited to the ones that you have designated for access to compartmented material.

Chairman PIKE. I don't believe I ever designated anyone as qualified to get compartmented information.

Mr. COLBY. You designated—

Chairman PIKE. I beg your pardon?

Mr. COLBY. You designated in one letter, I think it was either six or eight of your senior staff members to have access to all information.

Chairman PIKE. To all information, absolutely, that is what I did.

Mr. COLBY. That is how I interpret it.

Chairman PIKE. And here is a very fundamental issue. The President of the United States has decreed that there shall be three kinds of classified material and they are to be classified as confidential and secret and top secret and you have designated that beyond that there shall be other designations of classified material; and I am just inclined, reluctantly, to go along with the President of the United States and not with the Director of Central Intelligence, because I do not really think that there is any legal justification for you to impose some higher degree of classification on our staff than the President of the United States says should be imposed on anybody.

Mr. COLBY. Under the act and under the National Security Council directives that carried it out, I believe that I am required to develop such additional compartments for particularly sensitive material as might be appropriate and necessary. I have so designated a certain category of activity as highly sensitive and to be handled in a very special way.

Chairman PIKE. Mr. Colby, I am sure you are familiar with this, but I want to just read it into the record. This is the executive order of the President dated—let's get the proper date—March 10, 1972, Order No. 11652 and it says:

Official information or material which requires protection against unauthorized disclosure in the interest of the national defense or foreign relations of the United States (hereinafter collectively termed "national security") shall be classified in one of three categories, namely, "Top Secret," "Secret," or "Confidential," depending upon the degree of its significance to national security. No other categories shall be used to identify official information or material as requiring protection in the interest of national security, except as otherwise expressly provided by statute.

[Executive Order No. 11652 is printed in the appendixes of these hearings.]

Now, would you refer me to the statute which expressly provides other categories?

Mr. COLBY. Well, the statute particularly, of course, assigns to me the responsibility for protection of intelligence sources and methods.

Chairman PIKE. Oh, that is a very broad and general chunk of language.

Mr. COLBY. It is no less broad than the one which identifies restricted data under the Atomic Energy Commission. It is a special category of information which I believe requires and is needed to have particular protection.

Chairman PIKE. And because you believe it, regardless of the language of the Presidential directive—

Mr. COLBY. Mr. Chairman, I will point out that the material we are talking about is almost always classified under one of those three categories.

Chairman PIKE. Oh, yes, it is classified under one of those categories and then you add something else.

Mr. COLBY. And then it is compartmented so that everyone who has access to a secret document does not necessarily have access to that particular document.

Mr. ROGOVIN. Mr. Chairman.

Chairman PIKE. Yes, Mr. Rogovin.

Mr. ROGOVIN. Mr. Chairman, I believe the basic question is what staff members that you have designated will participate in the executive session and I believe this issue has been worked out and that those people whom you have designated will indeed participate. I believe the issue that you are raising is separate and apart from the meaning that we have.

Chairman PIKE. You are skipping around the fringes of the issue. But the real issue is that we have had this conversation now several times and the language I always get from you is: "I believe this has been worked out"; but as recently as the end of this morning's session one of our staff members said to me that he is still being denied access and one of the people whom we had designated as qualified for everything is still being denied certain information at Langley. I just am a little weary of "This has been worked out."

What your real hangup is is this: You are willing to tell all of the members of this committee almost everything in executive session. What you are afraid of is that other Members of Congress are going to learn what is revealed to the members of this committee in executive session; is that a fair statement?

Mr. COLBY. No, Mr. Chairman, that is not a fair statement. I am concerned that the important secrets of our country are not exposed beyond what is necessary to expose them to in the process of this investigation.

Chairman PIKE. Well, Mr. Colby, if we assume everything you say in your statement, if we assume that 38 Members out of the 535 Members of Congress are in fact apprised of these activities, and the costs of all of these activities—I do not believe that they are but let us assume that they are—what we are saying is that 7 percent of

Congress has this information and 93 percent of Congress does not have this information.

Do you feel that Congress is being advised about the nature of your activities and the costs of your activities?

Mr. COLBY. I have advised the appropriate committees of the Congress as designated by them. I think it is up to the Congress to decide what further—where further to go. I would recommend that our oversight committee not consist of a meeting of the Congress as a whole. I think that 535 or 545 Members on an oversight committee would not give us very much protection of our secrets.

Chairman PIKE. In other words, you fear the secrets which you have would not be kept if exposed to all of the Members of Congress.

Mr. COLBY. I do so fear. I think, however, that the Congress can solve that problem, itself, if the Congress will be as responsible as I am about the matter in the arrangements it will make.

Chairman PIKE. Did you want to be heard?

Mr. STANTON. No.

Chairman PIKE. Is there any other discussion on the question?

Mr. McClory has moved that the—Mr. Lehman?

Mr. LEHMAN. I voted against going into closed session before. Before I vote for it this time I would like to get one matter cleared up. One of the gentlemen here from OMB said that even in executive session he would not make a statement that he considered prejudicial to the United States.

Will you make such a statement in an executive session, whatever that means?

Mr. COLBY. I am not sure what it means.

I will—

Mr. LEHMAN. I don't know, either.

Mr. COLBY. I will follow the Constitution and my oath and I will respond. There will be certain things that I will ask you not to ask such as the name of an agent someplace.

Mr. LEHMAN. Yes.

I yield to my friend from Texas.

Mr. MILFORD. I didn't recall that statement being made. Perhaps—I did understand the gentleman from OMB to say that until such time as he could legally reveal it—there seemed to be a difficulty here on the classification of the two reporters—he felt that it would be in violation of his oath to testify in the presence of these two people. And I believe his statement was in relation to that as opposed to a refusal to testify to the committee.

Mr. LEHMAN. The gentleman who was sitting to the left of Mr. Lynn made the statement that even in executive session he did not feel he could make a statement that he thought was prejudicial to the United States. That is the way I recall it.

I didn't know exactly what it meant, but I found out in executive session later that it was just semantics anyhow. However, I want to get some idea of what that would mean because it will affect my vote.

Mr. COLBY. Mr. Lehman—

Chairman PIKE. Mr. Dellums?

Mr. DELLUMS. First of all, briefly, I will vote against going into executive session for all of the reasons that you have already adequately enumerated and one additional reason. That is that this is ostensibly a democracy. The American people do have a right to know.

Even if there are answers to questions that must be given in executive session I think that if the American people are going to make any sense out of these investigations then they at least have to begin to know the pattern and the trends that are being established and they certainly need to know the issues.

I think we ought to stay in open session and ask all the relevant questions. If Mr. Colby decides he can't answer that because of national security reasons, at least the people will begin to know what the issues are.

I would like to make a couple of editorial comments with respect to what you pointed out, Mr. Colby. First of all, there is a substantial number of Members of Congress on whom CIA has active files or at least had files. I think that is a major travesty and tragedy in American society.

No. 2, you have just stated in open session that you do not trust 435 Members of Congress. What makes you believe that you can play God? On the first day of each new session of Congress, 435 members of Congress plus the delegate from the District of Columbia, plus the other persons who are representing territories, et cetera, raise their hands to uphold the Constitution of the United States.

Now when I swore to uphold the Constitution, my Constitution didn't say anything about assassination, opening mail, wiretapping, abusing the Constitution, abusing private citizens' rights to privacy or any other unlawful act. It seems to me when we decide to come together as a nation and a people of laws, that it requires morality, integrity, and principle. And no agency has the right to rise above any other agency.

What I learned in the fifth grade was, this was ostensibly a triumvirate form of government with its checks and balances and I think we ought to ask these questions in open session so that the American people can determine for themselves along with these other things, whether we have created a monster with no longer any control, whether there is accountability, whether there is, in fact, control. It seems to me that for you as one person to make the determination that you do not trust 435 Members, each of whom represents 464,000 people, each of whom won an open election in ostensibly a democratic society, I would say to you, sir, you don't have the right to play God.

Mr. COLBY. Mr. Dellums, I am not playing God. I am only enforcing the laws that the Congress passed and the directives of our Government to protect some of the necessary secrets of the intelligence business to protect that very free society that both you and I want to protect. We both want to protect it.

I believe that I can protect it, within the proper bounds of law and within the proper bounds of our Constitution. I believe it can be done.

I am trying to articulate the way in which we Americans can gather together to control this, to supervise this intelligence business but not to destroy it by exposing its very inner secrets.

Mr. DELLUMS. Just one final question, Mr. Colby.

You pointed out this morning in open testimony, in open session when various Members of the Congress questioned you with respect to accountability and control, your response was individual integrity, persons of high caliber, that ultimately it is not a structural problem,

that you have to have good people in a position to do a good job. All right.

The American people elected 435 people. Each of us may disagree how good we are, how much integrity we may have, et cetera. But the American people made that determination. For you to go beyond that determination it seems to me to be the height of folly. I don't think that the question here ought to be whether Members of Congress have the right. If the people choose, that is what democracy is all about. We are either going to have democracy or we are going to have a convenient democracy. I think what we are beginning to see here is a convenient democracy, for those persons who want to see democracy happen when it speaks to their self-interest, but democracy cannot happen when in some way you feel that your particular interests are in some way endangered.

All of us are here to maintain the national security of the country. What we question is what is the definition of national security. Watergate, impeachment and many other things have pointed out clearly that under the rubric of national security, many crimes and lawlessness and questionable acts can occur. I think that is a fundamental, serious question.

Chairman PIKE. Mr. McClory?

Mr. McCLORY: I want to fulfill my responsibility here in compliance with the law and the rules that we have adopted as a committee and go forward with this complete investigation. I therefore move the previous question that we go into executive session.

Chairman PIKE. The question is whether the committee go into executive session. Under the Rules of the House a rollcall is required.

The clerk will call the roll.

The CLERK. Mr. Stanton?

Mr. STANTON. No.

The CLERK. Mr. Treen, absent.

Mr. Dellums?

Mr. DELLUMS. No.

The CLERK. Mr. Kasten?

Mr. KASTEN. Yes.

The CLERK. Mr. Murphy?

Mr. MURPHY. Aye.

The CLERK. Mr. Johnson?

Mr. JOHNSON. Aye.

The CLERK. Mr. Aspin?

Mr. ASPIN. No.

The CLERK. Mr. Milford?

Mr. MILFORD. Aye.

The CLERK. Mr. Hayes?

Mr. HAYES. Aye.

The CLERK. Mr. Lehman?

Mr. LEHMAN. No.

The CLERK. Mr. Pike?

Chairman PIKE. No.

The CLERK. Mr. McClory?

Mr. McCLORY. Aye.

Chairman PIKE. By a vote of six to five the committee will go into executive session at this point.

[Whereupon, at 3:01 p.m., the committee went into executive session.]

U.S. INTELLIGENCE AGENCIES AND ACTIVITIES

Part 1: Intelligence Costs and Fiscal Procedures

TUESDAY, AUGUST 5, 1975

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, D.C.

The committee met, pursuant to recess, at 10 a.m., in room 2118, Rayburn House Office Building, Hon. Otis G. Pike [chairman], presiding.

Present: Representative Pike, Stanton, Dellums, Murphy, Aspin, Milford, Hayes, Lehman, McClory, Treen, Johnson, and Kasten.

Also present: A. Searle Field, staff director; Aaron B. Donner, general counsel; John L. Boos, counsel; Jeffrey R. Whieldon, counsel; Roger Carroll, Fred K. Kirschstein, Charles Mattox, Gregory G. Rushford, and Sandra Zeune, investigators.

Chairman PIKE. The committee will come to order.

We have this morning as our witness Assistant Secretary of Defense Albert Hall, the Assistant Secretary of Defense for Intelligence.

Dr. Hall, we are delighted to have you here. We have a small problem before we start. One of the largest—and probably the largest—consumers of dollars and employers of people for the collection of intelligence is the National Security Agency. We have been trying to find the legal authority by which the National Security Agency was created and we find that the National Security Agency was created by a directive of the National Security Council, and we cannot get a copy of that directive.

It seems incredible to me, very frankly, that we are asked to appropriate money for a huge agency spending huge amounts of money and employing large numbers of people without being provided a copy of the piece of paper which established that agency in the first place.

I am going to ask the committee to vote a resolution authorizing me to issue a subpoena for that document and also for another document as to which we are getting some resistance. This was the so-called Schlesinger report, more formally entitled "Report to the President and the Secretary of Defense on the Department of Defense by the Blue Ribbon Defense Panel, July 1, 1970—National Command and Control Capability and Defense Intelligence."

Before we vote on that I just wonder if you would like to be heard on the question of why Congress should not have these two peices of paper.

Mr. Field tells me that it is not the Schlesinger report. I was in error on that. This is just a Blue Ribbon study relating to intelligence.

STATEMENT OF DR. ALBERT C. HALL, ASSISTANT SECRETARY OF DEFENSE (INTELLIGENCE), ACCOMPANIED BY JOHN SLACK, DIRECTOR OF RESOURCE MANAGEMENT; REAR ADM. DONALD HARVEY, CHIEF OF STAFF, AND DEPUTY FOR MANAGEMENT PLANS, DEFENSE INTELLIGENCE AGENCY; WILLIAM JENKINS, EXECUTIVE ASSISTANT FOR STAFF SERVICES, NATIONAL SECURITY AGENCY, LT. COL. DAVID CADE, EXECUTIVE ASSISTANT TO DR. HALL

Dr. HALL. Anything that the committee needs in its deliberations I am in favor of it having. I would suggest that you determine after I am through with particularly any discussion in closed session in which I will treat the material which is used for the fundamental control of the National Security Agency, and all agencies——

Chairman PIKE. Well, Dr. Hall, we did make a formal request that you bring this piece of paper creating the National Security Agency with you and you tell us that you want us to have everything we need but you didn't bring it. Why?

Dr. HALL. We have to get clearance for releasing this material to you, sir.

Chairman PIKE. Are you telling me that somebody told you not to bring us this piece of paper? If so, who?

Dr. HALL. We were not cleared to bring it this morning. We got the request last night. We are not cleared to bring it today.

Chairman PIKE. Who told you not to bring it this morning?

Dr. HALL. Well, we have a general procedure in handling all intelligence documents to get clearance to bring them here and when we have received that we will be very happy to bring it.

Chairman PIKE. I hear what you are saying, but you haven't answered my question.

Who told you not to bring it?

Dr. HALL. Well, fundamentally we handle the clearance of all such material through the Assistant to the Secretary and until we have——

Chairman PIKE. The Assistant to the Secretary——

Dr. HALL. —of Defense.

Chairman PIKE. Was it the Assistant to the Secretary of Defense who told you not to bring this?

Dr. HALL. Let us say that the correct statement on the situation is that until we get clearance for it, we cannot bring it. As of this morning I had not yet received clearance for it.

Chairman PIKE. Let me ask you a question: Is it not a fact that it was the White House that made the determination that you should not bring that piece of paper here?

Dr. HALL. Well, as far as I know, it was not, but I would like to say that I believe that the National Security Council directive is one which is properly considered in the closed session and I am very happy to discuss it with you, today.

Chairman PIKE. We are talking about a piece of paper, not testimony, and I am advised our staff first started asking for this piece of paper not last night but a week ago Monday.

Here we are representing the legislative branch of Government, asked to appropriate hundreds of millions of dollars to a certain agency;

and we are having difficulty finding the statutory authority for that agency even to exist.

Now, isn't that ridiculous?

Dr. HALL. Well, there is statutory authority for the National Security Agency, as you know. The particular directive to which you are referring is the directive which controls the operation of the Agency. It is not the paper which sets up the Agency.

Chairman PIKE. Why is that document classified?

Dr. HALL. It is classified because of the restrictions Congress has put on handling COMINT/SIGINT data and that document has such data in it.

Chairman PIKE. What you are saying is not the restrictions the Congress has put on handling this stuff. The Congress has passed laws allowing other people to restrict this information; is that not the fact?

Congress, to the best of my knowledge, has not classified anything.

Dr. HALL. No; but Congress has required the proper handling of security information to insure its protection.

Chairman PIKE. Are you telling us Congress has passed a statute which prohibits Congress from seeing this document?

Dr. HALL. Not at all.

In connection with this document, I really do want to say that the request came to me late last night and as soon as possible we will have it for you.

Chairman PIKE. I just keep hearing this song: "We want to cooperate with you. We want to give you all the information you need." And yet we cannot get information and we cannot get pieces of paper.

I would appreciate it if someone would move that this particular subpoena could be issued.

Mr. McCLORY. Mr. Chairman.

Chairman PIKE. Mr. McClory.

Mr. McCLORY. May I be recognized?

Chairman PIKE. Certainly.

Mr. McCLORY. I would just like to concur in your general observations because it seems to me if we are going to fulfill our role here and to do the kind of oversight and investigative job we are required to do we have got to get at the information upon which we can act responsibly and I think it would be most unfortunate if even the appearance was given of refusal or failure to cooperate with this committee in its investigative job.

I would hope, myself, that the documents in question would be forthcoming, giving assurances that if they do contain classified, secret information, that that will be respected pursuant to the rules of this committee.

Chairman PIKE. I will simply say to the gentlemen that the rules and procedures of this committee will be followed.

Mr. MILFORD. Who is the clearance authority for this document?

The statement from the Director of Intelligence before this committee yesterday was that all documents were cleared to this particular committee.

Who specifically is the clearance authority here?

Dr. HALL. As I mentioned, the Assistant to the Secretary of Defense serves as our clearinghouse in the Department of Defense for release of all such material.

Mr. MILFORD. Is he subordinate to the Director of Intelligence?

Dr. HALL. No; he is subordinate to the Secretary of Defense.

In this particular situation, my own feeling is that these documents which are both highly classified, there is no reason at all not to release them to this committee. I just have not received clearance as of this morning to bring them up with me.

Mr. STANTON. Mr. Chairman, I move that the Select Committee on Intelligence authorize the chairman to issue a subpoena requesting the particular documents:

(A) National Security Council intelligence directive No. 6 relating to the National Security Agency; and

(B) Report to the President and Secretary of Defense on the Department of Defense by the Blue Ribbon Defense Panel, July 1, 1970, National Command and Control Capability in Defense Intelligence.

Mr. PIKE. Is there question on the motion?

The clerk will call the roll.

The CLERK. Mr. Giaimo?

[No response.]

The CLERK. Mr. Stanton?

Mr. STANTON. Aye.

The CLERK. Mr. Dellums?

[No response.]

The CLERK. Mr. Murphy?

Mr. MURPHY. Aye.

The CLERK. Mr. Aspin?

Mr. ASPIN. Aye.

The CLERK. Mr. Milford?

Mr. MILFORD. Aye.

The CLERK. Mr. Hayes?

Mr. HAYES. Aye.

The CLERK. Mr. Lehman?

Mr. LEHMAN. Aye.

The CLERK. Mr. McCLODY?

Mr. McCLODY. Aye.

The CLERK. Mr. Treen?

[No response.]

The CLERK. Mr. Kasten?

Mr. KASTEN. Aye.

The CLERK. Mr. Johnson?

Mr. JOHNSON. Aye.

The CLERK. Mr. Pike?

Chairman PIKE. Aye.

There is a vote of 10 ayes and no noes. The motion is carried and a subpoena will be issued.

Dr. Hall, would you please proceed with your prepared statement at this time?

Dr. HALL. Mr. Chairman, I have with me on my right, Mr. John Slack, Director of Resource Management, in my office. I also have with me Rear Adm. Donald Harvey, Chief of Staff and Deputy for Management Plans, Defense Intelligence Agency; Mr. William Jenkins, Executive Assistant for Staff Services at the National Security Agency; and Lt. Col. David Cade, my executive assistant.

In response to your request I am appearing before this committee to testify on all aspects of Department of Defense policies and procedures that relate to planning, programing and budgeting for intelligence activities.

As the Assistant Secretary of Defense (Intelligence) I serve as the principal staff adviser to the Secretary for the management of—and allocation of resources for—Defense intelligence programs and activities.

With me today are Mr. Robert T. Andrews, the Special Assistant to the General Counsel of the Department of Defense and Mr. John L. Slack of my staff.

In order to be as clear and definitive as possible, I have structured my testimony in two portions. First, I will present an unclassified explanation of how the Department of Defense intelligence programs and budgets are formulated. The second portion will focus on fiscal and manpower levels of our intelligence programs, and necessarily will have to be classified.

To explain the resource allocation process for our intelligence programs I will first briefly describe the planning, programing and budgeting system—PPBS—of the Department of Defense. I will then explain how the intelligence programs are developed and reviewed; and how budgets are developed and reviewed.

A key point that I wish to make at the outset is that intelligence programs and activities are subject to the same reviews and audits as all other Department of Defense programs. As an example, since 1966 there have been over 86 audits of intelligence activities conducted by the Assistant Secretary of Defense (Comptroller).

Security, in some cases, limits the number of people who can participate in the review and audit of intelligence programs but does not limit the number of agencies involved in the process.

The planning, programing and budgeting system of the Department of Defense has as its primary objective the translation of national policy into programs that are highly visible and are presented in such a manner that decisionmakers can readily see all alternatives.

The PPBS cycle has a secondary objective of causing a quantified, iterative, dialog between all parts of the Department of Defense.

I might depart at this particular moment and say the procedure we follow in our budget review and preparation is even more stringent and more detailed and more substantive than it is for most other parts of the Department of Defense budget.

Planning is done in considerable detail for at least 2 years into the future and projections for 3 more years are accomplished at a higher level or aggregation. With a 5-year overview, long range impacts can be assessed. Best estimates of future costs in terms of people, operations, training, and maintenance of defense systems are surfaced prior to actual resource decisions. Cross program interfaces are defined and impacts on other than primary programs are also identified in the planning process.

Programing is done for the next fiscal year. It defines specific projects, acquisitions, research and development activities, and programmatic new starts that represent the required resource actions for that fiscal year.

Budgeting is the process that produces the detailed costs by appropriations that become the proposals presented to Congress.

The programs of the Department of Defense fall within the general area of responsibility of the Assistant Secretaries of Defense. Since the resources in the programs can overlap areas of management and functional responsibility, the programs are not considered the exclusive responsibility of one particular Assistant Secretary of Defense area. Listed below are the 10 programs of the 5-year defense plan.

STRATEGIC FORCES: OFFICE OF PRIME RESPONSIBILITY—ASSISTANT SECRETARY OF DEFENSE (PROGRAM ANALYSIS AND EVALUATION)

Consists of strategic offensive, strategic defensive and civil defense—as major subdivision. Includes command, logistics, and support organizations identifiable and associated with these forces.

GENERAL PURPOSE FORCES: OFFICE OF PRIME RESPONSIBILITY—ASSISTANT SECRETARY OF DEFENSE (PROGRAM ANALYSIS AND EVALUATION)

Consists of general purpose force-oriented program elements including the command organizations associated with these forces, the logistics organizations organic to these forces, and the related support units which are deployed or deployable as constituent parts of military or naval forces and field organizations.

INTELLIGENCE AND COMMUNICATIONS: OFFICES OF PRIME RESPONSIBILITY—ASSISTANT SECRETARY OF DEFENSE (INTELLIGENCE); DIRECTOR, TELECOMMUNICATIONS AND COMMAND AND CONTROL SYSTEMS

Consists of resources related primarily to centrally directed Department of Defense mission-oriented functions such as mapping, charting, and geodesy, weather service, oceanography, and aerospace rescue recovery.

AIRLIFT/SEALIFT: OFFICE OF PRIME RESPONSIBILITY—ASSISTANT SECRETARY OF DEFENSE (PROGRAM ANALYSIS AND EVALUATION)

Consists of airlift/sealift and traffic management and water terminals both industrially funded (IF) and nonindustrially funded (NIF). Includes command, logistic and support units organic to these organizations.

GUARD AND RESERVE FORCES: OFFICES OF PRIME RESPONSIBILITY—ASSISTANT SECRETARY OF DEFENSE (MANPOWER AND RESERVE AFFAIRS); ASSISTANT SECRETARY OF DEFENSE (PROGRAM ANALYSIS AND EVALUATION)

Consists of Guard and Reserve training units. Elements are arranged in program order to facilitate the relating of the Guard and Reserve training forces to the active force structure.

**RESEARCH AND DEVELOPMENT: OFFICE OF PRIME RESPONSIBILITY—
DIRECTOR, DEFENSE RESEARCH AND ENGINEERING**

Consists of all research and development activities which are not related to operational systems. The R. & D. costs related to operational systems will be identified in appropriate program elements in the programs to which the weapons or support system may be identified.

CENTRAL SUPPLY AND MAINTENANCE: OFFICE OF PRIME RESPONSIBILITY—ASSISTANT SECRETARY OF DEFENSE (INSTALLATIONS AND LOGISTICS)

Consists of supply and maintenance depots, both industrially funded and nonindustrially funded, as well as second destination transportation, industrial preparedness, and logistics and maintenance support activities.

TRAINING, MEDICAL, AND OTHER GENERAL PERSONNEL ACTIVITIES: OFFICES OF PRIME RESPONSIBILITY—ASSISTANT SECRETARY OF DEFENSE (HEALTH AND ENVIRONMENT); ASSISTANT SECRETARY OF DEFENSE (MANPOWER AND RESERVE AFFAIRS)

Consists of training, medical and other support activities associated with personnel. Excludes training specifically related and identified with another program. Also excludes housing, subsistence, medical, recreational and similar costs and resources that are organic to a program element such as base operations in other programs.

ADMINISTRATION AND ASSOCIATED ACTIVITIES: OFFICE OF PRIME RESPONSIBILITY—CONSISTS OF RESOURCES FOR THE ADMINISTRATIVE SUPPORT OF DEPARTMENTAL AND MAJOR ADMINISTRATIVE HEADQUARTERS, FIELD COMMANDS AND ADMINISTRATIVE ACTIVITIES (NOT ELSEWHERE ACCOUNTED FOR).

SUPPORT OF OTHER NATIONS: OFFICE OF PRIME RESPONSIBILITY—ASSISTANT SECRETARY OF DEFENSE (INTERNATIONAL SECURITY AFFAIRS)

Consists of program elements in support of international military headquarters; MAAGS, missions and military assistance groups, NATO infrastructure and MAP.

The total intelligence program over which I have cognizance is referred to as the consolidated defense intelligence program (CDIP). It has a four-element substructure. The consolidated cryptologic program (CCP) contains those resources and activities associated with signals intelligence—the National Security Agency (NSA) is a major organization in the CCP and the Director of NSA serves as the CCP program manager. The CCP has components from all three Services.

The general defense intelligence program (GDIP) is comprised of the Defense Intelligence Agency (DIA) and the service intelligence organizations. A member of my staff acts as the program manager for GDIP. This is the primary defense program for analysis of collected intelligence data and its conversion into meaningful intelligence

products for Department of Defense. It is concerned with current intelligence, intelligence estimates, long range studies, and analysis of foreign scientific and technical progress. Also included in this program are some special collectors and the defense attaché system.

Special reconnaissance vehicles is the program containing certain intelligence drones and high flying reconnaissance aircraft.

Other major Department of Defense force programs include resources and activities which are related to intelligence but, because of their direct involvement with combat or other forces, are developed, justified, and funded in these nonintelligence programs. Strategic warning systems, such as some radars and reconnaissance vehicles are contained within the strategic forces program. Specialized SIGINT electronic warfare, photo and radar collection activities whose primary purpose is to furnish support to operational commanders are contained in the general purpose forces program. The research and development program develops platforms and sensors that may subsequently be used in intelligence systems. Training for intelligence personnel is included in the same training program as all other Department of Defense training. Headquarters staffs for the services and for the unified and specified command are contained in several nonintelligence programs and since intelligence staffs are no different than logistics or operations staffs, they are programmed together.

While these programs are placed in different parts of the budgeting operations, I would like to emphasize that my office maintains cognizance of them all and knows where the funds are and how they contribute to intelligence.

The planning, programming, and budgeting cycle starts 2 years in advance of the actual release of the funds to the services and agencies for expenditure. The cycle starts with the issuance of a draft planning and programming guidance memorandum by the Secretary of Defense in October of each year. This is followed by a final planning and programming guidance memorandum in February. Following the issuance of guidance, the services and agencies develop and submit a program objective memorandum in May. Following reviews, a program decision memorandum is issued by the Secretary of Defense in August. The services and agencies then convert the Secretary's decisions into a budget estimate by October. These budgets are reviewed and consolidated to form the defense portion of the Presidential budget submitted to Congress in January. Following congressional actions, the budgets are then again reviewed, properly changed to follow congressional intent, and are issued in time to start the new fiscal year in October.

I will now describe how these milestones are achieved. The development of guidance to the services and agencies is led by the Assistant Secretary of Defense (Program Analysis and Evaluation) with the support and coordination of the other Assistant Secretaries of Defense.

In the formulation of the guidance, national objectives, of course, must be of overriding concern. These are perceived, formulated and debated. Force requirements are considered and the Joint Chiefs of Staff participate extensively in this portion of the cycle. Obviously, ongoing actions and programs must be considered. Capabilities that are clearly becoming inadequate in our changing world must be addressed. There are ongoing projects whose usefulness, size or cost may

suggest that changes or consolidations are required. At all times, special studies and war games—as directed by the Secretary of Defense—are considered in light of important tradeoffs and alternatives which impact on the guidance. As our R. & D. programs reach fruition, technical improvements or breakthroughs may be found which will allow us to perform actions or achieve capabilities not previously available to us. If these are significant then our planning should certainly encompass them. Last but not least, we recognize continually that there are fiscal constraints on the Department of Defense. In fact, the key consideration for intelligence programs is how to continue to produce necessary intelligence in a changing world with a declining real program value.

These considerations result in the planning, programing, guidance memorandum from the Secretary of Defense to the service Secretaries and Directors of the Defense Agencies.

Because of the classification of most of our programs, guidance to Department of Defense intelligence activities is contained in an annex to the basic memorandum.

The PPGM annex contains policy guidance on such aspects as: Focusing of intelligence activities on certain areas; technical improvements; manpower reduction plans; and programmatic and fiscal constraints. The annex also directs appropriate amplifying studies, such as technical development plans, cost-benefit tradeoffs, and risk analysis. These studies then become part of the CDIP review process.

Following receipt of the PPGM, the military departments have until approximately the first of May to respond with their recommended programs. It is a large effort. Senior officers and departmental civilians are deeply involved and on the surface it would seem that 3 months is a short time for the development of a response of this importance. However, it must be remembered that all participants have had access to the tentative guidance, and in fact, have been involved in development of the guidance. In addition, a large portion of all programs represents continuations of ongoing activities.

In this process, the military departments receive inputs from several sources. Program managers include such people as the project manager for the B-1 bomber and, the case of intelligence, the Director, NSA who manages the consolidated cryptologic program. Of course, the departments receive requirements for funds and manpower from their subordinate organizations. Each headquarters staff is involved and of course the Joint Chiefs of Staff recommendation on force levels is an essential part of the program development. From these inputs, the recommended program is produced—consistent with guidance—and is entitled “Program Objective Memorandum” or POM.

Within the departments and agencies the POM is reviewed by—and defended to—all staff elements, senior policy officers, boards of review, the Chief of Staff and the service Secretary or Director himself. Since all programs must be contained within total fiscal and manpower ceilings, they are defended and “scrubbed” vigorously within the services and agencies before they are ever sent to the Secretary of Defense.

From May through July, the program objective memorandums are subjected to a thorough review at the Department of Defense level. This review is conducted in the context of total Department of Defense needs and requirements. In the case of intelligence, the

review must respond to both national and defense intelligence requirements. In the review process, I receive from the program managers their recommended programs—which have been derived from a consolidation of the service and agency program objective memorandums. My staff—including both technical and resource analysis personnel—review in detail all aspects of the POM's and the program managers recommended programs. Members of Mr. Colby's intelligence community staff participate with us in this review. Of course, the Office of Management and Budget also reviews the program objective memorandums. The objective of our defense review is to generate and surface key issues which will require resolution prior to the program decision date. The resolution process takes place at several levels. Having defined the issues, the various staffs, working together with a common set of facts, can usually resolve most disagreements. Occasionally, because of a difference in perspective between Mr. Colby's responsibilities and mine, we may have issues to settle between us. Finally, those issues which cannot be resolved to my detailed review are submitted to the Secretary of Defense for decision.

The purpose of the process is to raise the issues which are really important that need to be considered whether there is a disagreement and insure that those issues are properly considered by the Secretary of Defense.

The ultimate result of this review process is the issuance of the program decision memorandum or PDM. The PDM contains policy statements which may or may not conform to policies previously contained in the PPGM. The PDM identifies program funding levels, approves new initiatives, disapproves programs or actions, and applies fiscal reductions. It also makes other changes as necessary, such as an adjustment in manpower levels.

The services or agencies can reclama these decisions and often do. The reclamation is re-reviewed and the Secretary of Defense issues a final position in August.

Following the issuance of the program decision memorandum, the military departments and agencies must translate these programmatic decisions into a budget. Despite the time and effort that go into the PDM, the PDM decisions are not final. As the various programs become more clearly defined and more precise costs identified, changes in programmatic decisions may be warranted. Therefore, the development of a budget is an important milestone in the PPBS cycle. Budgets are developed by the service and agency comptrollers, and must consider the PDM, detailed costing of things and people, inflationary factors, ancillary expenses, and appropriation propriety. The budget estimate that results from these considerations contains a detailed explanation of the goods and services to be procured 12 months hence. It reveals the detailed cost to run organizations and pay people and it assigns these costs to proper appropriation categories.

Following submission of the budget estimates to the Secretary of Defense, the lead is assumed by the Assistant Secretary of Defense (Comptroller). Upon receipt of these estimates, he schedules and conducts formal budget hearings in which the military departments and agencies appear before the reviewing staffs to answer questions, defend projects and cost levels and explain discrepancies.

I should add that the Office of Management and Budget also participates in this review. The reviewing authorities consider the program decision memorandum, taking into account funding level changes and programmatic changes that have occurred since the PDM as a result of further information or completion of more detailed studies concerning these programs. These reviews and studies may introduce additional issues for resolution.

The budget reviews focus on cost estimate escalations, phasing of expenditures, and details of procurement in order to arrive at a firm judgment as to the continued value of various projects. The reviewing authorities for intelligence programs are the Assistant Secretary of Defense (Comptroller), the Assistant Secretary of Defense (Intelligence) and the Office of Management and Budget and the intelligence community staff, working jointly throughout. The end result of the budget review process is the Defense portion of the President's budget that is submitted to Congress.

Following congressional action, the Department of Defense budget, as originally submitted, may of course have to be changed. This process, as you know, is called apportionment. Again the lead for the Department of Defense is taken by the Assistant Secretary of Defense (Comptroller). Actual budget changes are made by the military department and agency comptrollers after the congressional actions have been forwarded to them. In the same way as the budget review, the reviewers consider congressional intent, funding level changes, and, of course, programmatic priorities. Again, they go through the same detailed review to look for any changes made by the departments and agencies that might not be in consonance with the originally approved programs. The same staffs that conducted the budget review also conduct the apportionment review. Generally this review results in release of funds for execution—such as procurement of equipment. However, if there are still soft spots in the program, funds can be deferred for cause. This occurs, for example, when R. & D. did not completely resolve some technical problem or if some time-phased actions slipped.

During the past 10 years there has been considerable effort expended in auditing the activities of Defense intelligence programs. These have been conducted using the guidance issued by the Comptroller General.

These audits have included specific intelligence operations, procurement, research and development, logistics, personnel management, ADP operations, communications, finance and accounting, training, and overseas mission operations.

These audits have been conducted at three levels; financial and compliance, economy and efficiency, and program results.

The audits range from the management of NSA's cafeterias to the verification of the installation of classified equipment in Europe, from check issuing procedures to the production of intelligence.

I am an information addressee of these reports and they have affected how resources are managed in the total consolidated Defense intelligence program.

Six Department of Defense auditors are in permanent residence at NSA, four at DIA. In addition, the GAO keeps two resident auditors at NSA.

No Department of Defense auditor has ever been constrained by security considerations. Intelligence, as I previously stated, is treated as any other activity of the Department of Defense.

In summary, let me try to put the entire planning, programming budgeting system into an industrial analogy. The planning, programming, guidance memorandum is in effect a request for a proposal from the military departments. It is a generalized set of specifications similar to concept definition requests from industry.

The program objective memoranda are the proposals.

The program decision memorandum is the selection of those elements of the proposals which we want to buy. The budget review is a detailed negotiation and the apportionment is the contract.

This has necessarily been a very brief explanation of what is a very complex system. My objective has been to point out that Defense intelligence programs are developed in the same manner as all other programs and subject to the same continuing and rigorous reviews. Funding constraints are present at all times, and from this process comes programs that we are convinced are essential to the Nation.

At this time I am happy to consider your questions.

Chairman PIKE. Thank you, Dr. Hall.

Dr. Hall, we have always had the image in America, I guess, of intelligence gathering as the work of covert men in trench coats, living in Spartan surroundings and risking their lives all the time.

Would you tell me how many generals and admirals there are in the Defense Intelligence Agency?

Dr. HALL. Admiral Harvey says there are seven in the Defense Intelligence Agency.

Chairman PIKE. Would you tell me how many generals and admirals there are in the National Security Agency?

Dr. HALL. There are six, Mr. Chairman.

Chairman PIKE. Would you tell me how many generals and admirals there are within the Defense Attaché System?

Dr. HALL. There are four flag officers in the attaché system.

Chairman PIKE. Would you tell me how many generals and admirals there are in the defense intelligence community all together?

Dr. HALL. I don't have that number with me but I will be happy to provide it.

[The information follows:]

Including the DIA, attaché, and NSA flag officers there are a total of 42 generals and admirals in the intelligence community. These include intelligence billets at unified and specified commands and five billets assigned to staffs; that is, one in CIA, one at the intelligence community staff, one in my office, one with the Special Activities, Air Force, and the commander of the Defense Investigative Service.

Chairman PIKE. Dr. Hall, when you approved this tight defense intelligence budget this year, would you tell us how you justified a \$95,000 home for a general in Brasilia, a \$100,000 home for a general in Helsinki, a \$75,000 home for a general in Brussels, and two \$100,000 homes for generals in Stockholm?

Dr. HALL. I wouldn't want to try to answer that off the cuff. In the operations that we have in these areas, it is necessary for us to provide the capability for them to carry out their jobs.

Chairman PIKE. That is carrying out your job in relatively high style, is it not, Dr. Hall?

Dr. HALL. Mr. Chairman, a \$95,000 house in Washington doesn't go very far and in other capitals it doesn't go very far, either.

Chairman PIKE. Let's talk about \$6.6 million in the current fiscal budget for aircraft for our defense attachés, at \$770,000 each.

Do they all have to have a \$737,000 aircraft to do their job?

Dr. HALL. Admiral Harvey, would you answer the question?

Admiral HARVEY. Sir, we have 85 attaché positions. I think the program calls for 17 aircraft all told.

Chairman PIKE. Seventeen aircraft?

Admiral HARVEY. Yes, sir.

Chairman PIKE. Does a general who flies one of these aircraft, or an admiral who flies one of these aircraft, also collect flight pay?

Admiral HARVEY. Sir, there is only one admiral in the attaché system. He is in London. He is not an aviator so he does not fly one of the aircraft. In fact—

Chairman PIKE. How about the ones who are pilots and do have their own planes? Do they also collect flight pay?

Admiral HARVEY. Yes, sir, if he were on flying status. However, there are no generals or admirals flying aircraft assigned to the defense attaché system. In fact, there are presently no aircraft assigned to DAO's which have flag rank officers assigned.

Chairman PIKE. Dr. Hall, you tell us that your budget here goes through all of the normal accounting and auditing processes. This is five houses, the lowest price \$75,000, one at \$95,000 and three at \$100,000.

Were all of those 17 planes, Admiral, in this year's budget?

Admiral HARVEY. No, sir, they are being phased in gradually. A replacement of aircraft now, some of them the oldest in our inventory.

Chairman PIKE. So there will be more aircraft in next year's budget, is that correct?

Admiral HARVEY. The overall total is 17, sir.

Chairman PIKE. But I said there will be more in next year's budget, is that correct?

Admiral HARVEY. I would have to check the figures on that.

Dr. HALL. No, it would not. The amount in there is to cover the replacement aircraft.

Chairman PIKE. Now, does the General Accounting Office check your budgets or check your expenditures in the defense intelligence community?

Dr. HALL. The General Accounting Office has not carried out a detailed audit.

Chairman PIKE. So it isn't really accurate to say your expenditures are audited the same way everyone else's in Government is audited?

Dr. HALL. I would say our expenditures are audited at least as rigorously as any other program.

Chairman PIKE. By you?

Dr. HALL. By the Department of Defense.

Chairman PIKE. Mr. McClory.

Mr. McCLORY. Thank you, Mr. Chairman.

I am concerned about the relationship of the Congress to your budget. You mention on page nine of your testimony that the budget finally gets some congressional attention. What congressional attention does it get? How many members of the Congress, and on what com-

mittees, learn about the Defense budget relating to intelligence activities.

Dr. HALL. The House Appropriations Committee goes over it in great detail. The Senate Appropriations Committee goes over it in great detail. The Armed Services Committee of the House go over it in detail.

Mr. McCLORY. Are those all the members of those committees?

Dr. HALL. Yes, and the Senate Armed Services Committee, some members of that.

Mr. McCLORY. Some members of the Armed Services Committee?

Dr. HALL. The Senate Armed Services Committee.

Mr. McCLORY. Some members of the Senate Armed Services Committee. All members of the House Armed Services Committee.

Dr. HALL. All members of the House Appropriations Committee, all members of the Senate Appropriations Committee.

Mr. McCLORY. They get all the details of your defense activities that are in the budget?

Dr. HALL. Yes sir.

Mr. McCLORY. I have been looking at the chart here regarding the military intelligence community. It was my view that all intelligence activities were funneled through the CIA and that the Director of the CIA was designated by law to correlate and evaluate intelligence activities, military and nonmilitary, political and so on.

However, it seems to me that that channel doesn't apply with regard to defense intelligence activities.

In other words, the Director of Central Intelligence is circumvented in connection with defense intelligence activities. Could you explain that to me?

Dr. HALL. Yes, sir. He is not circumvented. A substantial part of the expenditures and the programs of our intelligence program—overall intelligence program—is the responsibility of the Secretary of Defense. All programs within our Department are reviewed by the Director of Central Intelligence so he reviews and sees all the programs that go on.

Mr. McCLORY. You describe that on page 13 of your testimony, but you indicate that somebody from Mr. Colby's staff reviews these things and then where there are differences between the CIA and the defense intelligence, as far as projects or funds are concerned, that the decision is then left to the Secretary of Defense and he makes the decision.

Is that correct, does he make the decision or does Mr. Colby make the decision as far as a defense activity, or defense expenditure is concerned?

Dr. HALL. If there is a problem which is flagged by the staff, the procedure that is followed is that Mr. Colby and I discuss the matter personally together. He also uses an organization known as Intelligence Resources Advisory Committee to advise him on how the overall resources should be applied.

If there is a problem, still—if we can't resolve it—and I should say there has only been one or two such cases in my period of tenure—then the Secretary of Defense is brought into the situation.

Mr. McCLORY. And he makes the decision?

Dr. HALL. He makes the decision as far as the budget that goes to the President is concerned. It is the President's budget in the final analysis—

Mr. McCLORY. What is the legal authority for the Secretary of Defense to make that decision instead of the Director of CIA? My interpretation of the statute is that the Director of CIA is the ultimate decisionmaker.

Dr. FALL. The ultimate decisionmaker is really the President. Finally, it is his budget that goes to the Congress.

Mr. McCLORY. Before the President, I mean.

Dr. HALL. What I wanted to continue with for just a moment is, if there is an issue between the Secretary of Defense and the Director of Central Intelligence, then the Director of Central Intelligence does report to the President and he can bring the matter to the President.

Mr. McCLORY. That is the only way?

Dr. HALL. Yes.

Mr. McCLORY. For instance, a large project we had some testimony about and we all know about, the U-2. What involvement was there of the military in the U-2 or was that solely a CIA activity?

Dr. HALL. That was dominantly a CIA activity. It was eventually turned over to the military and the military contributed to it, but it was fundamentally a CIA project.

Chairman PIKE. Mr. Stanton.

Mr. STANTON. Thank you, Mr. Chairman.

Could you tell me, concerning our base in the Philippines, whether a hearability study was done before the FLR-9 antenna system was installed there?

Dr. HALL. I am sure there was. I will be prepared to go into detail on that in classified session, but as a general procedure we always make hearability tests before we make an antenna system.

Mr. STANTON. What did that system cost when you installed it?

Mr. SLACK. The antenna screen would probably be about \$2 million.

Mr. STANTON. Is that the total cost or do you have any preparation costs, engineering studies?

Dr. HALL. I am sure there was more to it, but I would say that it was probably under \$16 million.

Mr. STANTON. Were the intelligence activities at that base recently reduced by a substantial amount?

Dr. HALL. In the Philippines?

Mr. STANTON. Yes.

Dr. HALL. We have gone to a caretaker status there some time ago, yes.

Mr. STANTON. Isn't it really a fact that another hearability study was determined, that the geography of the location prohibited good reception, where that was initially installed.

Dr. HALL. No, I don't think that is true. One of the things now under consideration is the need for reactivating that site as a result of some of the moves in Southeast Asia.

Mr. STANTON. Then you have had no technical difficulty in reception and hearability from the initial installation?

Dr. HALL. I don't intend to equivocate on this, but the hearability matter varies, depending on what you are looking at. There are certain areas in which it can reach and certain areas which it can't reach. That is true of any site. It is always a balance between where you put your resources, and, depending upon what are the targets. There is no fundamental hearability problem, there.

Mr. STANTON. Southeast Asia, Dr. Hall, have you had any reduction in budget, because your costs there have been diminished through the cessation of activities?

Dr. HALL. We have had a reduction in the budgets for intelligence activities in Southeast Asia; yes, sir. This has been going on for several years.

Mr. STANTON. Is that reflected in your budget for 1976?

Dr. HALL. It is reflected in part in the budget. It did not bring down our overall budget.

Dr. STANTON. How do we get a handle on this question of the escalating budget of the DIA? We don't know whether the CIA budget is escalated because we don't know what is in it.

Dr. HALL. In the executive session I hope to be able to tell you specifically what is causing the changes in the Defense Intelligence Agency budget and all other budgets.

Mr. STANTON. It wouldn't be the attaché program, would it?

Dr. HALL. No. The attaché program has been reduced in size over the years. It is running fairly stable at this particular point at about 1,000 people. It is one of our most useful sources of information.

Mr. STANTON. It might be reduced in size, Doctor, but it has increased in individual cost, has it not?

Dr. HALL. One of the problems has been that all manpower costs have gone up.

Mr. STANTON. It is pretty tough assigning an airplane for each one of the attachés, isn't it?

Dr. HALL. They don't each one of them have an airplane.

Mr. STANTON. How many airplanes do you have, Doctor, for the attaché program?

Dr. HALL. There were 17 until recently.

[Dr. Hall provided the committee with the following data concerning the 14 aircraft presently assigned within the Defense Attaché system:]

There are presently 14 aircraft assigned within the Defense attache system, as follows: Afghanistan, C-131; Argentina, T-29; Brazil, C-131; Greece, C-131; Honduras, C-47; Indonesia, C-117; Laos, C-47, U-21A; Liberia, C-117; Philippines, C-47; South Africa, C-47; Thailand, C-47; Venezuela, T-29; Zaire, U-21A.

Three aircraft have recently been returned to the services. These are two aircraft previously assigned to DAO Phnom Penh and one aircraft previously assigned to DAO N'djamena, Chad. The aircraft in Chad was returned as a part of overall reductions at that DAO. We anticipate reducing DAO Vientiane, Laos by at least one aircraft in the near future.

Seventeen replacement aircraft are now on order from Beech Aircraft Corp. These are C-12, two engine turboprop aircraft which are being procured off-the-shelf.

Present plans call for assignment to the Defense Attache Office's listed above, and to DAO's in Egypt, Pakistan, Finland, and Saudi Arabia.

Mr. STANTON. When did you initiate that program?

Dr. HALL. The airplane program has been going as long as I remember.

Mr. STANTON. You have had 17 airplanes for as long as you can remember?

Dr. HALL. It has probably varied, but it is about that; yes.

Mr. STANTON. It hasn't increased? The cost? Has the number increased in the last 9 years?

Dr. HALL. No; in that the number has decreased.

Mr. STANTON. It is about the same size and has been for the last 5 years.

[The following information was subsequently supplied by Dr. Hall:]

In 1966 there were 50 aircraft assigned within the Defense Attaché system. Thirty-six were on loan from the Air Force (24 C-47's and 12 C-131/T-29's), 12 were on loan from the Navy (10 C-47's and 2 HU-16's). Between 1968 and 1970 all but 17 of these aircraft were withdrawn as an economy measure. With the exception of recent withdrawals from Cambodia and Chad, the number has remained constant since that time. There are 17 replacement aircraft (C-12 two engine Beech turboprops) now on order for use within the DAS, to replace the 20- and 30-year old aircraft now assigned. These aircraft and associated equipment cost about \$750,000 each. Delivery of these aircraft will begin in September 1975 and will be complete in November 1976. Modernization will be completed at that time and no additional procurement will be required.

I have no further questions.

Chairman PIKE. Mr. Murphy.

Mr. MURPHY. Thank you, Mr. Chairman.

Mr. Hall, what are the air attaché's planes used for? What need would they have of an airplane other than to get from one city to another?

Dr. HALL. Mr. Murphy, fundamentally it is a transportation problem.

[Dr. Hall subsequently expanded upon his answer to Congressman Murphy as follows:]

The aircraft and crews conduct flights not only within their country of primary assignment but also in countries where the attachés are additionally accredited. They further support DAO's in nearby countries in which the DAO does not have an aircraft assigned. This support takes the form of logistical support and provides transportation of the resident attachés on field trips and other visits away from the national capital. This mobility is especially beneficial in countries where other forms of transportation are primitive, inadequate, or dangerous.

The aircraft support U.S. Ambassadors to some extent, and have provided support to CIA, USAID, Peace Corps, Presidential Commissions, and Congressional delegations. They are also available for emergency and medical evacuation.

Mr. MURPHY. So it is strictly for transportation?

Dr. HALL. Yes, sir.

[Dr. Hall subsequently modified his statement as follows:]

It is primarily for transportation. However, since the mission of our attachés is observation, it promotes this objective.

Mr. MURPHY. Did Department of Defense funds ever go to defray expenses of civilian employees of domestic corporations on missions designed to gather intelligence in foreign countries?

Dr. HALL. I don't really understand the question, Mr. Murphy.

Mr. MURPHY. Do you expend any DIA funds to defray expenses of civilian employees of domestic corporations or proprietary corporations of the CIA on missions designed to gather intelligence in foreign countries?

Dr. HALL. We don't allocate any DIA funds for what would be called clandestine operations.

[Dr. Hall subsequently amended the above statement as follows:]

Except of course that DIA has a staff monitoring and validation responsibility for operations conducted by the Services.

There are contractors which are used to help put in equipment like computers, and this is done by civilians; it is generally done by

civilians, and it is a regular contract, and their expenses are a part of that particular operation.

Mr. MURPHY. Did DIA have any so-called proprietary corporations?

Dr. HALL. No.

Mr. MURPHY. You fund none of that?

Dr. HALL. No.

Mr. MURPHY. Are any of your funds ever channeled to the CIA?

Dr. HALL. The CIA appropriations appear in the Department of Defense budget, so there is a transfer.

Mr. MURPHY. You have an apparatus in that budget where you transfer funds back and forth?

Dr. HALL. The transfer of the funds after allocation by Congress to CIA, through that particular process.

Mr. MURPHY. When you appear before these appropriation subcommittees charged with oversight of the Defense budget, are the members made aware of these transfers of money, how much money is transferred and the purposes the money is used for?

Dr. HALL. Yes, sir.

Mr. MURPHY. In detail?

Dr. HALL. In detail.

Mr. MURPHY. Tell me this: At what point are they made aware of it? After a particular project is underway, completed, or prior thereto?

Dr. HALL. When a project is started, or initiated, it is explained to them how the project is to be done, who is going to do it, where the funds would be expended.

Mr. MURPHY. This is done prior to the project's getting underway?

Dr. HALL. Yes.

Mr. MURPHY. Now the PDM, the program you talked about, when are those given to respective oversight committees of the Congress? How much in advance of the program's actually taking place?

Dr. HALL. At the time of submission of the budget, when the budget goes to Congress, then we go through the whole situation with them so that they understand what makes up the budget, what makes up the programs, and so on.

Mr. MURPHY. Are covert activities discussed with these oversight committees?

Dr. HALL. I am not responsible for covert activities, so I can't really answer that question.

Mr. MURPHY. Does DIA engage in any covert activities? A yes or no answer.

Dr. HALL. No.

Mr. MURPHY. Those are all the questions I have at this time, Mr. Chairman.

Chairman PIKE. Mr. Kasten.

Mr. KASTEN. Mr. Chairman, I would like to try to define your job. I refer to page 1 of your testimony in which you say "As assistant Secretary for Intelligence, I serve as principal staff adviser to the Secretary for the management of and allocation of resources for defense intelligence programs and activities."

Gen. Daniel Graham describes his job as follows: "I am the principal staff officer for the Secretary of Defense for Management and Intelligence Support." What is the difference between the job you

are performing and the job of General Graham, head of DIA? It seems to me they are identical.

Dr. HALL. The Defense Intelligence Agency is the activity which is charged with producing the intelligence which is employed by the Joint Chiefs of Staff and the Department of Defense in general for its planning and operation. It is charged with producing intelligence.

The Director of DIA is the head of that and is responsible for that particular operation.

Mr. KASTEN. Which is the principal intelligence staff officer for management of intelligence support? You both say that is your job. It is not both people?

Dr. HALL. As Assistant Secretary of Defense—

Mr. KASTEN. Whose job is that, sir? Who is the principal staff officer to the Secretary of Defense? You or General Graham?

Dr. HALL. General Graham is the principal military staff officer to the Secretary of Defense. He is responsible for substantive intelligence.

Mr. KASTEN. General Graham has said that he, as head of DIA, is the principal intelligence staff officer for the Secretary of Defense for management and intelligence support, that he is the principal intelligence staff officer for the Joint Chiefs of Staff, and that he is the commander of the Defense attaché system. That is not as important. And he is also Chairman of the Military Intelligence Board.

Now, in this position, "I am in essence the Director of DOD intelligence," says General Graham.

Now, given this centralization of responsibility, the Director of Defense Intelligence Agency—why is it necessary for the Secretary of Defense to have an assistant secretary for intelligence in DOD? What functions do you perform, sir, that are indispensable? What functions do you perform that are not being performed by others already in your department?

Dr. HALL. The problem that faces the Secretary of Defense is the determination of where to put the money and resources for intelligence, and only one such program is under the Director of DIA. There are other programs which I will describe later, and my job is to assist the Secretary of Defense in his management of these programs.

Mr. KASTEN. Is that different from the job of General Graham?

Dr. HALL. Yes; it is.

Mr. KASTEN. General Graham states that he believes an agreement may be in the process of being reached to reach a clearer delineation of our responsibilities. Are you saying that there is no problem, that everyone understands is your job. I still don't, but maybe we can go back.

Dr. HALL. The problem the Director of the DIA has primarily is to produce substantive intelligence, which involves the actual intelligence reports which go to the Secretary of Defense and the Joint Chiefs of Staff. That is his principal job. My principal job is to insure that the resources are put in intelligence programs wherever they should be put. That is the distinction between the two jobs.

Mr. KASTEN. How many of the DIA civilians, which evidently account for over 50 percent of your total budget, how many of these civilians in operation and maintenance are also retired military

personnel who draw Government retirement incomes? Fifty-three percent of the people you have working for you, according to our figures, are retired military personnel.

Dr. HALL. In Defense Intelligence Agency?

Mr. KASTEN. Many of these people are also drawing military retirement pay and should these military retirement pay costs be reflected in the overall DIA spending levels?

Dr. HALL. I would have to get the answer for you. I would be happy to do so.

Mr. KASTEN. Could you provide us with that?

Dr. HALL. Yes; I will.

[The requested information follows:]

There are currently 303 former military personnel—154 officers and 149 enlisted—employed by DIA. This figure constitutes 13.2 percent of the total civilian work force, and approximately 4 percent of the total budget.

Military retirement pay cost should not be reflected in the overall DIA spending levels. Military retirement pay costs are budgeted in a separate appropriation: "Retired pay, Defense." The DIA budget submission to the Congress does reflect the expenses of military personnel assigned to DIA based upon composite standard rates which includes basic pay; basic allowance for quarters; miscellaneous expense; incentive and special pay.

Further, the retired pay—pension—drawn by retired military is earned as the result of previous service not necessarily in any way connected with current civilian duty in DIA. This pay is earned as a result of previous military duty and to include these costs in the DIA budget would distort the true costs of intelligence.

Mr. KASTEN. Thank you, Mr. Chairman.

Chairman PIKE. Mr. Aspin.

Mr. ASPIN. Mr. Chairman, I would like to pass for awhile and get my 5 minutes in a little later.

Chairman PIKE. Mr. Milford.

Mr. MILFORD. Thank you, Mr. Chairman.

There has been some criticism of duplication within the intelligence agencies and I noted that DIA performs programs and a study of foreign military weapons. We have also been told that CIA does the same thing. Could you tell me why two different agencies should perform this function or if they perform them in different manners?

Dr. HALL. In some cases, Mr. Milford, both agencies do conduct such studies. In some cases the importance of the situation is so great that we believe that it is essential to have more than one viewpoint and there will be separate studies conducted by both agencies. In my view this is right and should continue because some of these questions are just too important to have only one voice speaking on them. In general, however, we do coordinate what studies are done by which agency to minimize the duplication.

Mr. MILFORD. It would appear then that you are having to maintain two banks of experts, so to speak—your analysis teams—when really the goal would be to evaluate the weapons to find out how they function and what they do.

Dr. HALL. Often there is a different viewpoint, brought by people which have primarily a military background than those which have primarily some other background. And we believe that it is very desirable to have both of these viewpoints expressed. In connection with the 1973 war in the Middle East we found a situation in which one agency was absolutely convinced that there was not going to be a war.

Another agency was quite convinced that it was imminent. And we feel if everything had been subjugated to one analysis we might have lost the ability to see that different viewpoint.

Mr. MILFORD. Could this same thing be done by the placement of personnel within your team, one having a military background, one having a civilian background, and, therefore, eliminate one support agency?

Dr. HALL. I think that could be done. My own view is that the duplication isn't large. I think it is a small percentage, really related to quite important factors. That is the reason we carry it out this way.

Mr. MILFORD. Thank you.

Thank you, Mr. Chairman.

Chairman PIKE. Mr. Hayes.

Mr. HAYES. Thank you, Mr. Chairman.

Mr. Hall, the point that you had about translation of national policy of defense programs was so enormously vague that I am going to have to ask you a couple of specific questions about it, but one of the problems that that brings about is that the DIA has had a very bad reputation, particularly growing out of its efforts in Vietnam. One of the things that helped spur that reputation was whether or not it serves two masters, first the Joint Chiefs and then the Secretary of Defense. Can you give me some thoughts and give the panel some thoughts on that particular problem, and is it a problem?

Dr. HALL. There is a general problem that I have been concerned with and that is to improve the general professionalism of the analysts in our intelligence activities. I am talking about all our intelligence activities, not pointing out any one. My own belief is, and others share this, that if we do a fine professional job the fact that the Defense Intelligence Agency reports to the Joint Chiefs of Staff doesn't make any difference; so I think that the dominant question is to insure that the professionalism is good.

Mr. HAYES. Aren't the Joint Chiefs a filter through which this goes into the civilian part of the defense establishment?

Dr. HALL. No, sir, they provide no such filter and there is really no way that it could be done in that way. Obviously the Defense Intelligence Agency has its own viewpoint—which is primarily a military viewpoint because that is what is needed but the Joint Chiefs of Staff—

Mr. HAYES. How do you say that is what is needed when you say a military viewpoint is what is needed? You are not military.

Dr. HALL. Because the assessment of a military situation often requires military expertise, not civilian expertise.

Mr. HAYES. You make a point in your testimony saying that you assess only the total defense interest over which you have cognizance. Are there other things over which you have no control at all that go into this decisionmaking process?

Dr. HALL. No.

Mr. HAYES. You say:

The total intelligence program over which I have cognizance is referred to as the consolidated defense intelligence program. It has a four-element substructure.

Is that the only defense intelligence substructure there is?

Dr. HALL. No; there is a CIA program.

Mr. HAYES. Within Defense?

Dr. HALL. Not within Defense.

Mr. HAYES. I am not referring to that. I am referring to within Defense.

Dr. HALL. The reason I make that distinction is because CIA does not have a separate line item for its own budget. Its budget does appear within overall defense budget. I don't have any responsibility for that, but for all other intelligence activities in the Department of Defense, I do have the responsibility.

Mr. HAYES. The Intelligence Resources Advisory Committee you say is used to work out budget advice. If they can't come together, then the Secretaries are brought in. Is that called Excom where the Director of CIA and Secretary of Defense act as sort of an appeals board?

Dr. HALL. No, sir. There are certain special programs which I will discuss later which are managed by a special committee known as the Excom, of which—

Mr. HAYES. But that is not the point you were referring to when you said the Secretaries are then brought in and they work them out, the Director of the CIA and they go on to the President who ultimately makes these decisions. That isn't Excom?

Dr. HALL. No. The Director of Central Intelligence is the Chairman of Excom and I am the other member of Excom.

Mr. HAYES. You are the other member?

Dr. HALL. I am the other member.

Mr. HAYES. And the Secretary of Defense himself does not get involved in it?

Dr. HALL. If the issue is one which we believe he should know about and get involved in he does. Basically it relates to the significance of the issue. Mr. Colby and I can handle most of the questions in our own deliberations. There are some which are of such significance that we want his judgment as well.

Chairman PIKE. The time of the gentleman has expired.

Mr. Johnson.

Mr. JOHNSON. Thank you, Mr. Chairman.

Dr. Hall, did your office take part in the approval of the Holystone program for the Navy?

Dr. HALL. I don't want to discuss that program in an open session.

Mr. JOHNSON. Is it classified?

Dr. HALL. It is classified.

Mr. JOHNSON. Who classified it?

Dr. HALL. It is classified by the Navy.

Mr. JOHNSON. You can't even say in public session whether or not your office participated in that decision to engage in that program?

Dr. HALL. No, sir, I don't want to in open session.

Mr. JOHNSON. Does the Defense Department have programs to study foreign military weapons systems?

Dr. HALL. Yes; they do.

Mr. JOHNSON. And does that involve collection of information and evaluation, all that goes into intelligence?

Dr. HALL. Yes; it does.

Mr. JOHNSON. And that then goes to a study and analysis of capabilities of foreign military weapons systems?

Dr. HALL. Yes, sir.

Mr. JOHNSON. And also intentions of foreign governments?

Mr. HALL. The question of intentions is a different one, of course. We do involve ourselves in such analysis.

Mr. JOHNSON. That involves check as well as evaluation?

Dr. HALL. Yes.

Mr. JOHNSON. Do you do that with respect to foreign military operations that are going on, training programs, movements of personnel, movements of troops, and that sort of thing?

Dr. HALL. We do carry out analyses of such foreign activity.

Mr. JOHNSON. The CIA is involved in all of that kind of activity also, isn't it?

Dr. HALL. Yes; they also are involved in it.

Mr. JOHNSON. Do you run into one another?

Dr. HALL. The problem is not running into each other. The problem is getting out of the same bed sometimes, they are so close.

[Subsequently Dr. Hall advised the committee that "The Defense Intelligence Agency is not involved in covert HUMINT actions."]

Mr. JOHNSON. You said a little while ago that the DIA does not have any human intelligence source units but we have some information that indicates you do have some humans, as they are called, funds.

Dr. HALL. The question related I believe to covert operations. We in the Defense Intelligence Agency are involved in covert operations.

Mr. JOHNSON. You don't have intelligence funds which are expended in these programs?

Dr. HALL. Yes.

Mr. JOHNSON. And does the Army have separate programs and the Navy have separate programs and the Air Force have separate programs?

Dr. HALL. That is really where the programs are, the Army, Navy, and Air Force.

Mr. JOHNSON. You do not in the DIA?

Dr. HALL. The DIA does the guidance of it and so on but the actual operations are in the services.

Mr. JOHNSON. Do we develop our own military systems, programs, such as B-1 bombers and various submarine programs, cruise strike forces, do we develop those in response to the kind of intelligence we were just talking about that is gathered by the Department of Defense program?

Dr. HALL. The intelligence is really the driving function for all our weapons systems efforts. Intelligence starts out by saying what the threat is, what the position is. Then the decision is made in other places to start something which would be a counter. As it is going on there is an interrelation of intelligence into those programs to be sure the program will come out the way we want it to. The problem involved is——

Mr. JOHNSON. Can you assure us that some of our own military weapons systems programs are always generated in response to foreign capabilities, or do some of our military intelligence developments justify our military systems that we use to advocate——

Dr. HALL. The fundamental reason for the Defense Intelligence Agency being started 14 years ago was to insure that intelligence was not used to justify weapons systems development. It is to provide, independent of the services, a centralized estimates function so as to have an objective, dispassionate view of the situation.

Mr. JOHNSON. I am glad that is the reason but from your personal experience, can you assure us that that is what is involved?

Dr. HALL. In looking at it myself over the past years I really believe we have reached a point where we do an objective job in this particular respect.

Mr. JOHNSON. Let me give you an example of something that has been disturbing to me. We have just appropriated about \$800 million for ERDA for nuclear weapons systems development. We got into a debate on the floor of the House. We were told it was so secret that we could not even discuss what was going into that nuclear development program. We were also told at the same time that we had I think it was three to one numerical superiority of deliverable nuclear warheads, all public information. So when we get into the question as to why we should go along, why do we need more, we are told that it is classified.

Now, it sounds like the Department of Defense is going into this kind of a program, ERDA is going into this kind of a program, the CIA is involved someplace around in all this, and there appears to be an enormous duplication of different agencies going off in different directions.

Dr. HALL. I believe that in almost every case I know of the material can be put in such a form that it need not be specially classified, so that we can provide an intelligence rationale which reasonable people can understand as to why we want to proceed. There are certain special intelligence programs of course in which that is not the case because our intelligence work has to be protected and restricted to those who really have the need to know. But in considering a new weapons system, I believe that it is possible for intelligence to provide the reasons for that in a way which Congress can understand without it having to be specially classified.

Mr. JOHNSON. My time has expired.

Chairman PIKE. Mr. Lehman.

Mr. LEHMAN. Thank you, Mr. Chairman.

Dr. Hall, is the National Security Agency involved in monitoring international telephone calls to this country or from this country overseas?

Dr. HALL. Mr. Lehman, I would be happy to discuss that in closed session.

Mr. LEHMAN. I guess I better pursue another course.

Does the Department of Defense have on its payroll nationals from other countries or private citizens from other countries?

Dr. HALL. Yes, it does.

Mr. LEHMAN. Do you hire on your payroll what we call political parolees, or citizens that are political refugees from other countries?

Dr. HALL. It is possible. In our foreign operations we have what are called foreign nationals which are used for support work at bases overseas; of course, since they are citizens of other countries, they are devoted to tasks which are not sensitive.

Mr. LEHMAN. May I ask you, do you hire political parolees living in this country who are political refugees from foreign countries; for instance, the Vietnam refugees or the Cuban refugees?

Dr. HALL. I would have to get an answer for you. I think we have quite a restriction on what we can do in that respect and to my knowledge we don't have any such people on our payroll but I would like to get an exact answer for you.

[The information follows:]

DIA does have a program to employ a small number of highly selected refugees and defectors who have specialized and detailed knowledge of foreign military establishments, weapons, and weapon systems, and economic structures. This program was initiated by the Army in 1952 and assumed by DIA on March 3, 1963. A total of 10 employees have been involved over the years, with a maximum of 7 employed at any one time. At present, there are five employees in this category. At DIA's request, these individuals were hired by the U.S. Army Intelligence Agency (USAINTA) in 1970 in order for them to benefit from civil service retirement and other benefits. However, DIA retained operational control and continued to utilize their services.

It is DIA policy not to consider for employment an alien or special category former aliens except when the potential benefit to be derived is clearly demonstrable as outweighing the security risks involved and when there is no conflict with law or national policy. These personnel are not granted access to classified information and occupy a worksite physically separated from the rest of DIA. The authority to employ such personnel is reserved solely to the Director, DIA, and is not delegated. Up to the present time, DIA was basically interested in aliens or former alien personnel with knowledge of the Soviet Union, Warsaw pact nations, and the Peoples Republic of China. We have intentionally avoided the employment of any former administrative, political, intelligence, counterintelligence, or military police officers as a matter of policy. Six of the ten aliens employed have been line officers and four have been civilians. Of the four alien civilians, three—all women—were foreign publication specialists and the fourth was an eminent authority on biographic data concerning prominent Chinese military figures, both Communist and Nationalist.

The initial period of utilization for aliens, after appropriate background investigations have been conducted, is generally for 2 years, with subsequent extensions for up to 1 year each. When long-term utilization is deemed appropriate, a condition to be included in the agreement of association will be the requirement that the person, if an alien, shall declare his intention to become a citizen of the United States and to take the necessary action to become a citizen as soon as practicable after he becomes eligible under U.S. law. Each of the present five former aliens employed by DIA is now a U.S. citizen.

Mr. LEHMAN. Does the Department of Defense have any contractual arrangements with proprietary organizations owned by the CIA? Do you contract or do business with those particular proprietary organizations?

Dr. HALL. No.

Mr. LEHMAN. In regards to your human relations, your human intelligence program, you are appropriated \$450,000 for training people in intelligence. Do you have that kind of activity going on at the present time?

Dr. HALL. I am sorry, I didn't understand the question.

Mr. LEHMAN. There is in the CIA budget a \$450,000 request for human training which is people being trained for human intelligence, training DIA agents for that money. Are you training any in south Florida in that respect, and what I am trying to get to, are you training people for your Agency other than American citizens in south Florida?

Dr. HALL. No.

Mr. LEHMAN. On page 9 you talk about your cost-benefit tradeoffs. I think it is the next-to-last line. I am concerned with that especially because I wonder if you have any cost-benefit tradeoffs that do not look good to you and at what point do you determine the cost of diminishing return. If you, yourself, don't evaluate cost-benefit tradeoffs, who makes the determination?

Dr. HALL. In the closed session I hope to give you some specific examples of such cost tradeoffs and what we have not done. The way

it is done is that cost tradeoffs weed out a substantial amount of the expenditure proposals that are made to the Secretary of Defense. One of the principal parts of my job is to conduct and review these cost effective studies and make recommendations to the Secretary of Defense as to whether the resources should be allocated to a particular project or not.

Mr. LEHMAN. What is to prevent some of these cost tradeoffs programs from being duplicative of other programs that you are just refining, that you are duplicating in another area in the intelligence community?

Dr. HALL. Well, basically the only thing that prevents it is to have a detailed knowledge within my own office of what is going on in the program as a whole, which I do.

Mr. LEHMAN. My time is up.

Chairman PIKE. Mr. Dellums.

Mr. DELLUMS. Thank you, Mr. Chairman.

Dr. Hall, I first of all apologize for not being able to be here at the outset of your testimony, but I was, unfortunately, detained. But I have read your testimony and I do have a few questions prepared for you.

First, I would like to ask you a question with respect to something else. Would you explain how Paschal 57 works and how Project Heavy Sand works and can you tell us whether this includes transfer of personnel, equipment, and money?

Dr. HALL. I am sorry, Mr. Dellums, would you repeat it?

Mr. DELLUMS. Paschal 57 and Project Heavy Sand, how they operate, whether they include transfer of equipment, personnel, and money.

Dr. HALL. I have no knowledge of either one, Mr. Dellums.

Mr. DELLUMS. As I understand it, Paschal 57 is the relationship between the Army and the CIA in terms of accounting. Project Heavy Sand is the relationship between the Air Force and the CIA in terms of accounting and transfer of equipment. In your capacity it would seem to me that you would know what these two programs are.

Dr. HALL. I am sorry, I don't. I'll be happy to find out and tell you in my closed session.

Mr. DELLUMS. Thank you. I have three questions now that would attempt to elicit from you some information that would give us, the members of this committee, some idea about the function of the Defense intelligence. First of all, did intelligence units of the Army, Navy, and Air Force participate at the tracking of Che Guevara. If so, what were those units and can you tell me how that relates to intelligence gathering?

Dr. HALL. To my knowledge they did not participate in such operations.

Mr. DELLUMS. No intelligence units of the Army, Navy, and Air Force participated in the tracking of Che Guevara.

Dr. HALL. I'll be happy to answer that specifically in the closed session.

Mr. DELLUMS. Thank you.

The second question: Have any units of the Army, Navy, or Air Force participated in surreptitious entry of foreign embassies or any property owned or leased by a foreign government? If so, what were the units and how many times were there such attempts made?

Dr. HALL. To my knowledge, while I have been in this office, there were no such activities.

Mr. DELLUMS. Thank you.

Are any of the military intelligence personnel or units aiding the FBI in their search for Patty Hearst? If so, can you explain how that relates to the gathering of intelligence?

Dr. HALL. There is no such effort to my knowledge.

Mr. DELLUMS. Thank you.

Has any Member of Congress, to your knowledge, ever seen OP DOC's, OP INS's, TECH DOC's, TECH INS's from NSA?

Dr. HALL. I am sure they have.

Mr. DELLUMS. I would like very much if you can tell us specifically how many Members of Congress have ever seen these very highly classified documents and who those persons are, when they saw the documents, and the last part of that question, has OMB and DCI ever seen these documents?

Dr. HALL. The answer to the last question I am sure is yes, and the answer to the first part of your question is I will get an answer for you and give it to you in closed session.

Mr. DELLUMS. Thank you.

Does NSA have a covert action operation and has it ever participated with any other agency in such covert operations?

Dr. HALL. The answer is no.

Mr. DELLUMS. That NSA has utilized DC-121 submarines and spy planes in several instances, some made public, some not. The vehicles have been involved in apparently unnecessary and dangerous incidents. Who authorized these missions and what has been done to preclude further incidents, and, finally, are those missions necessary?

Dr. HALL. I will discuss that in closed session, Mr. Dellums.

Mr. DELLUMS. Just for the record, has NSA ever monitored international foreign calls made by U.S. citizens from the United States, and, secondly, is it a regular practice of NSA to monitor a call made from the United States and around the world?

Dr. HALL. I will discuss that in closed session.

Mr. DELLUMS. Thank you. Has NSA ever requested that the FBI or other Federal agencies or agents carry out surreptitious enemy operations, and, if so, which agency?

Dr. HALL. I will discuss that in closed session.

Mr. DELLUMS. Thank you. Has NSA ever conducted electronic surveillance of American citizens?

Dr. HALL. No.

Mr. DELLUMS. You already answered this question. It is your statement on the record that DIA had no covert action capacity.

Dr. HALL. Yes.

Mr. DELLUMS. Many countries hold the 12-mile territorial limit with the capability of monitoring intelligence equipment. Is there any reason for intelligence vehicles to go any further than the 12-mile limit?

Dr. HALL. I will discuss that in closed session.

Chairman PIKE. The time of the gentleman has expired.

Mr. DELLUMS. Thank you.

Chairman PIKE. Mr. Field.

Mr. FIELD. Thank you, Mr. Chairman. Dr. Hall, the Defense Department spends most of the money in the intelligence community budget, foreign intelligence community's budget, in fact, really a vast percentage of it. I would like to go over how this process works. Do you ever start out with budget ceilings which you would set prior to going to different departments or different programs and finding out from them what they would like to do. In other words, do you come in with some kind of spending ceiling?

Dr. HALL. Yes, we do that all the time, and that is basically the process that we follow. We give a department or agency a ceiling and tell them to construct their program within such a ceiling, and they must do that for us to consider it. We also tell them if there are items which they feel are high priority that they cannot accommodate within the ceiling, they can identify those items as "over-guidance" and we will consider them from a tradeoff standpoint.

Mr. FIELD. I just asked a question of the ceiling. Would the ceiling be based upon the value of the information coming to us? In other words, we have x billion dollars to be spent on this. We have to make some value determination: Is this intelligence worth so many billions? At some point we have to cut off. Is that the basic way you would set a ceiling?

Dr. HALL. That is one of the ways we set the ceiling. Another way we set the ceiling is we know what Congress is likely to approve.

Mr. FIELD. I am trying to get at that ceiling, and I will tell you why. It seems to me that the two big problems of the intelligence community are duplication and "overcollect." In 1967, a major study was done severely criticizing overcollect. In 1971, another study was done that had almost the identical criticism. It doesn't appear as though anything has been done in the interim to correct the problem. Our work right now seems to reveal the same kinds of things: a tremendous volume of collect and nowhere near an equal amount of analysis. It would seem that the overcollect results from a desire to keep up with the state of the art, you might say, and that we undertake programs because we can do it, rather than taking a look at the total budget and asking, is the expense really worth what we are getting out of this program? Is that a fair statement?

Dr. HALL. No; Mr. Field, I don't think it is, and in the period of time that you mentioned, from 1971 to present, which is the time I have been in this office, we have actually reduced manpower, predominantly collection people, by almost 40 percent.

Mr. FIELD. I am talking more of collect now. We hear there are some 30 tons of classified waste. We can't determine exactly how much is classified. We are not allowed to look. Some 30 tons of classified waste go out of NSA every day. How many tons of that never see human eyes?

Dr. HALL. Very little, Mr. Field. As a part of the general collection operations, which I will describe this afternoon, it is inescapable that certain extraneous material is collected in the process of looking for the material that you really want. That is retained for awhile and then discarded.

Mr. FIELD. I have asked our staff to make a statement of the number of tons of material in the other intelligence agencies of the Defense Department, and generally it is difficult. Their statement would be

that is is probably a multiple of what the NSA is disposing of every day. So we may have literally a hundred or more tons of information a day. Now we have come up with a number of personnel that could possibly look at these tons of classified material; but each person would have to look at an awful lot of material to make any effective use of it. Isn't that correct?

Dr. HALL. That is part of the general process that goes on throughout the world. Our Department of Defense operations really depend upon information, so there is a tremendous amount of information which is collected, and part of our challenge is to select that information which we really need. I think we do pretty well in this regard.

Mr. FIELD. Let me just bring it down to a practical level. Isn't it true in critical matters, such as predicting the outbreak of war, that within recent times we have had sufficient intelligence to be able to make that prediction accurately? When we have failed to do so it was because the system broke down. It failed to get the information through analysis channels to the proper people. Isn't that correct?

Dr. HALL. Well, if you are talking about the 1973 Middle East war, in fact, the outbreak of the war was foreseen, and this information was handled correctly and was provided to the people who should have had it.

Mr. FIELD. The outbreak of that war was accurately predicted.

Dr. HALL. It was. Some other members of the community do not maintain that same position. I will be glad to discuss this at great length in closed session.

Mr. FIELD. This might get into the area of coordination and duplication, and so forth. That is all I have, Mr. Chairman.

Chairman PIKE. For the benefit of the members of the committee, I would like to state that it is the Chair's intention to go around one more time. Then I would be happy to entertain a motion from Mr. McClory that we go into executive session. I will probably vote for it today. Friday's session was miserable and worthless. Yesterday it was somewhat less, so we will try it again today. And after we go into executive session, we will break for lunch so the room can be cleared for awhile during the lunch hour.

Dr. Hall, when we got down to the bottom line of the budget with the Director of Central Intelligence yesterday, the bottom line was a question mark and the question mark occurred because every little element in the military has its own little intelligence unit. Now, you are, as you stated, in charge of all of the defense intelligence. Does every Air Force squadron still have an intelligence officer?

Dr. HALL. I couldn't tell you whether every Air Force squadron has such an intelligence officer.

Chairman PIKE. Well, does every Army company still have an intelligence officer?

Dr. HALL. I am sure that is not the case.

Chairman PIKE. Does every naval ship have an intelligence officer?

Dr. HALL. All the combatant ships do.

Chairman PIKE. Does the cost of all of those people show up as intelligence-gathering costs in your budget?

Dr. HALL. They do not show up in program 3, but I know where they are and I know how much they are. I report them.

Chairman PIKE. In other words, you can tell us that which the Director of Central Intelligence could not tell us—the total cost of these military intelligence operations; is that correct?

Dr. HALL. Within a reasonable accuracy; yes, sir.

Chairman PIKE. Why don't you tell him so he can tell us, too, if we ask him?

Dr. HALL. Mr. Chairman, it is the Department of Defense's responsibility, not his.

Chairman PIKE. It is interesting to see what the right hand knoweth that the left hand doth not. What percentage of your intelligence budget is spent in-house and what percentage of it is contracted out?

Dr. HALL. I can give you a statement of that, but I would rather not at this particular instance. I will be glad to provide it for the record.

[The information follows:]

We procure systems, commercial components, and some unique expertise from private industry. Specifically, DIA contracts out approximately 16 percent, NSA 28 percent, Army 27 percent, Navy 37 percent, and 86 percent Air Force.

Chairman PIKE. Well, my basic question is, are the people involved with the contractors included in your manpower figures, in intelligence manpower?

Dr. HALL. The people that are involved in handling the contractors, our people?

Chairman PIKE. No; the people that you contract with. Are they included in the manpower that you give us as gathering intelligence?

Dr. HALL. Oh, no, sir.

Chairman PIKE. They are not?

Dr. HALL. No.

Chairman PIKE. Dr. Hall, you used a phrase which has become terribly familiar to me over the years. You said that everything in our intelligence-gathering activities is keyed to the threat as we perceive it, and that all sounds like a good phrase; but the question in my mind is, through the years which we have called the years of détente, through the years of joint space ventures with the Soviets, through the years of the SALT agreement, has that threat ever changed?

Dr. HALL. Not appreciably.

Chairman PIKE. So what we are doing is assuming precisely the same threat in this period of détente that we assumed at the height of the war. Is that correct?

Dr. HALL. We don't assume it, Mr. Chairman. We used hard evidence to construct what is the threat.

Chairman PIKE. Doesn't what the threat is involve a judgment as to what other people are going to do as well as knowledge of what their military equipment is?

Dr. HALL. Yes, it does. It involves both a statement of what the intent is and a statement of their capability.

Chairman PIKE. So, we assume their intent is the same in times of peace as in times of war; is that correct?

Dr. HALL. No; we believe that fundamentally the question in terms of how we look at our own capability really has to be keyed to what their capability is, and we do believe—

Chairman PIKE. So, when we talk about the threat and the intelligence that we must gather to counter the threat, we are really talking about the worst possible cases; are we not?

Dr. HALL. Our statements really range from the worst case to a best case, and we generally provide a range of such cases.

Chairman PIKE. But our intelligence-gathering activities are all based upon the assumption of their capability and not on the assumption of their intentions; is that not correct?

Dr. HALL. Our intelligence objectives have to be taken into account; predominantly we focus on their capability and not their intent.

Chairman PIKE. Mr. McClory.

Mr. McCLORY. Dr. Hall, I have gone through about three or four different explanations here of the authority for the Defense Intelligence Agency. You have a legal opinion from your own counsel. I have been furnished with transcripts from the Congressional Record. I have looked at the summaries of the National Security Act of 1947, the establishment of the Department of Defense, and the consolidation of activities under the Department of Defense, and these various other things, and the conclusion seems to be reached that well, there have been no complaints from the Congress about the authority of the DIA, and that seems to be the ultimate resolution as to the recognition of DIA and its authority. I guess the question is, wouldn't you feel a lot more comfortable if the Congress would enact positive legislation which recites in so many words your authority, the extent of it, the limitations on it, and details what your function is supposed to be in the law instead of just by inference or innuendo or the fact that the Congress doesn't object to your authority?

Dr. HALL. Well, the authority for both my Office and the Defense Intelligence Agency is by charter signed by the Secretary of Defense, and I believe that that is a satisfactory way for handling the responsibilities in the Department. The Secretary of Defense is fundamentally charged with maintaining the forces that are required for the protection of the United States and uses intelligence in a way to meet that broader authority.

Mr. McCLORY. You can't refer me to any direct statutory authority, can you, for the establishment of the Defense Intelligence Agency?

Dr. HALL. No, sir, there is no such thing.

Mr. McCLORY. I think that is all I have at this time. Thank you, Mr. Chairman.

Chairman PIKE. Mr. Murphy.

Mr. MURPHY. Thank you, Mr. Chairman. Dr. Hall, would you describe the Foreign Technological Division of the Air Force? What is that?

Dr. HALL. It is a group of people which are brought together for the analysis of intelligence information predominantly relating to foreign weapons systems, particularly aircraft.

Mr. MURPHY. Who controls that, Doctor? Who runs that?

Dr. HALL. It is run by the commanding officer who reports to the Air Force Systems Command.

Mr. MURPHY. Now, who funds that? You or the CIA?

Dr. HALL. We fund it.

Mr. MURPHY. I understand that some of their intelligence activities include civilian employees.

Dr. HALL. Yes.

Mr. MURPHY. Who would underwrite that?

Dr. HALL. That is part of our support in our budget.

Mr. MURPHY. Didn't you tell me earlier that you have no civilian employees that you underwrite?

Dr. HALL. If I did, I misunderstood your question, Mr. Murphy. We have many, many civilians in the Department Intelligence Operations which we——

Mr. MURPHY. Yes; but my specific question involved civilian employees of domestic corporations, and I understand that this Foreign Technological Division of the Air Force defrays some cost of those civilian employees.

Dr. HALL. The Foreign Technology Division of the Air Force includes both military and civilian people. The civilians are civil service people. In addition, the Foreign Technology Division lets contracts for analysis to nongovernmental civilians with certain expertise.

Mr. MURPHY. Yes; but these people belong to other than the governmental corporations?

Dr. HALL. They belong to other than governmental organizations.

Mr. MURPHY. They are domestic corporations. And I am wondering who underwrites their expenses.

Dr. HALL. Their costs are regular contract costs which are handled by the Air Force in the same way that any other contract is handled by the Air Force.

Mr. MURPHY. Then, in fact, you are defraying some domestic corporation costs?

Dr. HALL. Yes; we certainly are, but these are corporations that regularly do business in the public domain and we make use of some of their expertise.

Mr. MURPHY. Now, were any of these domestic corporations created specifically for intelligence purposes?

Dr. HALL. No.

Mr. MURPHY. Do any of them do exclusively intelligence work?

Dr. HALL. I don't think so, but I would have to get an answer for you on that. Basically what the process is is that if we have, for example, a Soviet engine that we want to have analyzed, we believe that the best thing to do is to go to an engine manufacturer in this United States who has expertise on such engines, and they carry out the basic analysis of the information we have; put it in a form in which we can use it. That is a contract to a company like General Electric, United Aircraft, or so on. So it is a specific contract looking for going to places where there is expertise to get certain analysis done. That's the kind of work that that is.

Mr. MURPHY. Now, does the CIA also undertake that sort of activity.

Dr. HALL. Yes; it does.

Mr. MURPHY. How do you coordinate your efforts on that, or do you?

Dr. HALL. Well, we do. We could do better, but basically it is a process of letting each other know what we are doing in this particular respect.

Mr. MURPHY. Have you had cases where you have garnered certain information and they have, too, and then when it is analyzed you realized that you performed duplicate tasks?

Dr. HALL. Yes; we have.

Mr. MURPHY. Do you ever compile the number of instances where you duplicate each other's work?

Dr. HALL. Well, in this particular respect, at the request of the Deputy Secretary of Defense, we have recently set forth a program to get a better handle on such analyses.

Mr. MURPHY. No: I am not talking about a program and an objective of getting a better handle on it. I am talking about the hard accounting facts. Are they available to this committee, where we have instances of duplications of work and how much money that comes to?

Dr. HALL. We have not. It would be a difficult thing to do. The predominant problem, of course, is that while in my judgment some—

Mr. MURPHY. Well, you would have instances of duplication, right, and you know what that project cost you, and you could find out from the CIA what it cost them, and I imagine you could make a simple identification as to what a duplication costs.

Dr. HALL. What I am doing is really giving you my best judgment that there are some areas where we can improve ourselves in that particular direction. It would be difficult, I think, for me to fully document it to your satisfaction.

Mr. MURPHY. I understand my time is up, Mr. Chairman. I will conclude with this remark. One of the functions of this committee is to see if we can determine the amount of duplication and its cost, and how we best can resolve this. Thank you.

Chairman PIKE. Mr. Aspin.

Mr. ASPIN. Thank you, Mr. Chairman. A lot of the things that I think have concerned the committee have come up, but there is one area, Dr. Hall, which hasn't yet, and that is we have had a go-around a couple of times on this matter of secrecy and what information ought to be kept secret and not. The Defense Department's policy on this seems to be particularly bizarre. Some things are kept secret, and others parts are not kept secret. Is that one of your functions, to decide how much of the various intelligence activities can be made public?

Dr. HALL. No, it isn't my job to do so. In reviews of questions of this sort I often am asked for my advice.

Mr. ASPIN. Whose job is it that decides? Who decides, for example, that portions of the R. & D. budget are made public and other portions are not?

Dr. HALL. It predominantly is a question of the individual who is responsible for that program.

Mr. ASPIN. Is that why it seems to be such a hodgepodge, that some information is given and other information is not, and some things you think ought to be public are not, and others are surprised? To give you an example, our attaché offices. That is a fairly public kind of thing, that we are collecting information through the military attaché offices in various countries. Yet apparently the location of those offices is not made public. Why is that? If we know why, and people know it is a very public thing in those countries that the attaché is there, and there is a military attaché office, why isn't that made available to the American public?

Dr. HALL. I am not in a position to defend why we don't do that, Mr. Aspin.

Mr. ASPIN. That is classified, Mr. Chairman, the number of the positions, and the location of the attaché offices is classified, and the information which also came out in hearings about where new offices are going to be opened is classified, but then irony comes on top of it when you look at the family housing section of the law and you find out where the family housing sections are, and there is family housing for attachés and that is not classified.

There are 86 countries where there is family housing for attachés and they list that there are two countries, Algeria and Bangladesh, where we are opening new family housing, so it wouldn't take much intelligence to discover where our attachés are. But you know it is this kind of bizarre treatment of classification that I think is so perplexing.

Dr. HALL. I think we should have you on the intelligence staff, Mr. Aspin.

Mr. ASPIN. You just look at two pages of the two different sections of the appropriations hearings, and the DIA, the Defense Intelligence Agency, seems to be kind of contrary to what the CIA is saying and what the Director of Central Intelligence is saying. He was saying, "Well, if you really must, it wouldn't be damaging to give a total."

Now, you would not want to give the total for a series of years because then you can plot the series and you won't want to give any breakdown at all.

He says the trouble with giving a single number is pretty quick there is pressure to break it down. The Defense Department people seem to be perfectly willing to give certain parts rather than the total. The total is about the only thing that is missing. The various parts of it are there and in fact most of it is there in a lot of cases.

It is just adding it up. Why this different approach?

Dr. HALL. Well, the fundamental guidance comes from the Director of Central Intelligence. We follow his lead because he has the responsibility of protecting the intelligence sources. In terms of what we publish and what we do not, there very certainly will be times when the left hand doesn't know what the right hand is doing.

Mr. ASPIN. And in general is this done by department? For example, is there a head of the DIA's information who decides, within the DIA, what is to be declassified and then there is another person for the Army intelligence and for the Air Force intelligence, Navy intelligence? Is that how it is done, or is it broken down even further with subsections within those sections that people decide what is classified and what is not classified?

Dr. HALL. The important questions are predominantly handled by the head of a particular operation.

Mr. ASPIN. And what would be an operation, for example?

Dr. HALL. Oh, the Director of the Defense Intelligence Agency, Director of Naval Intelligence, and so on.

Chairman PIKE. Mr. Aspin, your 5 minutes are up. I am aware you saved time earlier. If you want to go for another 5 minutes, it is perfectly all right.

Mr. ASPIN. Let me not pursue that any further other than to say that one of the reasons why I think people in Congress are particularly unhappy with the classification system, quite apart from the

fact of who can leak and who cannot leak, which we have gotten into before, is the seemingly arbitrariness of the whole system, and I think that a comparison of just looking at the way the different parts of the Defense Intelligence operations, some things classified, some things in the Navy that are classified, which aren't classified in the Army and vice versa, just makes people just very suspicious that the whole thing is just being done in a very haphazard way. But let me take another point. Of those unclassified portions, can the GAO come in and audit those and does the GAO do work on the unclassified portions?

Dr. HALL. The GAO could come in and audit the classified portion as well.

Mr. ASPIN. Well, now, they said they were scared off from doing a lot of the classified things because they did not have clearance and they did not have people who were cleared and they could not get in and have compartmentalization and then they backed off of it entirely.

Dr. HALL. They have people stationed at the National Security Agency.

Mr. ASPIN. Yes, but that is only for the National Security Agency. Those reports go to the head of the National Security Agency, a kind of technical assistance from the GAO to NSA rather than any kind of independent audit. Those reports do not go back to the GAO and do not in any way get back to Congress.

Dr. HALL. There is no reason as far as I am concerned to keep any properly constituted GAO audit from considering anything in the intelligence arena.

Mr. ASPIN. You mean you would say that the GAO as far as you are concerned could come in and audit both the classified portions and the unclassified portions?

Dr. HALL. Yes, if that is—

Mr. ASPIN. Has the GAO come in and audited any part of the DIA recently?

Dr. HALL. No.

Mr. ASPIN. Have they done any auditing of any of the service intelligence agencies?

Dr. HALL. Not to my knowledge.

Mr. ASPIN. Not even the unclassified portions? I mean they ought to go in there and have a look at that base, about how many generals are flying planes, and how many in family housing, and the cost of all of that. They haven't done that?

Dr. HALL. Not to my knowledge, Mr. Aspin.

Mr. ASPIN. But you have no objection to them coming in and doing that?

Dr. HALL. No.

Mr. ASPIN. To go to one other point, you said, for example, that the person who is responsible for Defense Intelligence is really the Secretary of Defense, rather than the head of the CIA, rather than Mr. Colby. Mr. Schlesinger is really the boss rather than Mr. Colby on a number of these issues. How much cooperation is there with the CIA? For example, does the CIA have access to all information gathered by the Defense Intelligence Agency? Do they have access to all of the raw data collected?

Dr. HALL. Yes, they do as a regular thing.

Mr. ASPIN. And they are on the distribution for everything?

Dr. HALL. Yes.

Mr. ASPIN. And they do not have to know about it and ask for it to get it? They get it automatically?

Dr. HALL. They get it automatically?

Mr. ASPIN. Does the same cooperation exist among the services, for example, Army intelligence and Navy intelligence? Do they get cross information?

Dr. HALL. Yes, they do.

Mr. ASPIN. And how long has this been going on?

Dr. HALL. It has been going on as long as I have been in the office.

Mr. ASPIN. Which is?

Dr. HALL. About 4 years.

Mr. ASPIN. Because I know that has been a problem in the past.

How do you decide what gets transferred and what doesn't?

Dr. HALL. Well—

Mr. ASPIN. Not everything that comes in clearly. I mean every little scrap of information cannot be sent across.

Dr. HALL. If we started sending it all to each intelligence organization, we would even have more than the 30 tons we are talking about.

Mr. ASPIN. So who is to decide? Who decides what is important and relevant and whatever classification it is?

Dr. HALL. The heads of the operations do, but fundamentally, I have to say it really works very well.

We watch it from my office to see that there is the proper and good interchange and I think that is the case.

Mr. ASPIN. And that is your primary concern?

I want to say that of the people who are concerned about this, that is one of your responsibilities to make sure this is done?

Dr. HALL. Immediately it is the responsibility of the Director of DIA to insure that there is the proper interchange of information.

Chairman PIKE. The time of the gentleman has expired.

Mr. ASPIN. May I just ask if it isn't done correctly, who is responsible or who is the person who should be held responsible?

Chairman PIKE. Mr. Aspin, we are really going to have to stick with the rules.

Mr. ASPIN. All right.

Chairman PIKE. Mr. Kasten.

Mr. KASTEN. Thank you, Mr. Chairman.

Dr. Hall, do you have present or former CIA employees in top level positions in your Department?

Dr. HALL. In my office we do not—no, I don't think so.

Mr. KASTEN. Mr. Hall, is Tom K. Latimer now employed by the Department of Defense, a Special Assistant to the Secretary, and a Special Assistant to the Deputy Secretary of Defense?

Dr. HALL. Yes, he has had a DIA background.

Mr. KASTEN. Is he still employed by the CIA?

Dr. HALL. No, sir.

Mr. KASTEN. Are you aware that for the years 1970 to 1973 approximately he was detailed to the White House as a CIA employee but that was not generally known?

Dr. HALL. Yes, I am aware of that.

Mr. KASTEN. You answered my first question no, I think, saying that you did not have any present or former CIA employees. Here is one. Not only that, but this particular individual was at the White

House evidently working with Dr. Kissinger not as a CIA liaison man, not identified as a CIA individual, and now not only is he working with your Department and you answered no to the first question, but isn't this the individual that you have assigned as the contact man for this committee? Isn't he the staff person that we contact?

Dr. HALL. I interpreted your first question to mean people who work in my office and he does not work in my office.

Mr. KASTEN. Who is the staff contact man for this committee, the House Select Committee on Intelligence, in the Department of Defense?

Dr. HALL. Mr. Latimer.

Mr. KASTEN. Was the fact that he was a CIA employee and had been detailed to the White House, was that known by our staff and other people?

Dr. HALL. I knew it. I didn't know whether—

Mr. KASTEN. Do you think it would be important that the chairman and other members of the committee and the staff would know that this man is or at least was a CIA employee and was detailed to the White House and had other jobs in the CIA?

Do you see an apparent conflict here or any kind of problem, or do you feel this is kind of business as usual?

Dr. HALL. His job as Assistant Secretary of Defense, his regular job, is to maintain contact with congressional committees and outside agencies. I don't really see that his background as having spent some time with CIA has anything really particularly to do with it.

Mr. KASTEN. Then you don't feel he should be identified in any way to this committee, especially the fact that he had been detailed to the White House?

Dr. HALL. I see no reason for keeping it undisclosed.

Mr. KASTEN. Is a Mr. John Maury presently the Assistant Secretary of Defense for legislative affairs?

Dr. HALL. Yes.

Mr. KASTEN. Do you know anything about his background?

Dr. HALL. Yes.

Mr. KASTEN. Could you describe that to the members of the committee?

Dr. HALL. Well, very briefly, he was also at CIA.

Mr. KASTEN. In the job of legislative affairs or counsel; is that correct?

Dr. HALL. Among other jobs.

Mr. KASTEN. How come he didn't fit into the classification of my first question, when I asked about former or present CIA employees?

Dr. HALL. Because he doesn't work for me, either.

Mr. KASTEN. Do you think that it is appropriate to have these kinds of people in these kinds of jobs and it is not known? I am not sure. Is Mr. Maury presently a CIA employee?

Dr. HALL. No; he is not.

Mr. KASTEN. I was not able to get that information.

Dr. HALL. He is not. He is a Presidential appointee.

Mr. KASTEN. When people are detailed from the CIA to the Department of Defense or to other departments, do people ask for these CIA employees to be detailed from the CIA to the Department, or are you asked whether you would like to have one of the CIA people come into your Department?

Dr. HALL. Nobody has ever asked me if I wanted any.

Mr. KASTEN. I want to go back to a question as to the problems of duplication. The relationship between a number of units in the Defense Intelligence Community is unclear, and it is obviously unclear to a number of the members of the committee, and I want you to clarify the relationship if you could, of the Army, Navy, and the Air Force intelligence services in the Department of Defense. There are three, Army, Navy, Air Force intelligence services at the Department of Defense. Then there are also U.S. Air Force Security Service, the Army Security Agency, and the Navy Security Group, which reportedly work for the National Security Agency. Do you have six different agencies, or do you really have three with partners, or with people that are working together?

Dr. HALL. It will be clear after I talk this afternoon, but there is no secret about it, and I will be glad to try to do it now. The program which is run by NSA is participated in by Army, Navy, and Air Force units. The Air Force unit is called the Air Force Security Service. It is part of the Air Force, but it is charged with participating with NSA in the cryptological program. The Army security agency, ASA, is an Army unit which also participates in the cryptologic program under NSA.

The Naval Security Group, NSG, is a similar unit in the Navy. So that's three of the ones you are talking about. At the departmental staff levels in the Army, Navy, and Air Force there is a top intelligence officer who is responsible to the Chief of the Naval Operations for the Navy, to the Chief of the Services for the Army, and the Air Force. They each have intelligence responsibilities in support of their departments, primarily involving the management of people and systems for various collections and analysis efforts.

Mr. KASTEN. My time is up, but your answer to my question is that there are six separate agencies with six separate budgets; is that correct?

Dr. HALL. Not agencies.

Chairman PIKE. Mr. Kasten, I would simply have to say to you the same thing I said to Mr. Aspin. When you know your time is up, I would appreciate it if you would stop asking questions. Mr. Milford?

Mr. MILFORD. Thank you, Mr. Chairman. Mr. Hall, I would like to go back. I think the record may possibly infer a wrong thing here—either that or my knowledge is incomplete, whichever the case, I would like to straighten it out—concerning your conversation with the chairman a few moments ago about intelligence personnel in tactical units that do not show up on your particular budget. My last direct contact with the military was World War II and Korea. At that time, in our infantry, our artillery, armored units, et cetera, the lowest level that had a designated intelligence officer was a battalion, although in the company we would normally assign some officer as an intelligence officer, but this was really sort of like inventory, PX.

It was in Army theaters, but somewhere along that line, unless we were actually engaged in combat the intelligence officers had no function other than to train. They did not serve as an input into the intelligence gathering agency as we now have it here in peacetime. Am I correct so far in what I am saying?

Dr. HALL. You are correct, yes, sir.

Mr. MILFORD. Would you point out at what level from company to theater that the personnel were in tactical units would constitute an input into your intelligence system, if at anywhere along that line?

Dr. HALL. I would have to prepare an answer for you because it is a little complex.

[The information follows:]

Intelligence activities which are collecting intelligence for use by national level as well as combat level consumers, are in what we call Program 3, which is intelligence and communications. In addition, there are some activities, that are organic to various forces, which are intelligence-related activities, and these are carried outside Program 3 in the same program as the forces they support—strategic, general purpose, and so on. To insure, however, that we know where all the people are, we maintain cognizance of wherever the intelligence or intelligence-related people are, whether they are involved in direct combat support or in a unit which is providing general support for both combat and national levels.

Mr. MILFORD. The intelligence officers in the 2d Armored Division at Fort Hood and in the 1st Infantry Division, wherever they might be here in the States, would be supplying absolutely no input into your system at all?

Dr. HALL. They don't. They are there to help the commander. They are called intelligence officers because the commander needs to look to an expert and these people are specially trained and are there to help him interpret and use the intelligence which is collected and produced by the various intelligence organizations.

Mr. MILFORD. This is to be a training function strictly?

Dr. HALL. A training and support function. They support the commander in his operations.

Mr. MILFORD. Thank you, Mr. Chairman.

Chairman PIKE. Mr. Hayes.

Mr. HAYES. Thank you, Mr. Chairman.

Dr. Hall, I don't want to use you as a foil and I don't want you to take anything I say on a personal basis but I am enormously impressed by the utter banality of the operation that you describe and your perception of the operation.

Let me give you an example. In your testimony at page 7 you try to put the entire planning, programing and budgeting system into an industrial analogy and you tell us that the planning, programing, guidance memorandum is in effect a request for a proposal from the military departments. The obvious answer is that, of course, we therefore receive a bid from the military. In other words, our civilian controlled Defense Department receives this bid from the military. I think that is unquestionable. I think you know it and I know it.

Then we go ahead and have project objective memorandums which become the proposals. We make a contract with them as to which we want to buy, the obvious implication being the military here have something to sell to us and if they are like other salesmen they try to oversell. They give us the whole line, the entire package, and we of course try to sift through and knock that out.

Let me ask you a question about that methodology. Is that the kind of methodology that was used to advise General Weyand, for example, that this country last spring ought to buy for a price of about a third of a billion dollars a regime in South Vietnam? And then that was immediately followed by the abandonment of about \$1 billion dollars worth of arms we had provided to them? Is that the same methodology that is used?

Dr. HALL. The methodologies are not related at all. The words that are in my testimony were designed to try to make clear the process of allocation of resources and selection of projects that we are involved in.

Mr. HAYES. Don't you see intelligence as something different from the industrial procurement programs?

Dr. HALL. Of course.

Mr. HAYES. Why do you insist on that kind of thought process?

Dr. HALL. I don't insist on it. I will throw it away if you would like.

Mr. HAYES. Again, I don't mean to be battering you around, and please don't take anything I am saying on a personal level.

Dr. HALL. I have no pride of authorship.

Mr. HAYES. That is the unfortunate thing about it. It is enormously amusing. I don't blame anybody for laughing. But that is the kind of operation that we have here. Mr. Latimer and others, in selecting you, did an enormously good job and I doubt very much, based on the literature in this area and based on the observations of others who are quite capable of analyzing our intelligence community, I really think you are the perfect choice to send down here, your background in industry, relatively unscathed, not around during part of the hard charging, the formation of DIA, and all of its concomitant problems, its ultimate abandonment according to some observers—and I think that is probably correct.

Is it still abandoned? Isn't the CIA in fact the real arm for understanding intelligence used by the civilian heads of our Defense Establishment?

Dr. HALL. Some of the best analogies have come from CIA. Some very good analogies have come from the Defense Intelligence Agency.

Mr. HAYES. The joint service approach that is used within the Defense Intelligence Establishment has turned out to be a mish-mash. In fact, isn't it tremendously difficult to accommodate and to present in one final form all of those conflicting viewpoints that you assemble?

Dr. HALL. We do encourage the intelligence agencies to come in with more than we can support in terms of ideas. We need ideas and we encourage that approach.

There is a selection process, therefore, that we must go through in choosing those ideas which we are going to support; that was what the analogy was intended to represent and that is as far as I want to go in defending it.

Mr. HAYES. You have described your job as putting resources at the disposal of Intelligence and Defense. The Director has to produce the intelligence estimates himself. So do you consider your role as a hardware man, as a procurer—

Dr. HALL. My role is predominantly to help determine where we put the money and other resources—into new collection systems, into processing systems and so on.

Mr. HAYES. You don't in fact have a role in assessing the value of the estimates of intelligence, do you?

Dr. HALL. I do from the point of view of assuring the Secretary of Defense that the process is working right.

Chairman PIKE. The time of the gentleman has expired.

Mr. Johnson.

Mr. JOHNSON. Thank you, Mr. Chairman.

Dr. Hall, in pursuing our previous line of questioning about the acquisition of military intelligence and perhaps duplication with the CIA, so that proper weapons systems could be generated in response, we didn't get to go into your relationship with ERDA. It is up to you, you say, to advise the Secretary of Defense where to spend these intelligence dollars.

Is there any coordination between the Defense Department and ERDA then in the utilization of this information so that we don't duplicate the weapons systems between the Department of Defense and ERDA?

Dr. HALL. Yes, there is coordination on the United States Intelligence Board; ERDA has a member and the Defense Department has two members. There is an interchange of information at that particular point.

Mr. JOHNSON. We did establish that the DIA has no covert activities. Did we establish that the Department of Defense no place has any covert activities?

Dr. HALL. We have no covert activities.

Mr. JOHNSON. Do you have any arms programs to foreign governments included in any of your budgets?

Dr. HALL. Any what?

Mr. JOHNSON. Arms programs to foreign governments.

Dr. HALL. We have no arms programs; no. We have some intelligence programs with foreign governments.

Mr. JOHNSON. Does your department have any operations in the United States cities and towns? Intelligence gathering?

Dr. HALL. No.

Mr. JOHNSON. I yield to the gentleman from Wisconsin to finish his line of questioning.

Mr. KASTEN. I want to get the final answer to the question I asked before. Your answer is that you have six separate agencies with six separate budgets for those six areas we have touched on; is that correct?

Dr. HALL. We don't call them agencies.

Mr. KASTEN. Department?

Dr. HALL. Department.

Mr. KASTEN. Do you as Assistant Secretary of Defense for Intelligence have any control or authority over any Department of Defense intelligence: Army, Navy, Air Force, DIA, NSA, or is your authority limited solely to making recommendations?

Dr. HALL. I have no line authority.

Mr. KASTEN. Is that a difference between you and General Graham?

Dr. HALL. He has authority over the Defense Intelligence Agency.

Mr. KASTEN. The CIA has a staff of national intelligence officers, NIO's, while the Defense Intelligence Agency has a staff of Defense Intelligence Officers, DIO's. Is there coordination between these two sets of staffers in production of intelligence estimates?

Dr. HALL. Yes; there is.

Mr. KASTEN. Are both necessary to provide the best intelligence estimates? In other words, we are going through—all the members of the committee—a series of duplication after duplication and in some cases competition after competition. Are both sets necessary to provide the best intelligence estimates? Isn't this a duplication of function here?

Dr. HALL. There is certainly some duplication of functions, but in terms of number of people—there are not very many—and in terms of making a better process, I think it is good to have some competition, if you want to call it competition. They work very closely together but they are not constrained to come out with a single picture. The DIO's, of course, are more oriented toward military matters than the NIO's.

Mr. KASTEN. Thank you, Dr. Hall.

I yield back the balance of the time to Mr. Johnson.

Mr. JOHNSON. I just wanted to establish one more time, Dr. Hall. Are there any military personnel being trained in covert, clandestine activities? I understand your answer has been "no."

Dr. HALL. No, no military intelligence personnel are being trained for covert action activities.

Mr. JOHNSON. You say that flatly?

Dr. HALL. Not in the sense to which you are referring. However, there is clandestine training which can be further discussed in closed session if you so desire.

Mr. JOHNSON. I yield back the balance of my time.

Chairman PIKE. Mr. Lehman.

Mr. LEHMAN. Thank you, Mr. Chairman.

Did I hear correctly, Dr. Hall, that you said the Defense Intelligence Agency anticipated the outbreak of the Yom Kippur war?

Dr. HALL. Participated in the—

Mr. LEHMAN. Anticipated or predicted the outbreak of the 1973 war in the Mideast?

Dr. HALL. I said one intelligence agency did.

Mr. LEHMAN. One intelligence agency did that. Would you be willing—

Dr. HALL. Not the Defense Intelligence Agency.

Mr. LEHMAN. Would you be willing to tell me what happened to this information that prevented it from obviously being relayed to the people in the diplomatic area in this country, or perhaps the Israeli intelligence, the Israeli armed forces that in a sense necessitated the emergency airlift that cost a billion dollars or more, because this information was not relayed to the proper people at the proper time?

Dr. HALL. I would be glad to discuss this in the closed session. Let me say there was no obstacle to the relay of the information, Mr. Lehman.

Mr. LEHMAN. There was no obstacle in relaying this information but somewhere along the line—

Dr. HALL. There was a question of judgment in terms of what the information meant. The Israelis did not believe the information. One of our agencies did. Some of our agencies did not.

Mr. LEHMAN. It seems to me, then, if you collect enough intelligence that you are going to get so many conflicts that you are not going to know what to believe sometimes and that the overcollection of intelligence can perhaps be not only very expensive but very conflicting and very confusing.

Dr. HALL. In this particular case, Mr. Lehman, I wish we had had more. We were constrained in that particular area by previous reductions and we did not have all the information that I believe was necessary to have in the area.

Mr. LEHMAN. Dr. Hall, do you believe the civilians should control the military in this country? That is a rather broad, philosophical question.

Dr. HALL. If I understand your question, I don't know that it is particularly germane to this discussion. My general view is that civilian management of the military has always been part of this country and should continue to be.

Mr. LEHMAN. You are a civilian. I have the feeling, though, that you are the buffer between the civilian control and the military, that you are a roadblock for us to be able to find out the necessary information. Perhaps I am reading it wrong, but this is the kind of context in which I see your role at this time.

Dr. HALL. I certainly hope to change that viewpoint when we get into closed session.

Mr. LEHMAN. Speaking of closed session, the problem to me is that we have these operations like Holystone that get us in kind of a bind with some of the other countries. If only this committee knows about these operations, how can the civilians in this country, a civilian body like the Congress, really make the kind of decisions that need to be made to maintain control over the military, if they don't know what is going on?

Dr. HALL. I am not sure that that is a question for me, Mr. Lehman.

Mr. LEHMAN. It is a question that disturbs me.

For instance in a sense we are playing Russian roulette in more ways than one. With some of our operations, we are playing with the welfare of this country and the Congress, in particular, doesn't know what is going on and I think it is very important that they should. That is the question basically.

Dr. HALL. I want to assure you in my judgment we are not playing Russian roulette.

Chairman PIKE. Mr. Dellums.

Mr. DELLUMS. Thank you, Mr. Chairman.

Dr. Hall, I would like to take you back now to the 1968-72 political conventions and ask you, did any NSA security service or DOD military intelligence personnel participate separately or with any other agencies at the political conventions in those 2 years? If so, what was their mission and what was the justification for their participation?

Dr. HALL. Mr. Dellums, the National Security Agency did not. There was some activity on the part of Army Counterintelligence during that period of time. There were public announcements made and corrective measures taken by Secretary Laird. It is not an area for which I am responsible and I cannot speak authoritatively about it, but we can have somebody do so, if you want.

Mr. DELLUMS. I would appreciate that and with some emphasis on what was the mission of that unit.

[Dr. Hall subsequently advised the committee that:]

The whole subject of so-called military surveillance will be addressed by another DOD witness in future testimony if the committee so desires.

Mr. DELLUMS. Now about the interrelationship between the civilian community and the military. Does any DOD unit presently keep files on American citizens, and if so, what is the rationale of keeping those files?

Dr. HALL. They do not. There is no intelligence file kept on American citizens.

Mr. DELLUMS. Do you keep any files on American citizens? Have you ever kept files on American citizens?

Before some committees there has been some testimony the military has been involved in the surveillance of citizens and I would like to know if you have ever kept any files on American citizens.

Dr. HALL. I think the answer to the question that you have in your mind is no. In the last several years we have not done this, since the time that I mentioned. Some collection actions are taken. I think you are really talking about intelligence people—intelligence operations keeping files. You get into a little bit of a problem. I am not quibbling a bit, but you know I have friends in industry and if I look in my files, I will find their names. I don't think you intended to mean keeping that sort of a file on an individual.

Mr. DELLUMS. No; I am talking about where you violate the privacy of American citizens by—

Dr. HALL. The answer is there is nothing going on in that respect and has not for several years.

Mr. DELLUMS. Have any files on any citizens in America that were ever developed in any fashion other than employment files developed by the military been given to any civilian agency? If so, what agency?

Dr. HALL. I will take that question and get a specific answer for you.

[The information follows:]

During the late 1960's and early 1970, the Army was tasked by the prior administration to collect intelligence information relating to civil disturbances in various cities around the country. During this process, information was regularly furnished other Federal agencies such as the Department of Justice who also had responsibilities in dealing with civil disturbances. Much of this information originated with other agencies as well, such as the FBI, local sheriffs, and police departments so that there was at that time a regular exchange of information relating to civilian groups which were thought to have a potential for causing riots in our cities.

Mr. DELLUMS. For example, when American citizens read that some candidate for political office was under surveillance by the military, that meant you were not keeping a file on that person.

We have testimony to that effect before other committees, I'm sure, that persons campaigning for political office during the time of serious opposition to the Vietnam war, that military units did in fact keep American citizens under surveillance. Certainly candidates, political campaigns?

Dr. HALL. Mr. Cooke has testified extensively before congressional committees on the nature of that activity, what happened and what has been done to insure that it is not going on now. I think that record is the one which really applies here.

Mr. DELLUMS. In the last 5 years has any DOD military intelligence organization covertly penetrated any civilian organization in this country?

Dr. HALL. No.

[Subsequently, Dr. Hall advised the committee as follows:]

Although I was not aware of any such operations, on checking with my colleagues in areas not under my jurisdiction, I was provided with the following information: Since 1971, the Department of Defense has strictly regulated the acquisition of any information relating to persons not affiliated with the Depart-

ment of Defense. The Department has prohibited the penetration of any civilian organization except under those circumstances where the organization presents a direct threat to military functions, personnel or property. Since 1971, a high civilian official in the Department of Defense who is the only person authorized to approve such penetrations of civilian organization has approved eight operations to acquire information concerning an organization which presents a threat to military functions, property or personnel. Although eight operations were approved, two of the operations approved never came to any fruition; that is, the source never provided any information and the operation aborted. One operation is now ongoing. We are prepared to furnish the House Select Committee the same full information we have already provided the Senate Select Committee concerning these operations. We will give your staff access to the still-sensitive files concerning these matters. The facts concerning these operations have been provided to various committees of the Congress in the past.

Senator Ervin's Subcommittee on Constitutional Rights was provided this information last year. Recently the same information was provided to the House Subcommittee on Government Information and Individual Rights chaired by Congresswoman Abzug. And, as I have indicated, we have furnished the complete details concerning these sensitive operations to the Senate Select Committee staff.

Mr. DELLUMS. Does military intelligence receive data on domestic situations from the CIA and the FBI?

Dr. HALL. Someone more qualified should answer that.

Mr. DELLUMS. They are not in the room with you today.

Dr. HALL. They are not in the room today.

Mr. DELLUMS. Thank you.

Apparently in 1968, the District of Columbia Metropolitan Police received a payment of \$150,000 from the Army to gather intelligence.

Question: Who authorized that payment?

Question: From what account were the funds transferred?

Dr. HALL. What period of time was that?

Mr. DELLUMS. In 1968, a payment of \$150,000 to the District of Columbia Metropolitan Police for the purposes of gathering intelligence, on American citizens who were either residents of the District of Columbia, or were in and around the District of Columbia.

Dr. HALL. I will supply an answer for the record, Mr. Dellums.

[The information follows:]

The disbursement of the money in question was directed by the White House and authorized by the Under Secretary of the Army to be paid from operation and maintenance (O. & M.) funds, Army.

Chairman PIKE. The time of the gentleman has expired.

Mr. Field.

Mr. FIELD. Thank you, Mr. Chairman.

I am following up on my overcollection and duplication line of questioning of this morning. In reviewing a study, which was done I believe secretly, of the Defense Department's activities during the 1973 war that we mentioned, I understand that the study did not come to the same conclusion that you indicated this morning; that everything worked smoothly particularly with respect to the analysts in the DOD.

Dr. HALL. Mr. Field, I did not say it worked smoothly. We will this afternoon go over the results of that study with you and tell you about it.

Mr. FIELD. Moving to duplication: Isn't it true that each branch of the Service—the Army, Navy, the Air Force—had its own communications security program?

Dr. HALL. There is an overall security program which is administered and guided by the Director of NSA and it is complemented by counterpart operations in the services.

Mr. FIELD. Each branch of the service has in its budget an allocation for its own communications security program and has, as I understand, in fact its own program.

Dr. HALL. Each has its own program but it is implementing an overall program which is established by the Director of NSA.

Mr. FIELD. In other words, these three programs are completely centralized and coordinated?

Dr. HALL. Yes, they are.

Mr. FIELD. Isn't it a fact that each branch of the service has its own counterintelligence program?

Dr. HALL. Yes.

Mr. FIELD. Is that centralized?

Dr. HALL. It is centrally guided, yes, sir. I do not have any responsibility for this area.

Mr. FIELD. You don't have any responsibility for this area, but it is centralized. Who centralizes it?

Dr. HALL. It is centralized under Mr. Cooke who is the Deputy Assistant Secretary of Defense, Comptroller.

Mr. FIELD. Does each branch of the service have its own cryptology program which as I understand is codebreaking, encoding, and that type of thing?

Dr. HALL. There is one overall program in this area which is controlled by the Director of NSA and, as I stated earlier, each of the services participate in it.

The cryptologic program is centrally managed, centrally controlled, centrally operated, but implemented by organizations in each of the services as well as NSA.

Mr. FIELD. Our understanding in talking with these people is that there are separate cryptology programs; and that the NSA cryptology program is not, let's say, in charge of the Army, Navy, Air Force cryptology programs. Would your understanding be that the NSA person is in fact in charge of the Army's cryptology program?

Dr. HALL. That is right.

Mr. FIELD. He is in charge of it?

Dr. HALL. He is in charge of it.

Mr. FIELD. That will be interesting to tell to the Army.

Dr. HALL. If you get a different answer, I am sure you will let me know.

Mr. FIELD. CIA has its own cryptology program. NSA is also in charge of that?

Dr. HALL. CIA does not have its own cryptology program.

Mr. FIELD. There is no cryptology being done at CIA?

Dr. HALL. No.

Mr. FIELD. Was the DIA designed to coordinate all these programs?

Dr. HALL. No.

Mr. FIELD. That was not in the original directive setting up the DIA.

Dr. HALL. Nor is it there now.

Mr. FIELD. It was not designed to consolidate the various service intelligence programs and coordinate them?

Dr. HALL. You are talking about the cryptology programs—

Mr. FIELD. I am talking about all the various programs we have been reviewing—and many others.

Wasn't the purpose of DIA to consolidate and coordinate the separate branches' intelligence programs?

Dr. HALL. It was set up to coordinate the preparation of the finished intelligence which comes from the various collection sources and various agencies and it does that. It was not set up to——

Mr. FIELD. It was not set up to coordinate the various branches?

Dr. HALL. No.

Mr. FIELD. It would seem to me that the overcollection and duplication which at least I see are a very expensive part of our intelligence community and probably make the intelligence budget very expensive.

It also seems to me that rather than cut the overcollection and duplication that we shove certain things out of the intelligence budget.

We saw a presentation here yesterday by Mr. Colby in closed session. It is the same presentation he makes to the appropriations committees. I wonder how valid that budget presentation is, because of this technique of just sort of leaving things out of the budget.

For instance, military tactical intelligence. That is not in the intelligence—the foreign intelligence community budget. Is that correct?

Dr. HALL. Well, some parts are and some parts are not.

Mr. FIELD. The military spying in Berlin that took place a few years ago; was that in the intelligence budget?

Dr. HALL. The what?

Mr. FIELD. The military spying in Berlin on American citizens in Berlin that took place 2 or 3 years ago.

Dr. HALL. It was probably not in the intelligence budget.

Mr. FIELD. Ocean surveillance. Would that have been in the intelligence budget?

Dr. HALL. No.

Mr. FIELD. Satellite data systems?

Dr. HALL. No.

Mr. FIELD. Early warning systems? Warning systems?

Dr. HALL. Mr. Field, I am going to tell you all these things this afternoon. Let me make this distinction——

Mr. FIELD. My time is up. Rather than go to this afternoon——

Dr. HALL. Perhaps I can answer this way, Mr. Field: Where it appears in the budget is a bureaucratic method of accounting, whether it is in program 3, program 2, program 6, program 8, or program 1, we aggregate the whole thing in my office so that I can tell you where all of it is and how they relate, one to the other.

Mr. FIELD. If I can make one point, Mr. Chairman.

The only point I am trying to make is, that there is counter-intelligence and training, which is one-third of the budget. Mr. Colby comes up to Congress and presents a figure saying, "This is what intelligence costs you." It is in fact very deceiving. It may be only half of what it is costing. You may know it, but it is not told to Congress.

Dr. HALL. It is told to Congress. I tell them myself.

Chairman PIKE. You are going to get another opportunity, Doctor.

Mr. McCLORY. Mr. Chairman, before we adjourn I would like to move that the committee do now resolve itself into executive session.

Chairman PIKE. The clerk will call the roll.

The CLERK. Mr. Dellums.

Mr. DELLUMS. No.

The CLERK. Mr. Aspin.

Mr. ASPIN. Aye.

The CLERK. Mr. Milford.

Mr. MILFORD. Aye.

The CLERK. Mr. Hayes.

Mr. HAYES. Aye.

The CLERK. Mr. Lehman.

Mr. LEHMAN. No.

The CLERK. Mr. McClory.

Mr. McCLORY. Aye.

The CLERK. Mr. Kasten.

Mr. KASTEN. Aye.

The CLERK. Mr. Johnson.

Mr. JOHNSON. Aye.

The CLERK. Mr. PIKE.

Chairman PIKE. Aye.

The Select Committee on Intelligence will now go into executive session. We will resume at 2 o'clock this afternoon.

[Whereupon, at 12:50 p.m., the committee was recessed to reconvene at 2 p.m. the same day.]

U.S. INTELLIGENCE AGENCIES AND ACTIVITIES

Part 1: Intelligence Costs and Fiscal Procedures

WEDNESDAY, AUGUST 6, 1975

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, D.C.

The committee met, pursuant to recess, at 10 a.m., in room 2118, Rayburn House Office Building, Hon. Otis G. Pike [chairman], presiding.

Present: Representatives Pike, Stanton, Dellums, Murphy, Aspin, Milford, Hayes, Lehman, McClory, Johnson, and Kasten.

Also present: A. Searle Field, staff director; Aaron B. Donner, general counsel; John L. Boos, counsel; Roscoe B. Starek III, counsel; Roger Carroll, Charles Mattox, Edward Roeder, and Emily Sheketoff, investigators.

Chairman PIKE. The committee will come to order.

We have back with us today Mr. Colby wearing his other hat as the head of the Central Intelligence Agency.

Very frankly, Mr. Colby, I sometimes have trouble keeping your hats straight, and I would not be too surprised if you had certain difficulties in that area from time to time, too.

I want to just say a couple of things before we go any further.

The first thing I want to say is that the Department of Defense is in full compliance with the subpoena which the committee issued yesterday. Documents have been delivered to me. I hereby deliver them to our Chiefs of Staff and entrust them to our security.

I want to make it very clear to our committee and to our staff that I feel we do have a rather special and heavy burden at this time. I have fought very hard to distinguish the legislative branch of Government from the executive branch of Government in this regard. I have declined to require our staff to sign all of the papers on secrecy of one sort or another which the executive branch sought.

We have established our own rules on security and on secrecy. We have established our own agreements on security secrecy, and while there is no way on Earth that I can bind any member of this committee to anything as far as secrecy or self-restraint is concerned, I know that all of the members of this committee are aware of the necessity for this and the implications of some of the documents which are in our hands.

We are approximately at the halfway mark in this first phase of our hearings. We have been concentrating on the budget, and I said as I opened these hearings that looking at where the money comes from and where the money goes is a fascinating thing to me. Sometimes the testimony is a little dull, but it is quite revealing.

Mr. Kasten, I think it was yesterday, pointed out that the man in the Department of Defense who was designated to be our liaison man in this investigation was a former CIA man. I frankly don't know what his role is at the moment, and I don't particularly care, but I think it would have been somewhat fairer if I had known this at the time when I was told that he was going to be our contact.

The budget route has taken us into several contracts which Mr. Dellums brought up yesterday, involving various branches of the Department of Defense and the CIA. We have learned that there are just huge amounts of money which are not included in the so-called intelligence budget, and this is one of the reasons when we first started getting numbers pertaining to dollars that I didn't get too excited about it—because they were not terribly revealing as to the total amount of dollars which we spend in this regard.

The budget route cannot be followed indefinitely without other questions being raised. Other questions were raised.

Mr. Colby, your name does keep coming up no matter in what particular hat capacity. We try to follow these directives. It is quite possible that today questions will be addressed to you which cover Monday's hat instead of Wednesday's hat, and I hope you will understand that not only do we have some difficulty with this ourselves, but we can't go any other way.

You are here. You are our witness. We may want to ask you some questions.

Mr. McClory?

Mr. McCLORY. Will you yield for a minute, Mr. Chairman?

Chairman PIKE. Certainly.

Mr. McCLORY. I want to express my satisfaction with the fact that our subpoenas have been promptly acceded to, and that we have the documents that we requested from the National Security Agency.

I also want to say insofar as Mr. Colby is concerned, that he has been very forthright and very cooperative with us, which is something that this committee needs in order to do the job we must do.

On the further subject of the difficulty of our task in trying to get at the crux of how much the intelligence community is costing our Nation and what is intelligence and what is not, I think there are some very difficult problems presented, where intelligence stops and where national security or national defense begins unrelated to intelligence, but those are judgments we are going to have to make. We have to have not only the direct expenditures, but we have to have these peripheral subjects which we may decide should appropriately be included as part of the overall cost of the intelligence activities of our Nation, and it is only from that broad determination that we are going to find out whether we are getting value, and how we can help to make this a better intelligence system, a more efficient one, a more coordinated one, and a better one insofar as the American citizen and taxpayer is concerned.

Thank you.

Chairman PIKE. Mr. Colby, I assume you have a prepared statement.

STATEMENT OF W. E. COLBY, DIRECTOR, CENTRAL INTELLIGENCE AGENCY, ACCOMPANIED BY MITCHELL ROGOVIN, SPECIAL COUNSEL TO THE DIRECTOR OF CENTRAL INTELLIGENCE

Mr. COLBY. I do, Mr. Chairman.

Chairman PIKE. Thank you.

You may proceed.

Mr. COLBY. Mr. Chairman, at your request, I am here today to discuss the Central Intelligence Agency itself, with particular emphasis on its budget and financial procedures. The Agency, of course, rests on the statutes passed by the Congress in the National Security Act of 1947 and the Central Intelligence Agency Act of 1949.¹

The National Security Act of 1947 established the National Security Council and, under it, the Central Intelligence Agency. The Agency's mission was described, under the direction of the National Security Council, in the following terms: to advise the Council; to make recommendations for the coordination of the intelligence activities of the departments and agencies; correlation, evaluation, and dissemination of intelligence; performance of services of common concern centrally; and, in what was deliberately a broad grant of authority, the performance of "such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct." The act specifically provided that the Agency have no police, subpoena, or law enforcement powers or internal security functions. The departments and other agencies of the Government, however, would continue to collect, evaluate, correlate, and disseminate departmental intelligence, which should be open to the inspection of the Director of the CIA.

CIA was conceived as a central agency drawing upon the other members of the intelligence community, but having a unique capability to perform certain of the missions expected. Its predecessor, the Office of Strategic Services during World War II, was the model upon which it developed, and it included intelligence collection, intelligence analysis, intelligence production, and covert activities in the political and paramilitary fields. The techniques of secret operations and on many occasions the specific individuals and organizations with whom such operations must be conducted are the same as those which provide secret intelligence. In the earliest years of CIA, there was an attempt to conduct these in a separate organizational compartment from the other work of CIA, but Gen. Walter B. Smith, the Director at the time, found that this produced friction, duplication, and inefficiency, so he merged the functions of collection with these other "functions and duties."

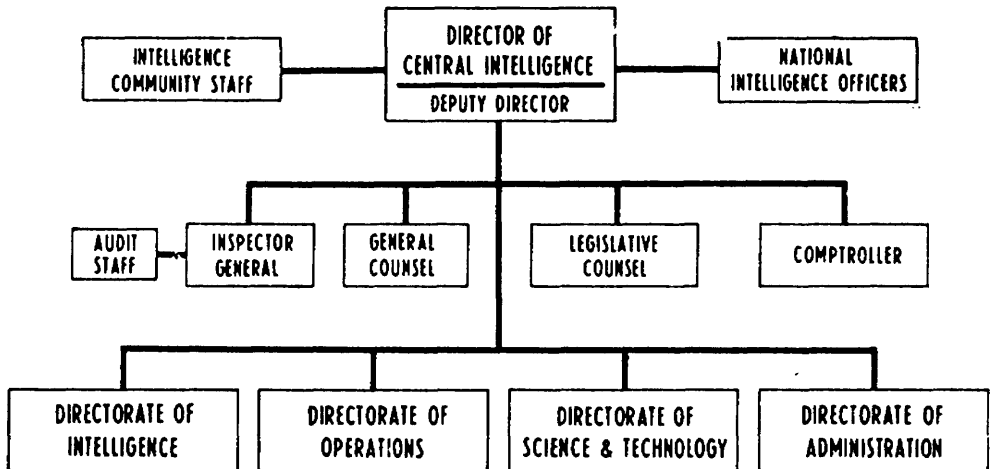
Mr. Chairman, this chart outlines the organization of CIA. I believe most of the titles are self-explanatory. You will note that the two staffs that support the Director's community responsibilities are separate from the rest of CIA. There is obviously a great deal of contact and information flowing from CIA to these staffs, but they are

¹ There have been certain other specific statutes covering CIA, such as the CIA Retirement Act of 1964 and, of course, the amendment to the Foreign Assistance Act passed in December 1974, with respect to CIA activities other than intelligence gathering. In an amendment to the Law Enforcement Assistance Act passed in 1973, specific provision was made that the Central Intelligence Agency not participate in any LEAA assistance to local law enforcement bodies in the United States.

separate entities. In particular, we have made an effort to include within these community-oriented staffs representatives of the other agencies in the intelligence community.

[The chart referred to follows:]

The Central Intelligence Agency



The major work of the CIA is carried out in the four main directorates listed there. I will be discussing their work with you in great detail in executive session, including the numbers of personnel and the specific programs. In line with my comments on Monday, I believe it important that these matters be discussed in public session in broad and general terms in order to give public awareness of our activities. In order, their main functions are the analysis and production of finished intelligence, the work of the first Directorate of Intelligence; the conduct of our clandestine overseas operations and the supporting structures necessary in the United States, in the Directorate of Operations; a special Directorate of Science and Technology which combines the analysis of foreign information in these important fields with research and development of new technical systems for acquiring or analyzing information; and the last, the Directorate of Administration, with the normal administrative services of communications, personnel, finance, logistics, etc. Many of these "normal" aspects of administration, of course, need to be done in somewhat special ways in support of the clandestine operations and requirements of this Agency.

Mr. Chairman, this chart illustrates the various functions carried out in CIA. Intelligence is by far our major function these days, and you can see that it is broken down into the collection of the types of information noted, the processing of this information both technically and intellectually by our corps of analysts, and the final production of finished intelligence; that is, the product which goes to the customer. Whereas most of our final product does depend upon classified sources and consequently is classified, we have made an effort to publish in unclassified form such material as we could.

[The chart referred to follows:]

CIA FUNCTIONS

INTELLIGENCE

COLLECTION

- Overt
- Technical
- Clandestine
- Counter Intelligence

PROCESSING

- Photographic
- Electronic
- Data Storage
- Analysis

PRODUCTION

- Political
- Economic
- Military
- Scientific
- Biographic

SUPPORT

MANAGEMENT
SERVICES
COMMUNICATIONS

COVERT ACTION

POLITICAL
PARAMILITARY

I have with me today a collection here of various of our unclassified publications for your inspection and possible interest. These formal publications, and the much larger number of classified ones which I will show you separately, are supplemented by the briefings we provide within the executive branch and to a number of the committees of the Congress. In these briefings, we do not discuss the details of our operations or the specifics of our sources, but we do use the most sensitive intelligence in order to draw together all information available to the U.S. Government on some foreign question. This was the original concept of central intelligence, and it has worked with great effectiveness in practice. It means, however, that when you examine one of our publications, and especially our unclassified publications, the information therein also depends upon the other military and civilian agencies contributing to our total knowledge. It would be misleading to indicate that the intelligence result available to us depended only on the investment made in the CIA itself. The management functions of CIA are those normal to any large organization, supplemented by CIA's and my role in the community as a whole. CIA also carries out centrally certain services of common concern to the community where it is more efficient to conduct these under one roof than to establish duplicative organizations in each member agency.

The covert action mission has been mentioned before, of course. Mr. Chairman, CIA was heavily engaged in this activity during the days of massive confrontation of the 1950's and the period of counter-insurgency in the 1960's. In recent years, however, the change in the world situation has been such that CIA's activities in this field have dropped to a very low percentage of our efforts. I do believe it important, however, Mr. Chairman, that the United States retain this potential as, I could easily envisage further changes in the world situation which could once again make it important that our Government be able to help some group in a foreign land struggling against a hostile or extremist group there, which could threaten the safety and well-being of the United States; for example, through terrorism or even nuclear proliferation. I believe it important that our Government in such cases have, as I have stated before, some option between a diplomatic protest and sending the Marines.

Mr. Chairman, the CIA has been the target of a veritable torrent of sensational charges. This is not solely a recent phenomenon, although it certainly has enormously increased in these past few months. The Rockefeller Commission examined one of these areas, that is, whether the CIA was engaged in a "massive illegal domestic intelligence operation." I would respectfully refer you to page 10 of that report for its overall conclusions. The Commission stated that:

A detailed analysis of the facts has convinced the Commission that the great majority of the CIA's domestic activities comply with its statutory authority. Nevertheless, over the 28 years of its history, the CIA has engaged in some activities that should be criticized and not permitted to happen again.

The Commission said that some of these activities were initiated or ordered by Presidents, either directly or indirectly, some fell within doubtful areas, and some were plainly unlawful. The Commission noted that the Agency's own recent actions have gone far to terminate the activities upon which its investigation was focused.

I think this conclusion fairly states the true situation with respect to the Agency. It has indeed done some things over its history that it should not have done and that under current guidelines it will not repeat. Mr. Chairman, in a community the size of CIA, I believe it highly likely that a number of wrong things would be done over 28 years. When one adds the enormous challenges given to CIA, the climate of opinion of the country during past periods, and the secrecy within which CIA's activities must be conducted, I believe that the instances of wrongful action were truly few and far between both in the domestic field and in the other areas of charges. That they were not more is due, I believe, to the fundamental integrity and loyalty to American principles of the employees of CIA over these years. These employees have worked with little or no applause and under a great number of sensational attacks; they have worked in danger, on intellectually difficult problems, and at the leading edge of technology. CIA personnel have invented new ways of obtaining intelligence. They have boldly and independently challenged interpretations of foreign events and weapon systems by other departments. They have conceived and executed many quiet, modest, and effective actions in support of U.S. policy throughout the globe. They are proud of their contribution to their country. They seek anonymity rather than public appreciation, but they deserve the country's thanks rather than the

abuse they are receiving today. I believe your investigation, Mr. Chairman, will satisfy you that this is so and that CIA's positive accomplishments have been obtained with great efficiency from modest investments. I would be disingenuous to say that I welcome this process, but I do say that under our Constitution, we will work constructively with you to show both the good and the bad.

CIA BUDGET POLICIES AND PROCEDURES

The CIA has duties, responsibilities, and authorities that differ in a number of ways from other U.S. Government agencies, Mr. Chairman, and our financial procedures for dealing with the outside world are unusual. But however unconventional and secret our activities may be, we are very conventional in our internal budgetary practices and our financial controls. I think you will find that many of the details I am about to give you could as well describe any other Federal agency or department—although I am inclined to believe that we may be somewhat more conscientious about money matters than the average.

Our CIA budget system closely parallels that of all parts of the Federal Government. For any 1 fiscal year, planning, budgeting, approvals appropriations, and execution extend over a 3-year period. At any, particular moment, we are, therefore, dealing with the current year, the upcoming budget year, and the subsequent program year. Our programs are developed internally, examined by OMB, submitted to the President for his decisions, and then submitted to Congress, where they are reviewed—and often cut—by the designated subcommittees of the Appropriations Committees in both House and Senate.

Program preparation

The budget cycle in CIA begins in January with the issuance by the comptroller of the program call, calling for estimates of resources to be required during the fiscal year beginning 18 months hence and operating plans for the fiscal year beginning 6 months hence. When the new fiscal year goes into effect, these leadtimes will extend to 21 and 9 months respectively. In January 1975, for example, a call was issued for program plans for fiscal year 1977 and operating plans—based on the previously prepared program plan—for fiscal year 1976.

The program call goes from the Comptroller to the Deputy Directors. They distribute it to subordinate echelons with such supplementary guidance and instructions as they deem appropriate and establish schedules for the submission of data to allow time for their review and for compilation of an aggregate presentation to be submitted to the Comptroller. During February, March, and April program managers revise their previous estimates for the fiscal year about to begin and develop preliminary estimates for the fiscal year following, on the basis of discussions with other interested Agency components and community elements. Entries into the computer data base are made during this time by components throughout the Agency. The computers produce printouts which array the data for the current year and the next 2 years for review. I have with me two Agency documents that will give you some insight into the processes involved. One is a training manual, which deals with a fictitious office, that explains budget

preparation. The other describes the computerized financial resources system.

Computer programs are submitted in May to the Deputy Directors, who review the requests of their subordinate units and conduct hearings with program managers to validate the estimates. This permits each Deputy Director to develop an aggregate program which he can support and defend. After this review process has been completed, the computer data base is revised to reflect the Deputy Director's decisions. The aggregate program for the directorate is compiled and submitted to the Comptroller early in June for the program review.

Program review

The smallest unit in our computerized accounting system is the FAN—financial analysis number—account. There currently are about 2,100 FAN accounts, established to insure availability of planning and control data for management. For indepth analysis by upper-level management, however, we look not at FAN accounts but at the next higher level of aggregation—resource packages, which currently number about 275.

The resource package is the central element of the internal CIA resource allocation system. Each resource package is a unit of activity to which resources are assigned for the achievement of a particular purpose or set of integrally related purposes. A resource package may be an organizational element, an operational activity, a project, a function or a group of related functions. It is chosen so as to give us the most meaningful way of examining the package, its activities, and its resource requirements.

For the program review, components provide a brief summary description of each resource package, followed by descriptions of major activities within the package, identification of major products and services, and major consumers. Each package submission also includes an evaluation of the accomplishment of each activity in the package through the previous year. Evaluations are required to relate accomplishments to objectives and, to the extent practical, to the resources assigned. Disappointments, failures, or shortfalls and corrective actions taken or to be taken are described, as well as notable successes achieved. Reasons for year-to-year differences are spelled out, and any resource implications for the future which will follow from program decisions are identified.

The computerized accounting system arrays the financial data on all resource packages and summarizes it in three different ways:

Organizationally. By office, division or staff and by the four directorates which are our major subelements.

Functionally. By the nature of the activity—for example, clandestine collection, overt collection, information processing, production of finished intelligence, and communications.

And by "object classes" similar to those used throughout the Government to designate salaries, fringe benefits, travel, utilities, and so forth.

The Comptroller reviews the personnel positions and dollars requested for each resource package, considering the functions performed and projected in relation to past performance and to relative importance as a part of the broader directorate and Agency programs.

The Agency program is then compiled as a package-by-package summary that includes both the positions, and dollars requested by the components and the positions and dollars recommended for each package by the Comptroller. The Comptroller often recommends position and dollar levels lower than requested by the directorates. The composite program is in book form that this year runs to 201 legal-sized pages including both statistical data and textual treatment of the problems and issues for the 2 years under discussion. In mid-July, it is presented to the Management Committee which is made up of the deputy directors and the heads of independent offices reporting directly to me.

The Management Committee reviews and discusses the issues with me, often debating the recommendations of the Comptroller. The deputy directors justify and defend their original requests or agree to adjust them in light of overall requirements. Within a day or two after this meeting, I meet with the Comptroller and his staff for a detailed review of the resources requested and recommended. Final decisions are reached during this review and become the directorate "marks" for the fiscal years under consideration, in the current case fiscal years 1976 and 1977.

The Comptroller immediately prepares a financial guidance letter from me to each of the deputy directors. Those letters for this coming year, Mr. Chairman, are on my desk in draft right now. These letters establish the program levels for funds and positions within which the directorates must operate during the operating year and make plans for the budget year. Usually the appropriation for the operating year and OMB guidance for the program year will not have been received before these letters are issued and the instructions have to be qualified accordingly. The obligation rate for the operating year is controlled by the continuing resolution passed by the Congress until the appropriation has been received, while the levels established in the financial guidance memorandums are used as the basis for preparation of the OMB budget.

In addition to establishing position and fund levels, the financial guidance letters place restrictions upon the authority of the deputy directors to reprogram between approved programs; identify certain key programs representing major investments or activities in which I have a particular interest; require supplemental reporting on certain specifically described types of actions; and assign responsibility and due dates for the review and study of organizational or substantive issues. They also contain a paragraph requiring that I be notified in advance of any planned endeavors that carry a significant risk of embarrassment to the Government in general or the agency in particular. The latter provision was first spelled out in this memorandum, drafted by me when I was Executive Director, which also details a number of the other general conditions that govern program execution. It replaced an earlier system of levels of approval determined by the amount involved, as in many cases a \$5,000 expenditure could be more dangerous than a routine \$5 million one.

During August the components revise the computer data base and the supporting narrative as necessary to incorporate the newly made decisions into the development of budget estimates for the next

year. These are submitted early in September to the Comptroller, who compiles the agency budget request for submission to OMB by October 1. The OMB examiner reviews the agency budget, selecting issues for further examination. During late October and November he conducts detailed hearings on each selected issue with the operating officials of the responsible components. He can and does ask for and receive detailed information on any aspects of our activity which interest him. He then makes his recommendations to his own chain of command, and the review and decision process proceeds through OMB to the President and thence to Congress in the course of the year.

THE OPERATING YEAR

While budgets and program plans for the future are being prepared and reviewed, we are of course also executing a budget already presented to Congress. Each month, the computer system produces reports which show the status of obligations to date and provide projections to yearend based on that experience. These reports are reviewed by the Comptroller: after the first quarter of the fiscal year has passed and some trends have been established, the Comptroller and his staff meet monthly with the deputy directors and the Director of Finance. At these meetings, the overall status of obligations is compared with preplanned rates, reasons for unexpected deviations are examined, and potential shortages and surpluses in individual components are identified and discussed.

Throughout the year, new requirements develop—because of a change in world conditions, a new technological development, or a change elsewhere in the U.S. Government such as the passage of new legislation affecting the rules under which Federal departments and agencies conduct their programs. Legislative requirements are clearly obligatory; last year, for example, the resource system had to adjust to a limit on travel expenditures that was imposed and subsequently lifted and to the new demands of the Freedom of Information Act. Some world events also present us with unanticipated financial requirements that are nondiscretionary—for example, the turn of events in Southeast Asia last spring. Other new requirements are examined in terms of their consistency with the Agency's charter, their desirability, their priority in competition with other demands, and their urgency. Those which emerge from the examination as the most worthy of immediate consideration on all counts are then looked at in the light of funds that can be made available within the limits of existing policy guidance from the White House and our congressional oversight committees.

As I am sure you can appreciate, the CIA has somewhat more need for financial flexibility than the average Government agency. We are confronted from time to time with requirements or opportunities of great urgency; if we are offered a document of tremendous intelligence value, we cannot tell the seller to return next year when we have had an opportunity to budget for it. And we cannot ask the Congress to vote a supplemental appropriation without attracting exactly the sort of unwelcome attention from abroad that we are anxious to avoid. We can sometimes cover relatively small requirements by curtailing expenditures on other, lower priority activities.

But our budgets are tightly drawn and leave us relatively little room for maneuver. Thus arrangements have been in existence for many years with OMB and the Appropriations Committees of the Congress to permit us to obtain additional funds for purposes approved at the appropriate policy levels when we believe additional money is necessary and OMB concurs. These are, of course, funds appropriated in accordance with law, and our oversight committees are kept informed on a current basis of all transactions from them.

After each monthly Comptroller's meeting, the Comptroller advises me of the current status of our financial accounts, his recommendations for funding urgent new needs, and the concurring or differing opinions of the four deputies. I make the final decision on any large sum of money, and that decision is conveyed to the Comptroller and the deputies and reflected in the financial accounting system.

Our need for financial flexibility is, of course, a reflection of our need for program flexibility. We cannot simply adhere to a rigid plan when the world around us is changing, but neither can we permit ourselves to simply react to events without frequently taking an overall look at ourselves. Each directorate therefore conducts program reviews during the year, in which each deputy sits down with his subordinates and discusses progress to that time and plans for the remainder of the year. The timing of these reviews varies—the Operations Directorate and the Intelligence Directorate have semi-annual reviews, the Science and Technology Directorate follows a quarterly schedule, and the Administration Directorate has its conclave every 2 months. I am kept informed of all significant developments and proposed changes in approved plans.

CONTRACTING AND PROCUREMENT

A substantial share of the Agency's budget goes for procurement. The normal procurement authorities pertaining to the Agency are the Federal Property and Administrative Services Act of 1949. In addition, the CIA Act of 1949 authorizes the expenditure of funds without regard to law and regulation for objects of a confidential, extraordinary or emergency nature, subject only to personal certification by me. As indicated in the headquarters regulation I have here, which we have declassified for this occasion, the accounting procedure within the Agency for our confidential funds are every bit as rigid as those for what we call vouchered funds.

Chairman PIKE. Mr. Colby, I just want to interrupt you to ask you if you would like that document which you have declassified to be placed in the record at this point.

Mr. COLBY. I would like these in, if I may.

Chairman PIKE. Without objection, the documents will be furnished for the record.

[The documents follow:]

MAY 16, 1969.

FINANCIAL ADMINISTRATION

I. GENERAL

a. Applicability. This regulation applies to the financial administration of both vouchered and confidential funds, except where a subparagraph specifically limits applicability to one type of funds.

b. Authority. The Central Intelligence Agency Act of 1949, as amended, provides in part as follows:

(1) "Section 8(a). Notwithstanding any other provisions of law, sums made available to the Agency by appropriation or otherwise may be expended for purposes necessary to carry out its functions. . . ."

(2) "Section 8(b). The sums made available to the Agency may be expended without regard to the provisions of law and regulations relating to the expenditure of Government funds; and for objects of a confidential, extraordinary, or emergency nature, such expenditures to be accounted for solely on the certificate of the Director and every such certificate shall be deemed a sufficient voucher for the amount therein certified."

c. Policy. It is Agency policy to limit the exercise of the special authorities provided in the CIA Act to those activities which in the national interest require security protection. In line with this general policy the following principles are set forth for guidance of Agency personnel involved in the obligation, approval, and expenditure of Agency funds:

(1) Vouchered funds (those which can be accounted for and audited in conformance with the laws that apply to other Government agencies and with standard Government regulations and procedures) will be used if operations and operational security do not require the use of confidential funds.

(2) Confidential funds (those which are accounted for outside the Agency solely by certification of the Director) will be used to support Agency activities of a confidential, extraordinary, or emergency nature. Normal provisions of statutes for the obligation and expenditure of Government funds shall be followed by the Agency in its expenditure of confidential funds except when determined inappropriate in view of the security or the extraordinary or emergency nature of our activities. Expenditures shall be accounted for in a manner compatible with the maintenance of reasonable security for Agency operations and the protection of the sources of intelligence.

(3) Confidential funds will not be used for the solution of administrative problems unless operational or security factors peculiar to the Agency require the expenditures and preclude the use of vouchered funds.

(4) Confidential funds shall not be used to give employees of the Agency a preferential position of prestige or financial benefit in comparison to other Government employees, and special operational expenditures shall not be allowed which would result in a direct or indirect personal gain or benefit to an Agency employee unless they are for an undertaking which is essential to the conduct of an approved activity and are of such a nature that the expense would not have been incurred by the employee except in support of the official activity involved.

d. Responsibilities

(1) The Director. The Director of Central Intelligence is responsible for the proper expenditure of Agency funds. To fulfill this responsibility the Director:

(a) Establishing regulations prescribing sound standards of use and accountability for the obligation and expenditure of funds.

(b) Establishes an internal system of checks and balances, audit of obligations and expenditures, and inspection of activity.

(c) Delegates authority for particular actions to levels considered to provide the degree of discretionary judgment commensurate with the magnitude or significance of the acts involved.

(2) Agency Employees. Each employee of the Agency is held individually responsible for:

(a) The prudent use of public funds made available for activities under his control.

(b) Reporting any instances in which he has reason to believe that:

(1) Agency funds are being obligated or expended contrary to the policies set forth in Agency regulations, or

(2) Existing regulations or fiscal procedures relating to expenditure of funds unreasonably endanger the security or impair the effectiveness of operations.

Such reports may be submitted through supervisory channels to the responsible Deputy Director or Head of Independent Office or directly to the Inspector General.

(3) Deputy Directors and Heads of Independent Offices. A Deputy Director or Head of Independent Office receiving such a report will promptly send a copy to the Inspector General and then either investigate the report and inform the

Inspector General of the results of the investigation or request the Inspector General to investigate the report. If investigation reveals any misuse of Government funds a copy of the investigation report will be sent to the General Counsel.

e. Penalties for misuse of official funds:

(1) Any individual who receives, pays, transfers, or otherwise disposes of official funds, or who approves any action involving their receipt, payment, or transfer contrary to Agency regulations may be required to restore the amount involved and may be subject to punishment by law.

(2) Any individual who knowingly submits an accounting or voucher which contains a false statement of material fact shall be deemed to have submitted a fraudulent claim and the entire amount of the accounting or voucher shall be forfeited.

(3) The penalty prescribed by law for presenting a false claim is a fine of not more than \$10,000 or imprisonment for not more than five years, or both. (62 Stat. 698; 18 U.S.C. 287)

Memorandum for: Deputy Director for Intelligence; Deputy Director for Plans; Deputy Director for Science and Technology; Deputy Director for Support.
Subject: Program Execution Procedure (PEP).

The time has come for the adoption of procedures which are more flexible and less restrictive than those used in the past. The success of this new system, however, depends on your sensitivity to the inevitable responsibilities I have with respect to the President, the Cabinet, and the Congress. Since these relationships are not readily specified in every case or in every eventuality, I would appreciate your consulting with me when your judgment or sixth sense indicates. I leave it to you.

RICHARD HELMS, *Director*.

Attachment: Program Execution Procedure of September 25, 1972.

SEPTEMBER 25, 1972.

PROGRAM EXECUTION PROCEDURE

1. On or about the beginning of each fiscal year, the Director will approve an operating plan for each organization component (office or equivalent). The plan will consist of one or more key factors (dollar thresholds) through which the operation of the component will be monitored. An appropriate framework for an operating plan for each office will be developed by the Office of Planning, Programming, and Budgeting in coordination with the Directorate planning officers, and will reflect the decisions made in the annual program review.

2. Approval of a component operating plan supported by the allotment of funds will constitute authority to obligate funds in conformance with the approved plan, and no further Agency-level approval will be required except for notification to the DCI of imminent action on selected activities. This notice will consist of a paper which briefly describes the action to be taken, the date of proposed action, and indicates when and by whom the action was approved. In general, this notice will be required before obligation of funds for projects which are politically sensitive, major contractual agreements, purchase of real estate or construction and major procurement actions. Notification will be made as soon as all arrangements for action have been made, and not later than five working days before the action is to take place, except that in case of emergencies, notice shall be provided as early as possible before the action, or as soon as possible after the action where circumstances preclude prior notice.

3. Because of inadequate information, it may not be possible at the beginning of the fiscal year to reach a decision on every key factor of an operating plan. In such cases, plans will be approved with appropriate limitations. Issues remaining will be resubmitted by the Directorates at a later time for DCI decision.

4. Whenever, after approval of an operating plan, circumstances require a change in any of the key factors of that plan, a Deputy Director may reprogram within his total funds by requesting that O/PPB make the appropriate allotment or suballotment changes. Whenever a major change is required, or whenever the change cannot be accommodated within the Directorate total, the Deputy Director will seek the Director's approval by submitting an appropriate memorandum to the Director through the Executive Director-Comptroller. There is no fixed format for this submission. It should be a paper which clearly and succinctly describes the issue, feasible alternatives, resource requirements and action recommended to the Director.

5. The Executive Director-Comptroller will monitor all operating plans by post audit, by watching the application of resources as reported monthly in the accounting systems of the Agency and by making inquiries directly and through O/PPB and the Inspector General. He will keep the Director currently advised of program implementation and changes.

6. Resources which are not being used will, in consultation with the appropriate Deputy Director, be earmarked for use by the Director for unfunded and quick reaction requirements. Should these amounts be inadequate for unanticipated priority requirements, the Executive Director-Comptroller will look to each Deputy to identify the lowest priority items which can be deferred or cancelled to make available resources required for unprogrammed requirements of the Agency.

7. For this decentralized and simplified system to succeed, it is essential that every component make accurate and timely adjustments to the data base in the accounting systems of the Agency.

SPECIAL INSTRUCTIONS FOR PROGRAM EXECUTION

1. Once operating plans are established, each Deputy Director is authorized to reprogram his total funds as he sees fit, subject to two limitations. First, he must request O/PPB to make a formal reallocation for shifts of funds among components. These actions will be taken as a matter of course. Second, whenever the reprogramming sought is significant enough to require DCI approval, the Deputy Director will be expected to seek such approval before he takes reprogramming action. The Executive Director will monitor all reallocation requests and will advise the Director on any matter he believes warrants such advice.

2. Key factors are to be established for and tailored to the specific nature of each component's operations. These are the specific points of the component's plan through which the operation of the component will be monitored. After an initial period of experience, it may be desirable to assign key factors on a Directorate-wide basis rather than a component basis. For the present, however, the dollar budgeted level of organizational component will be the key factor. Additional key factors may be added or eliminated from year to year or even within a year depending on the significance of programs.

3. Each Deputy Director is required to forward to the DCI through the Executive Director notification of imminent action in the following circumstances:

a. *Politically sensitive projects.* As used here, a politically sensitive project is any Agency endeavor which carries a *significant risk* of causing embarrassment to the United States Government in general or to the Agency in particular. In general, Directorates should discuss any such activities in the review of their annual programs. Whenever any endeavor appears to be politically sensitive, DCI approval should be sought even before the contemplated action is put under preparation. The forwarding of notice that the undertaking about to happen will provide a final safety device to assure full top-level coordination of these high-risk endeavors. 40 Committee approval of politically sensitive activities will fulfill the above-stated requirement to notify the DCI.

b. *Major contractual agreements.* Directorates should identify and seek DCI approval of major contractual agreements as part of their annual program reviews. Once approved, notification of imminent action will be required to assure final coordination. It is intended that Agency program reviews will, to the extent possible, include a review of work to be undertaken on behalf of and funded by other agencies. Appropriate systems for monitoring the execution of these programs will be established.

c. *Purchase of real estate or construction.* No funds will be obligated for the purchase of real estate or for the construction of buildings or for the major repair or rehabilitation of buildings without DCI approval. DCI approval for such actions will normally be obtained as part of the program review process. Notification of action will assure final coordination.

d. *Procurement or lease of ADP equipment.* Approval will be required for: the purchase or lease of any computer system with a purchase value of \$50,000 or more; the upgrading of current systems where the cost of upgrading is \$50,000 in annual leases or \$150,000 in purchases; and for any annual ADP service contract costing \$50,000 or more. Approval for such procurement actions will normally be obtained as part of the program review process. Otherwise, approval on a case-by-case basis will be required. Notification of imminent action will be required for the purchase or lease of any central processing unit; for upgrading of an existing system costing over \$50,000 for annual leasing or \$150,000 for purchase; and for any ADP service contract costing \$50,000 or more per year.

Mr. COLBY. Thank you.

The distinction lies entirely in the fact that I am authorized by law not to provide the detailed certifying documents to authorities outside CIA for our confidential expenditures. And you will note, if you read the regulation, that it imposes on every Agency employee a responsibility for bringing any instance which appears to involve possible misuse of funds to the attention of either his own chain of command or the Inspector General.

A number of management controls have been established within the Agency to insure that our contracting is carried out according to the intent of Congress. Briefly these are:

- Publication of procurement regulations and handbooks to be followed by our contracting and technical personnel in effecting procurements.
- The establishment of technical requirements and review boards both at the office and directorate levels to review proposed procurements.
- Establishment of an agency contract review board to examine the total procurement process prior to the contract award of all major procurements.
- Examination and audit of industrial contractors' proposals and cost records to insure reasonable prices and protection of Agency funds.
- Management audit and review of the entire Agency procurement process by the Inspector General's audit staff.

Responsibility for production and services procurements, Federal supply schedule items and purchase orders is centralized in the Procurement Division in the Office of Logistics. For research and development procurements, the Director of Logistics has established a decentralized procurement system consisting of contracting teams serving each directorate. A procurement management staff functions as the overall point of coordination for the creation and maintenance of uniform policies and procedures; the chief of this staff serves as the Agency representative on various governmental committees concerned with procurement such as the Commission on Government Procurement and the Executive Subcommittee of the Committee on Government Patent Policy.

The Agency is authorized to undertake procurements by formal advertising or by negotiation. Negotiation has normally been the most practicable method, given the nature of our business. We therefore place great emphasis on source selection procedures, emphasizing competition as much as practicable. Our list of qualified sources currently includes more than 2,200 contractors beyond those dealing in GSA Federal supply schedule items. In the last couple of years, over half our funded procurement actions and about 30 percent of the total dollars obligated were on a competitive basis. Our contracts conform to all the legal requirements of the Armed Services procurement regulations. Contractor audits, carried out by the Commercial Systems Audit Division of the Agency, apply the standards of the Defense Contract Audit Agency, with which we maintain direct liaison. If you want additional detail on our contracting procedures, you will find it in this paper, which was prepared a year ago in response to a question from a Member of Congress.

This might be worthwhile putting in the record also, Mr. Chairman. Chairman PIKE. Without objection, it will be included in the record at this point.

[The information referred to appears on pages 552 to 556 of the appendix.]

Mr. COLBY. I also have the specific guidelines for procurement of automatic data processing equipment, supplies, and services used by the Office of Logistics here if you would like to take a look at them. And, as further examples of our conformity to regular Government practice wherever possible, I also brought along copies of a couple of Agency statements from the Federal Register on our procedures for implementation of the National Environmental Policy Act and some of our headquarters regulations dealing with personnel matters. We are equally careful to conform to all Government rules and regulations when we carry out procurement actions on behalf of other Government agencies under the provisions of the Economy Act.

PROPRIETARIES

There is yet another area of our financial activities that has attracted some recent public attention and has been the subject of considerable misinterpretation. I refer to apparently commercial entities that are in reality controlled by the Agency—entities we call proprietaries. Such companies provide cover and support for clandestine activities and enable us to carry out administrative tasks discreetly.

Operating proprietaries are formed, operated, and eventually liquidated according to specific regulations and under close control by high Agency officials. All projects must be approved by the appropriate Deputy Director, and projects of special import also come to me for a further OK. For each project an administrative plan is required, which must have the concurrence of several of our highest Agency officials, including the General Counsel and the Director of Finance. These projects are subject to annual review and evaluation as part of our regular budgetary process. All expenditures and reimbursements must be approved by the senior operating and finance officers, and regular audits are performed by our audit groups.

A very few of our former proprietaries, such as Radio Free Europe and Air America, have been fairly large entities. However, the vast majority have been and are small, usually having fewer than 10 employees. They are, of course, different from conventional business activity, in that their very purpose is concealment of Agency people or activities. They engage in activities of limited economic significance, purposely providing little or no competition with private enterprise. They must nevertheless appear to conform to normal business practice and to have the normal business accounts, contracts, et cetera. When they own property or assets, appropriate secret trust agreements provide that the ultimate legal ownership remains with CIA. Proprietaries comply with all applicable Federal and State financial laws and regulations, including payment of proper taxes and fees and conformance with licensing and other legal commercial requirements.

Proprietaries use revenues to offset operating costs, but most have been unprofitable, requiring continued support through our regular budgetary process. Only two proprietaries ever made significant profits. One was Air America, now being disposed of, which provided cover and otherwise supported our efforts in Southeast Asia. Its net

assets are being turned in to the Treasury. The other, remaining, is a financial enterprise which enables the Agency to administer certain sensitive trusts, annuities, escrows, and insurance arrangements without attribution to the Agency. The existence of this activity was revealed in the Rockefeller Commission Report, Mr. Chairman. It enables us to insure with a controlled company some of our activities we could not expose to regular insurance companies. It enables us to pay annuities to individuals whose links with the U.S. Government must remain secret. In both of these cases, in the past, profits were retained for use by the proprietary companies. By 1973, accumulated profits amounted to a considerable sum, so what was excess to likely requirements was reported to the Appropriations and Armed Services Committees and used to reduce the amount appropriated. Our General Counsel has ruled since then that this did not constitute the full appropriations process, however, so this procedure has been abandoned and subsequent profits have been and will be delivered to the Treasury.

I foresee a continuing need to use the proprietary mechanism to further accomplishment of Agency operations. In the past 9 years, however, we have reduced the number of proprietaries by about 50 percent, and they will be limited to those situations where they are the only, or clearly the best, approach.

FINANCIAL PROCEDURES AND CONTROLS

To complete the picture of our internal mechanisms for handling financial transactions, I must touch briefly on the activities of the Office of Finance, the Audit Staff, and the General Counsel. It is the Director of Finance rather than the Comptroller who is responsible for most aspects of financial administration. We do not handle money loosely. We may procure the particular kind of currency we need in somewhat unorthodox ways and we may deliver it in the "little black bag" so popular among fiction writers, but expenditures for even the most sensitive operations are backed up by an array of receipts, vouchers, certificates, et cetera. A key element of the Agency system for financial administration is the requirement that proper authority must exist for every transaction. Each transaction is subject to review and approval by an "approving officer"; in addition, all claims and vouchers for payment and all accounting for advances must be certified as correct, in accordance with Agency regulations and in conformance with applicable Federal and State laws, by an authorized finance certifying officer independently appointed by the Director of Finance. Finance is responsible for the accounting system which reflects the status, use, and accountability for all funds, property, and other assets entrusted to the Agency. This system is consistent with the principles and standards prescribed by the Comptroller General. Finance also handles all payrolling and disbursing functions, purchases foreign currencies, and audits contracts with commercial firms.

Financial and selected program reviews of Agency components and activities are conducted by the Audit Staff, which is organizationally part of the Office of the Inspector General but reports directly to me rather than to the IG. Made up largely of people hired from outside the Agency, one-third of whom are Certified Public Accountants, the Audit Staff conducts annual reviews of all major activities at CIA headquarters and in the field. Smaller activities are audited on 2- or

3-year cycle. The audits are conducted in conformance with policy guidelines set forth in Federal Management Circular 72-3, General Accounting Office Standards for Audit of Governmental Organizations, Programs, Activities, and Functions, and standards issued by the American Institute of Certified Public Accountants. The audits determine whether financial operations are properly conducted and in compliance with applicable laws and regulations, whether operations are being conducted efficiently and economically, and whether desired objectives are being achieved.

The Office of the General Counsel also plays an important role in the financial processes of the Agency. Proposed expenditures are submitted to that office by finance certifying officers and others for legal rulings, which are written at the rate of hundreds each year. In this respect the General Counsel serves the same role for agency certifying officers as does the Comptroller General for certifying officers in other agencies.

As I hope all of the foregoing makes clear, we are careful with the taxpayer's money. Our budgeting system works well. Our internal control systems are strong and getting stronger. In accordance with recommendations of the Rockefeller Commission, I am currently in the process of expanding the staffs of both the Inspector General and the General Counsel. And I can assure you that the fact that we do have certain exemptions from normal Government procedural requirements makes me acutely aware of my unusual responsibilities and especially careful to keep the Agency's financial house in order.

Mr. Chairman, there are just two or three additional remarks I would like to make which extend from Monday's discussion. I would like to correct one misstatement I made there with respect to the *Puttaporn* case, the Thai, who was arrested out in Chicago. I misremembered a briefing paper and said that the Agency brought the case to the attention of the Customs Service. That is not so. The Customs Service discovered the existence of that smuggling. They came to us out in Thailand, and we then went to the Customs Service thereafter with the details of our relationship with them.

Secondly, Mr. Chairman, I would like to assure Mr. Lehman that we did not have as a cover operation any of the used car operations in Miami. Some of the Cubans we may have dealt with may have gone into that business, but this was not a CIA proprietary.

Thirdly, I was asked——

Chairman PIKE. Mr. Colby, it seems to me appropriate at this time to say that Mr. Lehman has got so much free publicity for his automobile agency down there in that area, I think we can stop talking about it. Both Mr. Lehman and the government witnesses. I honestly think you have milked this about as hard as you can milk it, Congressman Lehman.

Mr. COLBY. The third item, Mr. Chairman, is I was asked whether we had ever refused to deliver to the President an Inspector General report on the Bay of Pigs operation. We did deliver that to a President.

Chairman PIKE. That is not quite responsive.

Did you deliver it to the President when he first asked for it?

Mr. COLBY. We delivered it to President Nixon when he first asked for it, yes. I am not sure whether any other President ever asked for it. I just can't respond to that offhand.

Lastly, Mr. Chairman, I brought along a stamp and a stamp pad for you. The stamp pad is to be used to stamp that letter that I sent you. The stamp says that "This documents may be downgraded to _____ when the enclosure is detached." We did not attach that stamp to the letter I sent you, and I would respectfully deliver this stamp to you with the suggestion that you might want to stamp the letter and put in the word "downgraded to unclassified," and I would be glad to go along with that.

Chairman PIKE. I thank you very much, Mr. Secretary. I can only say that I have reposing in my desk in my office at the present time a different stamp with a different stamp pad. It is the same color ink, and I think what I will do is return your letter to you with my stamp imposed on it rather than your stamp imposed on it.

Mr. COLBY. I believe I have informally heard of that stamp, Mr. Chairman.

Chairman PIKE. Mr. Colby, I want to say first of all that I think that as far as your briefing on your budgetary procedures is concerned, you have been remarkably candid. You have gone absolutely as far as I would expect or want you to go in an open session. We are getting the information we need about the budget. We may come to conclusions as to what should be done with that information. I am going to ask you just one question, and then I am going to yield to another member.

On page 14, you state that your financial guidance letters contain a paragraph requiring that you "be notified in advance of any planned endeavors that carry a significant risk of embarrassment to the Government in general or the agency in particular."

Is there any procedure within your agency which requires that Congress be notified in advance of any activities or planned endeavors that may carry a significant risk of embarrassment to the Government?

Mr. COLBY. No; there is no formal procedure. From time to time, we do raise with the Congress certain——

Chairman PIKE. In advance?

Mr. COLBY [continuing]. From time to time, certain issues, yes, but that is a judgmental decision made by the Director.

Chairman PIKE. I yield the balance of my time to Mr. Aspin.

Mr. ASPIN. Thank you, Mr. Chairman.

Mr. Colby, I would like to ask a question about the activities of the National Security Agency. Does the National Security Agency monitor telephone calls between American citizens and foreigners abroad?

Mr. COLBY. The Agency does monitor foreign communications.

Mr. ASPIN. How do you define foreign communications?

Mr. COLBY. I think it is communications that go abroad or are abroad. The object is——

Mr. ASPIN. Does it involve a U.S. citizen at one end?

Mr. COLBY. On some occasions, that cannot be separated from the traffic that is being monitored, I believe. It is technologically impossible to separate them.

Mr. ASPIN. Mr. Colby, under the procedures of the law as it now provides as to wiretapping, why is that not illegal?

Mr. COLBY. Because it is covered in the directives given to the Agency to collect foreign communications abroad.

Mr. ASPIN. But the Supreme Court has decided in 1967 that wiretaps are prohibited by the fourth amendment, which means that you have to particularize the information that you get. You have to limit it. You have to limit it to time, the people involved.

The Supreme Court has also said that, except for foreign agents, you need to have a warrant to conduct a wiretap.

The Safe Streets Act in 1968 says you need a warrant for all wiretaps, and that clearly covers all calls made into the United States and going out. Where are the warrants that the National Security Agency has when it conducts these kinds of wiretaps?

Mr. COLBY. I really think we would do better to discuss this in detail in executive session. This is not a matter of my direct responsibility as the head of CIA. It is a matter which can be better discussed, I think, in the company of the people in the Defense Department with the authority for the NSA.

Mr. ASPIN. Is there anything else that you could say in open session before we do, because I really do want to pursue this in closed session.

Mr. COLBY. Surely.

Mr. ASPIN. This seems to be a very clear violation of the Constitution, the first and fourth amendments of the Constitution, and it seems to me that it is clearly illegal with a number of statutes. It was illegal to intercept mail, to open mail between people in the United States going abroad. That was done but was discovered to be illegal and was terminated; at least it has been said it has been terminated.

It seems to me very clear that there is still illegality going on here, and I think this is the case.

Mr. COLBY. I think that provision of the Safe Streets Act of 1968 does have an item at the end which declares an exemption, declares that it shall not militate against the President's right to collect foreign intelligence.

Chairman PIKE. The time of the gentleman, I regret to say, has expired.

Mr. McClory.

Mr. McCLORY. Thank you, Mr. Chairman. I would like to ask some questions, Mr. Colby. You can tell me whether or not you think they are appropriate for public dissemination, but could you tell us how many employees are there of the CIA?

Mr. COLBY. That falls, Mr. McClory, specifically within the provisions of the CIA Act of 1949 that says that I am authorized not to reveal that. I have taken the position that both the budget and the numbers of personnel should not be revealed publicly.

Mr. McCLORY. I see.

Mr. COLBY. I would be, of course, glad to go into that in detail in closed session.

Mr. McCLORY. Would it be appropriate to discuss the percentage of personnel that are here?

I know we have a big facility at Langley, and I know there must be many employees there. Then we have employees around the world.

Mr. COLBY. I believe I testified, Mr. McClory, last spring that something like 10 percent of our people work in the United States outside the headquarters complex. In other words, U.S. domestic activities outside the headquarters complex, the various jobs we do of collecting intelligence here, working with some of the contracting firms, and things of that nature.

Mr. McCLORY. You have described pretty much how we keep track of funds and your auditing of funds insofar as the CIA operation is concerned. How do you handle this out in the field, though?

Don't some of those agents or some of the personnel have sort of independent use of funds? Could you tell us anything about that?

Mr. COLBY. No, Mr. McClory. If I were a chief of station someplace, I would get a certain allocation of funds to be devoted to the work on certain specific projects or resources package, these Fan accounts, these various accounts. I would be told what my authorization was. I would be required to have an officer request the funds, then a second signature for the approval of the disbursement of the funds, and that voucher would have to be reviewed by a finance certifying officer.

In some places, we have the finance officer in the station. In some places, he is in a regional area and visits from time to time.

Mr. McCLORY. Then you get a full accounting here.

Mr. COLBY. And as much as possible, we either get a receipt from the individual to whom it was given, or we require that our officer write a certificate and sign a certificate that he did not get a receipt for a very good operational reason, and that can be the recipient's concern about having his name written down.

We have also made arrangements with certain of our agents to sign receipts in another name, just so that we can have a clear indication as to what sums were actually provided.

Mr. McCLORY. How about this? You must use an awful lot of cash, don't you, especially in a covert operation?

Mr. COLBY. Yes.

Mr. McCLORY. You use a lot of real currency?

Mr. COLBY. Oh, yes, all sorts of currencies, all kinds and denominations, and we have to go to quite a lot of trouble, Mr. McClory, to get that in some of the major money markets, because we really don't want to go down to the national bank of some hostile country and draw out an amount of fresh bills and give them to our agents and have them traceable that way.

Mr. McCLORY. Are there special measures then that are applied in order to get an accounting every time of appropriate utilization of the cash?

Mr. COLBY. Very specific accountings are followed. For example, very specific accounts came out of Saigon in the last day or so before the fall of Saigon. We brought out the dollars. We destroyed some of the local money and had certificates of witnesses and all the rest of it. We left behind the coins because they were too heavy.

Mr. McCLORY. While you say you make an appropriate accounting, reporting to the Congress, or appropriate Members of the Congress of activities of the CIA abroad, you don't consult or confer with them in advance of covert operations, do you?

Mr. COLBY. Normally not, Mr. McClory. Normally we describe in general what our program is once a year, or whenever a question comes up.

Mr. McCLORY. You regard that as not being required by statute?

Mr. COLBY. I do not believe it's required by law, by the arrangements.

Mr. McCLORY. But timely reporting afterward?

Mr. COLBY. Timely reporting is required, and on occasion on some particularly delicate matter we might go up and let the Congress know about it while it is in the research stage even, or while its in the development stage, that we plan to conduct a certain operation a year or two from now, but we need to spend the funds now to prepare for it.

Mr. McCLORY. Thank you, Mr. Chairman.

Chairman PIKE. Mr. Giaimo.

Mr. GIAIMO. Mr. Colby, has the CIA ever printed money or securities of any kind?

Mr. COLBY. Of any kind? Yes.

Mr. GIAIMO. How about American money?

Mr. COLBY. Not American money.

Mr. GIAIMO. Securities?

Mr. COLBY. No.

Mr. GIAIMO. Did I understand, in response to Mr. Aspin's question, you to say that there have been intercepted communications of foreign and American conversations or communications by governmental agencies?

Mr. COLBY. Really on this one, Mr. Giaimo, I would really like to defer this discussion to executive session.

Mr. GIAIMO. But you did respond to his question?

Mr. COLBY. I said that the NSA collects foreign communications.

Mr. GIAIMO. Is this the first time that this statement of fact of NSA has been stated or admitted by a representative of the executive branch?

Mr. COLBY. No; I believe that it is well known that the NSA collects foreign communications, that that is its mission.

Mr. GIAIMO. What do we mean by foreign communications?

Mr. COLBY. That is what I would like to get into executive session to discuss.

Mr. ASPIN. Will the gentleman yield?

Mr. GIAIMO. Yes; I yield.

Mr. ASPIN. I think it's true that that statement about foreign communications has been made public before but I think that what is new is that Mr. Colby for the first time today said foreign communications can involve communications between American citizens in this country and—

Mr. COLBY. I wouldn't say in this country. I said that various kinds of activity we do abroad, I mean even CIA does abroad, can incidentally pick up—

Mr. ASPIN. Let's get to the problem about intercepting wiretaps, wiretaps on American citizens here and abroad, but particularly I am talking about phone calls now from here within this country abroad.

Mr. COLBY. That is what I would rather not talk about in the open session.

Mr. ASPIN. He has already said it is true.

Mr. COLBY. No; I think I referred to the fact that we collected foreign—that NSA collects foreign communications, and I think that I would like to go into executive session for any further description of what that is all about.

Mr. GIAIMO. I know you would, Mr. Colby, but you did indicate in response, and I am just trying to get a little clarification.

Mr. COLBY. No; what I was saying, Mr. Giaimo, I believe——

Mr. GIAIMO. Obviously we know that in other countries you undoubtedly perform all kinds of intercepts.

Mr. COLBY. Incidentally we pick up material about Americans abroad; yes.

Mr. GIAIMO. That is the point I am trying to get at. Did you say that incidentally you are also intercepting American citizens?

Mr. COLBY. I did not want to say that we never, never covered any American citizens abroad. If I have made a mistake in what I have said, that is what I was trying to say in public, that we were not—that we incidentally cover Americans in our foreign intelligence activities.

Mr. GIAIMO. You incidentally cover Americans where?

Mr. COLBY. I say we do incidentally cover Americans. I would like to get into a further description of this in executive session.

Mr. GIAIMO. You don't want to answer as to where you cover these Americans?

Mr. COLBY. No; I don't.

Mr. GIAIMO. I just wanted to get that clear.

Mr. COLBY. Right.

Mr. GIAIMO. You understand that if so——

Mr. COLBY. I understand.

Mr. GIAIMO. That leads to many other questions which I now recognize will have to be answered in executive session.

Mr. COLBY. I do point out that this is the work of the NSA, of course.

Mr. GIAIMO. I understand.

Mr. COLBY. One of those things that I am responsible for coordinating, but I do not control.

Mr. GIAIMO. This is an agency which comes under your jurisdiction as DCI, not as head of CIA?

Mr. COLBY. Exactly, Mr. Giaimo.

Mr. GIAIMO. I am sure my time must have expired.

Chairman PIKE. Mr. Stanton.

Mr. STANTON. Mr. Colby, the other day, in regard to Chile, you indicated that your Agency was not involved in the destabilization of the Allende government; is that correct?

Mr. COLBY. I said that that word is not an accurate representation of what our program or policies were in the period from 1971 on.

Mr. STANTON. Did you supply any money to any political groups in Chile, or did you aid and assist in supplying money from corporations in the United States to any political groups in Chile?

Mr. COLBY. From corporations.

Mr. STANTON. During the period you mentioned?

Mr. COLBY. From corporations?

Mr. STANTON. Yes.

Mr. COLBY. I believe it has been publicly testified that we had various conversations with various corporate people, but we did not handle their money.

Mr. STANTON. Did you supply any money?

Mr. COLBY. To the corporations or to——

Mr. STANTON. To any political groups in Chile.

Mr. COLBY. Yes, I have said that on a number of occasions, that we had a program of helping various people in Chile to sustain themselves, hoping that they would go on until the elections of 1976.

Mr. STANTON. Who represented a certain political philosophy?

Mr. COLBY. Yes, the moderate political force.

Mr. STANTON. Who made the political judgment that the U.S. Government should be involved in supplying money to a political group, who in the chain of command? Did you make that judgment?

Mr. COLBY. Those particular kinds of programs, Mr. Stanton, can originate anywhere.

Mr. STANTON. Did your organization recommend it to anybody above you?

Mr. COLBY. Yes, certainly.

Mr. STANTON. Who did you recommend it to?

Mr. COLBY. As I say, they can originate either in our organization or in an embassy or at the national level. We normally write up a proposal, and we did in that case write up proposals, and these were then sent to the 40 Committee for review and consideration.

Mr. STANTON. Did the 40 Committee approve it?

Mr. COLBY. Yes.

Mr. STANTON. Was any further approval other than the 40 Committee needed to execute it?

Mr. COLBY. Under the directive, it merely says that if the 40 Committee approves that's enough under my direction.

Mr. STANTON. Was that the case in this instance?

Mr. COLBY. Under the directive to me.

Mr. STANTON. Was the Secretary, Dr. Kissinger, involved in any approval in terms of a political decision of this matter?

Mr. COLBY. Dr. Kissinger is the chairman of the 40 Committee.

Mr. STANTON. Okay, but was he directly involved in his position in the Cabinet in terms of making judgments as to whether or not we should be supplying money to a political group in Chile?

Mr. COLBY. There are certain activities that we recommended which were reviewed by the 40 Committee and approved by the 40 Committee.

Mr. STANTON. Of which Dr. Kissinger approved.

Mr. COLBY. As the Chairman.

Mr. STANTON. Could you explain the nature and extent of the CIA direction or involvement in support or of preknowledge of the assassination of General Rene Schneider on October 22, 1970?

Mr. COLBY. That gets into a category of activity, Mr. Stanton, that I have urged be handled in executive session. It gets very complicated.

Chairman PIKE. Mr. Stanton, I am going to side with Mr. Colby in that, for two reasons: One, yes, I think it should be heard in executive session, but another reason, it is the bulk of what Senator Church is considering over on the Senate side. And I think that is one of the things that we really have to do in order to perform a useful function is not duplicate exactly what he is doing and I think that we would be duplicating what he is doing if we went in that direction.

Mr. STANTON. Mr. Chairman, with due respect to what you stated, I agree. We were going through a fiscal examination and it is a little hard to change the pattern. because I started to discuss with Mr. Colby

the supplying of financial dollars, which happened in my judgment to be related to the question that I asked that he respond to in executive session.

I have no desire to pursue it any further other than to say that sometimes the dollars that are involved here happen to relate to activities that are being covered by the Church committee or other committees and it is impossible to separate them or cleave them.

Chairman PIKE. It is very difficult.

Mr. STANTON. And obviously I will abide by your request. But I think it is extremely important that we pursue the question of the dollars and you cannot get away from this other question, if you do that. I yield back the balance of my time.

Chairman PIKE. Mr. Kasten.

Mr. KASTEN. I do not have any questions, Mr. Chairman, at this time. Could I reserve the 5 minutes for later possibly?

Chairman PIKE. You may reserve your time.

Mr. Dellums.

Mr. DELLUMS. Thank you, Mr. Chairman, First, Mr. Colby, I have a number of requests for information.

Could you tell the committee the substance of all briefings provided Members of Congress on CIA improprieties and could you send us a record listing all members briefed by the CIA over the past 10 years, the substance of those briefings and a copy of any written materials for those briefings?

Mr. COLBY. Mr. Dellums, I respectfully suggest that you might want to consult with the committees themselves on those questions.

Mr. DELLUMS. I would assume that under our mandate voted by the vote of Congress creating this committee that any materials would be made available. I am trying to get from you a list of all persons, all improprieties and all material related to those briefings on improprieties that you have discovered.

Mr. COLBY. I'm sorry, Mr. Dellums, I thought you said proprietaries.

Mr. DELLUMS. No, improprieties, questionable acts.

Mr. COLBY. Yes.

Mr. DELLUMS. Unlawful arguments, violations of law, what have you.

Mr. COLBY. Certainly the material that we have available is available in executive session to this committee about any improprieties in CIA's activities and we have a record.

Mr. DELLUMS. Would you provide a record of any material for us?

Mr. COLBY. We do have records of the degree to which those were reported to the Congress.

Mr. DELLUMS. Thank you. Now one set of some statistical material goes to the Inspector General's office. Could you provide the committee for the record statistics showing, one, the number of cases on hand in the IG's office at the beginning of each year since 1970, two, the number of cases opened and closed for each year, and three, the number of cases which disclosed apparent criminal activity on the part of CIA personnel and a description of each.

Mr. COLBY. I certainly can.

Mr. DELLUMS. Thank you.

Now, could you please provide statistics—

Mr. COLBY. With one reservation, Mr. Dellums. If certain of those are under Department of Justice investigation, I would respectfully say that that should be left to them to come to a determination.

Mr. DELLUMS. Would you make such a notation for us?

Mr. COLBY. All right.

Mr. DELLUMS. Could you please provide statistics on the number of cases and action taken by the CIA where the offense was embezzlement, fraud, narcotics violations, breach of security regulations and other offenses?

Mr. COLBY. Numbers of total cases of that nature.

Mr. DELLUMS. Would you please provide statistics on the number of cases—

Mr. COLBY. I believe we reported.

Mr. DELLUMS. On actions taken, and action taken by the CIA.

Mr. COLBY. Yes: I can provide that, Mr. Dellums.

Mr. DELLUMS. Could you please tell us the number of cases of criminal behavior that the IG's Office has uncovered on their own without a tip from informants? What I am trying to get at here is the effectiveness of your IG's Office in the control of improper accounts on the part of your personnel.

Mr. COLBY. Well, of course, many of the things that the IG's Office does look into stem from an approach by an employee, pursuant to a directive that we circulate to the employees every year, which calls upon each one of them to inform the IG's Office or me personally of any questionable act that they know about CIA.

Chairman PIKE. Would the gentleman yield?

Mr. DELLUMS. Just one second. I would like to clarify this first. You have indicated that you have routine procedures for accountability and control. I would like to have all cases where those routine procedures have in fact brought about some results as opposed to some informants' tips. I would like to know whether you guys are effective. You indicated you police yourselves. Let's find out.

Mr. COLBY. Fair enough.

Chairman PIKE. The only thing I wanted to ask is: Is this directive that you referred to a classified document?

Mr. COLBY. No; I do not believe it is.

Chairman PIKE. Without objection, I would like to have it placed in the record at this time.

Mr. COLBY. Yes.

[The directive, "Memorandum for All CIA Employees," dated May 9, 1973, and the accompanying statement of the then DCI James Schlesinger to the Senate Appropriations Subcommittee on Intelligence Operations—received in response to Mr. Pike's request—are printed on pages 557 to 565 of the appendix.]

Mr. DELLUMS. Thank you.

One other question in this regard, and I would like to move to the proprietaries. Why did you cut back the IG staff from 14 to 5?

Mr. COLBY. I was in great part responsible for that cutback, Mr. Dellums. I did it because I was quite familiar with the work of the IG staff at that time and I knew that a great amount of its work was devoted to a periodic review of the structure and organization and workings of the various elements of the agency. I read a number of those reviews, I really did not find them very useful for any good

purposes. They did not seem to reveal much other than a rather minor difference about whether three clerks or four clerks or whatever should be done. We were under pressure to reduce our total strength at that time, and I thought that that kind of activity was not necessary.

I thought that the number of inspectors general that would be necessary to do the policing work and to do periodic looks into sensitive areas of the Agency would be adequately handled by five. Actually, what has happened since that time, I confess, is that this inundation of both Watergate and other charges about the CIA has preoccupied a great deal of the IG's time and I have since increased his staff to enable him to both respond to the current charges and help us in keeping up with them and second, to resume the concept of periodic looks at sensitive areas of the Agency operations, but not to go into a detailed management audit of exactly how many personnel here and personnel there.

Chairman PIKE. The time of the gentleman has expired.

Mr. DELLUMS. Thank you.

Chairman PIKE. Mr. Murphy.

Mr. MURPHY. Thank you, Mr. Chairman.

Mr. Colby, first of all, I want to thank you for clearing up that matter regarding that opium case in Chicago with the Thai native. Mr. Colby, the FBI says it stopped committing burglaries to gain foreign intelligence information in 1966. The New York Times reports an incident where a scoutmaster on behalf of six Explorer scouts wrote to the Embassy of Russia here in the United States, in Washington, requesting information regarding the fact he would like to bring some scouts from Moscow, Idaho, to Russia on a visit. This letter appears in the FBI files. Now the FBI says it stopped mail covering activity in 1966. I am wondering how the FBI got this letter?

Mr. COLBY. I don't know, Mr. Murphy. I don't know anything about that case. As I have reported about the mail intercept program, we did run, it only covered the mail that went to and from the Soviet Union in this category.

There were certain other operations.

Mr. MURPHY. It is obvious—

Mr. COLBY. In theory this could not have been a part of that one, so I really just do not know where this came from.

Mr. MURPHY. It is obvious, though, from the interception of this letter and the fact that it appears in the FBI files that either the FBI or some other agency is still opening domestic mail here.

Mr. COLBY. Well, I am sure that CIA is not opening domestic mail in the United States. I will certainly look into this case and see if I can find out anything about it.

Mr. MURPHY. Well, if this be the case regarding mail, considering the case that Mr. Aspin pointed out in his early questioning about communications over cable communications or wire communications, the possibility and the strong probability is that they are tapping wires domestically too.

Mr. COLBY. That I respectfully defer to the FBI to let them talk about that.

Mr. MURPHY. Now this information that is electronically or by cable gotten between the foreign countries and citizens here in the United States, how many agencies would have access to this?

Mr. COLBY. Well, I would really rather not talk about this general subject in open session, Mr. Murphy.

Mr. MURPHY. Well, in our executive session, I would like to go into your budgets for 1964, 1961, 1963, and 1971, in your budgets regarding what amounts to be hundreds of millions of dollars and I would like to have you explain these figures in executive session—

Mr. COLBY. I certainly will.

Mr. MURPHY. What we are spending in this particular area.

Mr. COLBY. I would be glad to explain that in executive session.

Mr. MURPHY. To what extent do you use other nations' intelligence services to collect information, what data-sharing arrangements exist, who must approve these relationships and do we in turn share our information with them?

Mr. COLBY. We have a wide variety of relations with other foreign intelligence services in the other countries.

They go all the way from being very friendly to being very hostile and a lot of steps in between. In the process, there is a certain exchange. A number of our friendly foreign intelligence officers have expressed great concern about the continuation of these relationships in view of the exposure that CIA is going through and their concern that they will be exposed in their country as a result of our exposures here. I have assured them that I am convinced that these investigations can be conducted in a fashion which will protect the secrecy of our relationships and any material that they may have given us, and I am convinced that we can manage it that way, but for further discussion of this, obviously I would like to go to executive session.

Mr. MURPHY. You went through an elaborate statement this morning about the way you operate. Again I would like to go back to my question I asked you the other day. When do the oversight committees get to see all this information? Is it always after the fact or half way into the fact?

Mr. COLBY. Well, they get to see the budget information before the fact, obviously, because we make a request for the appropriation and we describe what the request covers in terms of activity. In the process of course we start with a general explanation but go into specifics to any degree they want. I have been asked how many people we have in a certain country, things of that nature and I have responded to that.

So I think the difference, however, that the chairman was trying to draw was whether we go up and get specific individual approval of an operation before it starts and normally if we are trying to get some foreigner to work for us, we do not ask the permission of the Appropriations Committee or the Armed Services Committee to hire that particular man. We go ahead under the general grant of authority of a certain amount of money for that year's work, which covers this kind of activity.

Mr. MURPHY. Thank you, Mr. Chairman.

Chairman PIKE. Mr. Johnson.

Mr. JOHNSON. Thank you, Mr. Chairman.

Mr. Colby, you can see by the questioning that has gone on Monday and again today that we are all concerned with this oversight question. As I was listening to your testimony on Monday and I was going over the record and reading it last night, it becomes apparent to me that we need to go into the details of this matter of congressional oversight, because it is often that it is woefully inadequate if not miserable. So I would like to go into some of the specific questions so that the public can realize just how the Congress has been fulfilling its responsibilities in this matter.

On May 9 of 1973, Mr. Schlesinger issued a directive calling on all CIA employees to report any and all abuses by the CIA. That is a matter of public record; there isn't any question about that, is there?

Mr. COLBY. No, sir.

Mr. JOHNSON. And is it also a fact that by May 21, just 11 days later, there were several hundred separate reports of abuses which had been reported to him?

Mr. COLBY. There were a number of abuses. I couldn't give you a quantitative statement.

But there were a number. I think we called them questionable activities, anything that raised a question as to whether it was proper or not.

Mr. JOHNSON. Our information was there were several hundred.

Mr. COLBY. There were several hundred pages in the report submitted to the IG. This was summarized into a shorter document for my use.

Mr. JOHNSON. This was compiled by the Inspector General?

Mr. COLBY. It was.

Mr. JOHNSON. On a report prepared May 21, 1973; isn't that correct?

Mr. COLBY. Right.

Mr. JOHNSON. That is the report that has been called by a variety of names; it has been called potential flap activities, or jewels, or the family jewels; isn't that the report we are talking about?

Mr. COLBY. Yes.

Mr. JOHNSON. Now you personally informed some Members of Congress?

Mr. COLBY. Yes.

Mr. JOHNSON. Of the contents of their report?

Mr. COLBY. Right.

Mr. JOHNSON. On May 23, I understand.

Mr. COLBY. May I—about then.

Mr. JOHNSON. Just almost immediately after the report was brought to your attention, you brought it to the attention of the Members of Congress?

Mr. COLBY. Yes.

Mr. JOHNSON. Whom did you bring that to the attention of?

Mr. COLBY. I brought it to the attention of the acting chairman—of the chairman of the Subcommittee of the Armed Services Committee, Mr. Nedzi. I think I mentioned it in general to the chairman of the Armed Services Committee but didn't go into detail. On the Senate side I mentioned it in general to the chairman of the Armed Services Committee, and I went over it in greater detail with the acting chairman because the chairman was then in the hospital.

Mr. JOHNSON. Who was the acting chairman at that time?

Mr. COLBY. Senator Symington.

Mr. JOHNSON. How great a detail did you go over this with Mr. Nedzi and with Senator Symington?

Mr. COLBY. With Senator Symington, as I recall, I went through—I got it in a book, the summary of the material, and I paged through it and briefed him on each case. I think in a few things he may have read, but I generally tried to summarize it for him so that he would get the import of it and realize what I was talking about. With Mr. Nedzi, he sat down and read the entire thing, took a couple of hours to do so. Mr. Nedzi then asked a lot of additional questions, indicated an attitude about these things. I was already in the process of assuring him that we were taking steps to insure that this kind of activity did not continue and that that was the purpose of the exercise, to gather it together, have a look at it, consult with him, find any difference of opinion that he might have had, and he did have a few, that influenced what we did. I think Mr. Nedzi had evidenced a great deal of energy in his oversight responsibilities; he called a lot more meetings. He had gone into a lot of additional questions, and he took a very strong position on these points.

Mr. JOHNSON. Was there ever a request to you from either of these gentlemen that you brief the rest of the members of the subcommittee.

Mr. COLBY. No. There was a suggestion that it might be made public.

Mr. JOHNSON. Yes; but was there ever a suggestion that you testify before the other members of the subcommittee about these matters?

Mr. COLBY. Not during that discussion. There was the discussion about whether it should be made public, and I urged it should not be made; it was in the past; we were not going to do it any more; we wanted to make sure somebody was aware of this history, but we obviously didn't want to spread it around.

Mr. JOHNSON. To your credit you sat down later in August, and issued a series of directives insuring that these things would never be repeated?

Mr. COLBY. Yes, yes.

Mr. JOHNSON. I think the people of the country have been well served by you in this function. But going back to the congressional oversight, there was never any requirement or never any suggestion that you report this to the President or to the Attorney General, was there?

Mr. COLBY. No, no; frankly, I—that came up later in a discussion between me and the Assistant Attorney General as to why I had not reported it to the Attorney General at that time, and I frankly—the thought hadn't crossed my mind.

Mr. JOHNSON. I would like to zero in on the congressional oversight, if you don't mind. There never were any instructions to investigate or to verify these allegations from the congressional members, was there?

Mr. COLBY. Well, I think—I assured them that we would continue to look for things and if we found any additional, we would bring it to their attention and that we were determined not to repeat that kind of activity.

Mr. JOHNSON. My time is up. I will pursue this in the next 5 minutes. Thank you.

Chairman PIKE. Mr. Aspin.

Mr. ASPIN. Thank you, Mr. Chairman. Just to round out this little business about the NSA here in public session, because I do want to go into it much more deeply in executive session, even though I realize that you are not the man that is in charge of the program, still you are overall in charge of the intelligence community. But it seems to me that we have something very serious here. Even if it were an incidental picking up of conversations, it would still be illegal, and it is not incidental, and there is no way that it is incidental. It is totally random; there is no way that these things can be completely foreign; in fact, it would be incidental if it were completely foreign. Mr. Chairman, what I really would like to know is eventually what can we do here? I have some information; we have got some information from executive session yesterday; we got some information from open session today. I presume we are going to get more in executive session this afternoon and other places. Is it possible at some point to turn this information over to the Justice Department or some agency to look into this thing and to follow it up?

Chairman PIKE. Well, I would respond to the gentleman as follows: Of course, it is always possible for this committee to turn any information which we get, which we feel belongs to the Justice Department, to the Justice Department, and I will simply say that will not be a decision of the chairman; it will be a decision of the committee. We will vote on it, and any person can move that we so vote at any time.

Mr. ASPIN. When we get—

Chairman PIKE. But let me suggest that the Justice Department will be appearing before us, not, however, in any capacity except for openers, to talk about their own budgets, et cetera. So I don't think it would be appropriate to do it at this particular time; it might be appropriate to do it before this week is over.

Mr. ASPIN. I think you are right, Mr. Chairman. At this point, I don't think we have enough, but at some point I would like to make that motion because I think we will get more information. Let me just follow up what Congressman Johnson was saying. He was interested in the congressional oversight. I am kind of curious as to why the information was never brought to the attention of the President. Why was President Nixon never informed, or President Ford? I can—

Mr. COLBY. I believe it fell between stools there, Mr. Aspin. On May 10, the day after Mr. Schlesinger's memorandum came out, it was announced that he would be nominated to be Secretary of Defense, and that I would be nominated to be Director. He stayed around the agency for another few weeks, pending his confirmation hearing and his assumption of those duties. He moved over there about at the end of May, I think, to the Defense Department to prepare himself for that job, although he was spending a certain amount of his time, and I frankly have the feeling that—that he thought I was going to, you know, I would take care of that problem, and I thought he would, and it frankly fell between stools.

Mr. ASPIN. I can see why neither of you would want to do it—

Mr. COLBY. Yes—I think neither of us was very anxious about it.

Mr. ASPIN [continuing]. Reporting illegal activities taking place mostly at your instigation and why "we are not doing them"; I can see it is a tough conversation or decision. How about President Ford, when he took over; didn't anybody think maybe he ought to be informed?

Mr. COLBY. Of course, I did inform him of the entire story——

Mr. ASPIN. But that was only after the——

Mr. COLBY. After the thing happened; yes. It was by that time, Mr. Aspin, a past history, running back over 10 and 20 years and the action will be taken to clarify the matter and——

Mr. ASPIN. But still, what worries me about even the report to President Ford, which you gave to him, apparently there were a number of these memorandums that was finally released to the public, your report to the President. It seemed a number of the memoranda that were attached, a number of the things attached, particularly I think now of the things connected with assassinations which were part of the report going to the Inspector General, and apparently too there was one on the Mafia, from what you answered to Mr. Murphy the other day. But these were not forwarded to President Ford. Why wasn't all of the information disclosed? You had the chance. Here he was asking you for a complete chance to really make a clean, clean breast of it, he was asking for the information, he said, "Look, here's this New York Times article, what's going on?"

I would have thought that ought to have triggered, if you were going to come clean and really lay it all out, at any point to President Ford, that was the time to do it. And why didn't you even, for example, give him the Inspector General's report?

Mr. COLBY. Well, in—that report was focused on the allegations made in the article. At that time, however, I did brief his staff and orally covered with him the overall report as a whole. I used the same book that I had shown to the two congressional representatives to go through it and describe it at that time.

Chairman PIKE. The time of the gentleman has expired.

Mr. Milford.

Mr. MILFORD. Thank you, Mr. Chairman——

Mr. COLBY. Again I would stress on that, Mr. Aspin, that I think the attitude was that this was by then a year, more than a year old, the activity had been undertaken, it had been closed off, the activity ran over 10 and 15 years and it wasn't going to be repeated and we just put it aside and hoped it would not come up. And I did not see any obligation to go to the Attorney General on it.

Chairman PIKE. Mr. Milford, I will only say that that response did not come out of your time.

Mr. COLBY. I am sorry; excuse me.

Chairman PIKE. No. We want you to be forthcoming, Mr. Colby.

Mr. COLBY. Yes.

Chairman PIKE. This is another place that you have such a tremendous advantage over us. You can declassify documents and we are told that we can't. The 5-minute rule applies to us but it does not apply to your responses.

Mr. Milford.

Mr. MILFORD. Thank you, Mr. Chairman. My time would run a little bit long but Mr. Kasten has agreed to yield a minute and a half of his time.

Mr. KASTEN. Yes.

Chairman PIKE. Without objection, the gentleman is recognized for 6 and a half minutes.

Mr. MILFORD. Mr. Colby, I would like to pose some comments and then a few questions to you in your capacity as Director of Central Intelligence. In reality, the comments and questions are directed to the entire intelligence community. As the DCI you are the nearest individual that could be considered to have overall responsibility—other than the President. Since my comments and questions will take most of my allotted 5 minutes, I would ask that you reply in detail for the record.

There is legitimate concern on the part of this Congress and the American people for what you might be doing behind the closed wall of secrecy. They rightly want to know that, what you are doing, is in keeping with our basic democratic principles and that your actions are directed toward legitimate national security goals.

I differ with some of my colleagues in Congress. I do not believe that the "people's right to know" consists of publishing our intelligence plans in the Washington Post or the Dallas Times Herald. Furthermore, I do not believe that the vast majority of our citizens want this type of action.

I do think that our citizens want to be assured that a creditable "check and balance" system is operating, and one that will firmly keep out intelligence community accountable to our democratic system.

Our intelligence community simply cannot act as its own judge and jury. Our people and our Congress will not accept it under present circumstances.

Our society is constantly changing along with its mores, customs and beliefs. While you would have been a national hero in 1945 for planning to assassinate Adolph Hitler, our people would nail your hide to the wall if you tried it today on Brezhnev—even though we freely acknowledge him as our adversary.

Now, let me boil this dissertation down to some specifics and a few questions.

I think this Congress fully realizes that it is impractical for 435 Members to effectively keep track of the complex matters of our national intelligence community. The Congress is further dissatisfied with the past system of a few select Members who only casually inspected some parts of our intelligence activities and expenditures. Recent publicity has caused our citizens to believe that no real effective "check and balance" system exists.

In an effort to correct this deficiency, the House of Representatives responded by appointing this committee. The Senate did likewise with a similar committee.

Now, on one hand, there is a real opportunity for us to gain press ink by cutting your guts out for every mistake you have made in the past. On the other hand, you can rip us apart by leaking information to the same press by making us look like idiots for not discovering your mistakes before this time.

In either case, the real losers are the citizens of this Nation. Their only logical conclusion would be that idiots exist in both the administration and the Congress.

I think that we should avoid such a "no win" contest and carefully search for solutions. With that in mind, let me ask for your candid opinion in the following questions, that I believe deal with the gut issues we must face:

(1) Are the basic laws governing our intelligence community adequate? If not, where are they deficient?

(2) Do you have any specific recommendations for changing these laws in order to fulfill the goals specified in your testimony?

(3) Will you give me specific recommendations for steps which you believe will result in better relations among the Congress, the administration and the citizens concerning intelligence matters?

Mr. Colby, I would now like to offer you a hypothetical situation and then pose further questions.

Assume that the Congress would set up a joint Committee on Intelligence, or individual Intelligence Committees within each body.

Further assume that the committees were established under a procedure that would assure that the group had the confidence of the legislative bodies and also reasonably represented the Nation as a whole.

Further assume what the committees would have adequate time to fully understand and properly oversee the intelligence community.

Further assume that the rules of the individual legislative bodies would assure that no classified intelligence information could be publicly released except by majority vote of the committees or by agreement with the intelligence community.

With the foregoing assumptions in mind, would you—as the Director of Central Intelligence—or, would the administration that you are under, have any reservations to the following proposals:

(1) That the intelligence community present for authorization hearings its true annual budget proposals—including all line items that are normally concealed under other headings or contained within other defense functions?

(2) That the intelligence community would totally brief the committees on the desired annual goals, programs, projects, and missions of the intelligence community that the annual budget is designed to support?

(3) That the committees would assign the General Accounting Office (GAO) to selectively audit any specific project, operation, or mission that they would deem necessary so long as the compartmentalization principle is observed?

(4) That the committees would be equally informed of day-to-day intelligence activities in the same manner as the President of the United States, so long as the same security regulations are followed and further subject to the specifications contained in this hypothesis?

Mr. Colby, I know that you do not have time to answer these questions now, but I would like answers supplied for the record. I think that these are some gut issues which you, your administration and this Congress must face.

I can assure you that both my questions and your answers will see light on the floor of the House of Representatives.

Mr. COLBY. Mr. Milford, I thank you for those very constructive and thoughtful questions. I will answer them in detail as you request for the record.

I would say that in general I have no great problem with the thrust of them, although I might have discussion on some of the details. I believe that the resolution of the problems of running a secret intelligence effort in a free society can only be achieved by having clear guidelines which are subject to change but agreed change and effective supervision in both the executive and the Congress.

I think that we can develop that as the necessary way to run a secret intelligence operation, which is essential to our country and yet still respect the dictates of the Constitution and the free society that we serve and that we like.

I will supply the answers and I appreciate the questions.

Mr. MILFORD. I yield back any time I might have left, sir.

[The CIA's reply to Mr. Milford is printed on pages 556 to 571 of the appendix.]

Chairman PIKE. We will yield back such part of Mr. Kasten's time as you have not used.

Mr. Hayes.

Mr. HAYES. Thank you, Mr. Chairman.

Mr. Colby, when you discovered that the Inspector General's staff was engaged in not worthwhile work, why didn't you redirect their tasks rather than reduce them by 11?

Mr. COLBY. Because at that time we were under a lot of pressure to reduce the total staff.

Mr. HAYES. Who was giving you the pressure to reduce the total staff?

Mr. COLBY. As much as anything inflation and the increase in salaries and pressures—

Mr. HAYES. You are not speaking of any Government official?

Mr. COLBY. And at that time of course I believe Mr. Schlesinger was suggesting a reduction in the size of the staff.

Mr. HAYES. Did Mr. Lynn—

Mr. COLBY. Of the overall agency.

Mr. HAYES. Did Mr. Ash or Mr. Lynn suggest it?

Mr. COLBY. Certainly Mr. Schlesinger discussed the reduction in the overall strength with the Office of Management and Budget and I have continued the process of cutting CIA's strength each year since that time.

Mr. HAYES. Yes. But as far as the Inspector General's functions are concerned, the audit functions, it would appear to me from the public testimony of Mr. Lynn that he assumes that all of those audit functions are being done, at least he is being told that?

Mr. COLBY. That is right. He certainly did not urge the reduction in the Inspector General's staff. We reduced a number of different staffs around the agency and the Inspector General was included in that general reduction of many different staffs.

Mr. HAYES. In answer to Mr. Pike's question about whether or not there are procedures that potentially embarrassing activities might be disclosed to Congress, you indicated that sometimes that is done?

Mr. COLBY. Yes. If there were a particularly significant operation, probably a very large operation, the Director might deem it wise to go up and just let the oversight committees know something about it before it actually happens.

Mr. HAYES. Is it usually after the fact?

Mr. COLBY. I say it is usually after the fact. But there are occasions in which we have been up with potentially both large-scale and sensitive operations before, and particularly in the technical field where the project can be started 2 or 3 or 4 years before it actually appears in activity.

Mr. HAYES. You have begun your statement and you made some plaintive remarks concerning the sensationalism that surrounded the CIA recently. Certainly the Rockefeller Commission, the Church committee, this committee, the predecessor committee here in the House, they are about as sensational as taking a cold, dirty bath.

You don't mean to imply, do you, that somehow or other these problems are in any way contributing to an atmosphere of sensationalism?

Mr. COLBY. Well, I think some of the matters which have come out in the process have contributed to the attitude. I have the highest respect for the manner in which the Rockefeller Commission and the Senate committee and I am sure this committee are conducting this investigation, but—

Mr. HAYES. Didn't most of the grossly sensational things, if you want to call them that, appear quite apart from any investigation?

Mr. COLBY. Not entirely, Mr. Hayes.

Mr. HAYES. Well, would you say that part of the appearance of those were in your visits disclosing matters about the *Glomar Explorer* to newspaper editors.

Mr. COLBY. No.

Mr. HAYES. Do you think that contributed?

Mr. COLBY. That appeared for other reasons. That appeared because of a leak that started it, and my effort was to endeavor to have nothing said about that general subject.

Mr. HAYES. And what about former CIA employees and current employees, their discussions publicly?

Mr. COLBY. Well, current employees are under a restriction not to discuss publicly classified matters. Former employees are under a secrecy agreement with me not to discuss classified matters, but I have had a little hard time enforcing that, with certain of them.

Mr. HAYES. Mr. Colby—

Mr. COLBY. There was one occasion, I think, which—there were some occasions on which some of the sensational qualities came from a number of different sources here in recent weeks.

Mr. HAYES. I take it from your answer, then, that you would at least like to imply today in your testimony that some of the harmful sensationalism does, in fact, emanate from this investigation, that of the Church committee, and that which was done by the Rockefeller Commission.

Mr. COLBY. No; I am just making an appeal that—to the public at large, to let the committees do a thorough, complete job of investigation and to get rid of this sensational atmosphere so that we can do that kind of investigation, and then I think we can go back to work in the intelligence business.

Mr. HAYES. I want to be sure and clarify that, because I certainly think that there was implicit in the statement some implication that at least we were contributing to that atmosphere.

Mr. COLBY. Well, I think there was a certain amount of press attention to this, and there is a certain amount of focus on every step in this process. I think the excitement a couple of weeks ago about allegations that CIA infiltrated the White House was perhaps one of the low points in this recent affair.

Mr. HAYES. The——

Chairman PIKE. The time of the gentleman has expired. Mr. Lehman.

Mr. LEHMAN. Thank you, Mr. Chairman.

I want to pursue the question of the proprietaries as to their effect on the American business community. Mr. Colby, your chief of cover and commercial staff has told the staff of this committee, "If you operate a business that is not at all intruding in the marketplace, you don't have a very good cover." To me this means the proprietary must be competitive, aggressive, and active. In a sense, though, the bottom line of a proprietary is certainly not profit and according to what you say that any losses they incur will be made up by CIA. But just for the record, who keeps the profit of these businesses, if they do make a profit?

Mr. COLBY. The profit—if a profit occurs, and it has happened in very few cases—the profit belongs to CIA; it remains for use in the operating costs of the proprietary, but if there is a final profit, it is returned to the Treasury.

Mr. LEHMAN. There is a possibility, then, that these corporations can operate below cost, and that they can sell below cost?

Mr. COLBY. Well, the object of the operation, Mr. Lehman, is that they be credible, not that they be successful, that they have enough credibility to appear to be a business, not that they actually do any more business than the minimum necessary. Doing a business beyond the minimum necessary destroys the value of the operation as far as we are concerned because we want our people to have the freedom to spend their time on the substantive work that we expect them to do.

Mr. LEHMAN. I still feel, though, that the CIA really does not understand the effect on the American business community of the function of these proprietary organizations and perhaps in your zeal for your duties that you can, in a sense, perhaps, threaten or undermine some American businesses with American tax dollars.

Mr. COLBY. I assure you that we are very conscious of that danger and that we take steps to insure that it does not happen.

Mr. LEHMAN. Mr. Colby, how many proprietaries do you actually have in the Miami area?

Mr. COLBY. I can't answer—I just don't know the answer to that question offhand, Mr. Lehman. It obviously has changed over time. I would be prepared to find that and other detailed numbers out for you and report them in executive session.

Mr. LEHMAN. In relation to the proprietary operations, does the CIA give cash gifts or rewards to certain proprietary businesses who help the Agency? Does the CIA ever dispose of a proprietary business in the form of a gift, or at least the noncash assets of a proprietary business, which it is disposing of?

Mr. COLBY. We had one case, Mr. Lehman, in which the disposal of our operation did raise questions as to how it might be done. We took special steps to have that employer examined by the General

Accounting Office pursuant to the request of the chairman of the House Armed Services Committee, who was informed of that before it happened.

The GAO did approve of the manner in which we were going to do that and, therefore, there was not any favoritism given in that case.

Mr. LEHMAN. In relation to the cash gifts, or rewards to businesses for help to the Agency, you have not——

Mr. COLBY. With respect to cash awards, we obviously have a lot of different relationships with legitimate businesses, regular businesses. In the course of those operations there are some times in which they agree to take one of our people and put them, apparently, as one of their employees. We reimburse them for the costs of that employee. And in that sense we do give them some assistance.

Mr. LEHMAN. I am still concerned about the adverse effect on the American business community of the activity of the CIA in the proprietary relationship. Mr. Chairman, I would respectfully suggest that the staff of this committee be instructed to study this question to see if such adverse effects are occurring and report back to the committee.

Chairman PIKE. Well, I don't want to promise more than I can deliver, Mr. Lehman, in that regard.

Mr. COLBY. I would welcome that kind of a study, Mr. Chairman.

Chairman PIKE. I am sure you would, and I don't think it would be terribly revealing, and I think it would spread our staff pretty thin, if we try to study what the CIA proprietaries are doing to the American business community as a whole.

Mr. Lehman, I just don't think I want the staff to devote too much of its efforts and energies to that particular concern, although I assure you that I will discuss it with the staff director further and members of the staff to see what we can do.

Mr. LEHMAN. Thank you, Mr. Chairman.

Chairman PIKE. Mr. Field.

Mr. FIELD. Thank you, Mr. Chairman. Mr. Colby, I would like to go over the control of funds and just how good the accountability is in the CIA for certain funds. How does the CIA know, how do you know when funds are spent for bribes, or that type of payment; how do you know that the money goes for the intended purpose or that it is not simply put in somebody's pocket, used for some favor, that kind of thing?

Mr. COLBY. There are a variety of ways in which we do it. One is on some occasions we actually get a receipt from the individual and we can compare the signatures. In others we can pass the material through various banking channels and make sure that it goes to a certain account. In others, we can get a certificate by the officer that he actually gave that.

Now there is a variety of other ways of cross-checking to see whether there is any visible effect of any substantial sum given to some particular institution, whether they have opened local offices which they did not have before, and things of that nature. If that does not occur, one begins to wonder what is happening. Obviously we are in a field here that does leave itself open to some error. We have had situations in our history in which we have found that money has not gone toward its intended purpose.

Mr. FIELD. What do you do when you find out somebody has abused this privilege?

Mr. COLBY. We certainly would—if it is a recipient, we would certainly consider whether it is of any value to go ahead with that relationship. If the money being given is not effective, why obviously there is no sense in continuing to give the funds to that particular objective.

Mr. FIELD. Do you find—

Mr. COLBY. If it happens to be one of our intermediaries, or one of our own people, we obviously would take steps. On an intermediary, a foreigner who is an intermediary, we would cut him out of the link.

Mr. FIELD. Would you fire an employee who was giving out bribes that he shouldn't?

Mr. COLBY. Giving out bribes that he shouldn't? Certainly because any such activity has to be given under oath.

Mr. FIELD. Have you ever fired an employee for giving out a bribe that you felt was not actually a bribe?

Mr. COLBY. Well, no expenditure can be made outside of the appropriate authority.

Mr. FIELD. I understand.

Mr. COLBY. The appropriate authority sometimes leaves some judgment.

Mr. FIELD. Did you ever fire an employee because you discovered he was pocketing the money, or he was—

Mr. COLBY. Yes, we have.

Mr. FIELD. You have.

Mr. COLBY. And we have considered prosecution of some. Some we have passed to the Department of Justice for prosecution, and some we were unable to do so because it would reveal a very sensitive relationship with a foreign country.

Mr. FIELD. Approximately how many have been referred to the Department of Justice?

Mr. COLBY. I think the number is about 20 that were passed over to the Department of Justice.

Mr. FIELD. In the last how many years?

Mr. COLBY. Since 1954, I believe it is.

Mr. FIELD. Since 1954, 20 people?

Mr. COLBY. Those are the ones we initially found after taking a look for trying to compile the cases. There were another nine cases that we believe we did not inform the Department of Justice about.

Mr. FIELD. OK. What about gifts? Who decides who gets gifts?

Mr. COLBY. Whoever is authorized to make such a decision. If it is a very complicated problem, in a foreign country it may be approved even as high as me. If it fits clearly within the working relationship that we expect that particular organization to do, it might be the chief of station.

Mr. FIELD. OK. Just to pin that down, now. If that were a major gift to a head of a foreign state, let's say, would that gift have to be for intelligence purposes, or is the CIA used because it doesn't have to report back all of its expenditures, to make gifts that would basically make somebody happy, that would please a foreign head of state, who might be friendly to us? There is really no intelligence value in this gift, is there?

Mr. COLBY. Well, there is a relationship value, and it does translate into intelligence later on.

Mr. FIELD. Hasn't that in fact happened?

Mr. COLBY. Oh, yes; it translates into intelligence in the sense of what goes on later—

Mr. FIELD. How does an intelligence agency go about giving expensive gifts to foreign heads of state? Certainly the Congress, when they give you a contingency fund, assumes that is then spent for intelligence purposes.

Mr. COLBY. No; I think they assume it is being spent under the National Security Act.

Mr. FIELD. This relates to national security?

Mr. COLBY. Well, under the provisions of the Constitution—

Mr. FIELD. How does driving a fancy car somehow help our Nation's security?

Mr. COLBY. It can in terms of the relationship established with that particular individual and the information gleaned—

Mr. FIELD. Would you be embarrassed to reveal this to the average taxpayer, that expensive automobiles and things of that kind have been handed out to—do you have a comment? Have gifts been given to American public officials?

Mr. COLBY. I don't believe so; no.

Mr. FIELD. Have you ever given an expensive gift to an American President?

Mr. COLBY. There is one situation which was mentioned in the Rockefeller Committee Report which I don't believe what you have in mind, but it is one occasion on which we assumed the expenses of an activity conducted by the White House. It was not a gift given to the White House, but we assumed the expenses of certain letters.

Mr. FIELD. Have you ever participated in a gift; in other words, maybe the CIA didn't actually give the gift but participated in helping to get a gift to a President?

Mr. COLBY. To an American President?

Mr. FIELD. In recent times, in recent years.

Mr. COLBY. I can't think of any such. I would have to examine that.

Chairman PIKE. It is 12 o'clock. I would like to suggest to the members of the committee the following procedure: I would like to give anyone who wants an opportunity to ask additional questions in open session an opportunity to do so before we break for lunch with the understanding that the time he uses in open session now will be taken from his time when we go into executive session. Mr. Giaimo, do you want to ask questions? Mr. Giaimo is recognized.

Mr. GIAIMO. Mr. Colby, how did we survive as a nation for 175 years without the CIA?

Mr. COLBY. I would say for quite a few of the years we were not given very much threat from abroad. That is one thing.

Mr. GIAIMO. So it is the nature of the threat that has made the difference?

Mr. COLBY. Oh, I think that is clearly—we normally would organize intelligence for a war and disband it afterward. We did that for the Revolution, we did it for the Civil War, we did it for World War II, and we disbanded them.

Mr. GIAIMO. What is the uniqueness of the present threat for the last 25 years which requires your agency?

Mr. COLBY. Because the United States plays a greater role in the world than it did in previous years.

Mr. GIAIMO. Is it the nature of the danger, namely the fact that we are in a nuclear age?

Mr. COLBY. Not only the danger but the opportunity to solve problems before they get bigger.

Mr. GIAIMO. Now the major thrust of the Central Intelligence Agency and the other intelligence communities is the business of intelligence; isn't that so?

Mr. COLBY. Yes.

Mr. GIAIMO. Didn't the chart you showed us earlier break down intelligence activities, support activities, and covert actions?

Mr. COLBY. Right. Today that is true of CIA. Twenty years ago——

Mr. GIAIMO. That is——

Mr. COLBY. Twenty years ago the proportion was different.

Mr. GIAIMO. The threat to the United States comes from what possible sources in the world?

Mr. COLBY. It comes from great powers who might have——

Mr. GIAIMO. Specifically, what are these great powers?

Mr. COLBY. All right. Obviously the two major ones.

Mr. GIAIMO. Obviously the two major ones are U.S.S.R. and China?

Mr. COLBY. And China, yes.

Mr. GIAIMO. Are most of your efforts vis-a-vis these two powers covert in nature or more in the area of intelligence?

Mr. COLBY. Most of our efforts are in the area of intelligence.

Mr. GIAIMO. Most are in the area of intelligence?

Mr. COLBY. By far.

Mr. GIAIMO. And that is the normal type of intelligence operation or counterintelligence operation, using the various means of collecting intelligence, be they human or electronic?

Mr. COLBY. Right.

Mr. GIAIMO. Scientific of any sort; is that right?

Mr. COLBY. Right.

Mr. GIAIMO. Reconnaissance, surveillance, et cetera?

Mr. COLBY. Right.

Mr. GIAIMO. Is much of your covert activity directed against these two great superpowers which can pose a real threat to our national security?

Mr. COLBY. Well, I would rather not comment specifically on it, but we do so little of this nature nowadays, Mr. Giaimo, that——

Mr. GIAIMO. Are you saying we do so little of covert activity in general?

Mr. COLBY. Of covert activity as a whole.

Mr. GIAIMO. As a whole?

Mr. COLBY. Yes. Now, years ago, a very substantial amount of it was devoted either directly or indirectly through the support of various groups around the world who were interested in protecting themselves against expansion.

Mr. GIAIMO. Mr. Colby, you know what I am trying to get at. I am trying to develop whether the bulk of our covert activities is directed against the two superpowers because of the threat they pose, or in

fact, do we direct our covert activities to many other third world nations who in fact do not really constitute a threat to this country. Can you publicly answer or respond?

Mr. COLBY. Sure. I think today if you will look down into the specifics of it, you will find that a substantial effort is devoted against the major problems we have in the world and some to the indirect problems that we have in the world; that there are lots of problems in the world, however, which do not pose any kind of a problem or threat to the United States and that we do not engage in any activities in those areas.

Mr. GIAIMO. But isn't it so that very little covert action is effective or is committed or is even effective against the two superpowers?

Mr. COLBY. Well, I respectfully say that I would not like to get into the details of that. I think this has changed over time.

Mr. GIAIMO. You are not getting into any of it as yet?

Mr. COLBY. No. It does begin to get into details as to what we are doing in various countries. I would be glad to answer that in executive session.

Mr. GIAIMO. I understand, but I am trying to get clear from you if there is much covert activity against the U.S.S.R. or Red China.

Mr. COLBY. That is specifically the kind of statement I really cannot make in public session.

Mr. GIAIMO. But can you make the statement that there is very little covert activity against anyone?

Mr. COLBY. I do.

Mr. GIAIMO. At this stage?

Mr. COLBY. I do, Mr. Giaimo.

Mr. GIAIMO. Which draws me to infer that there is very little against the Soviet Union and Red China.

Mr. COLBY. Well, if there is very little against anybody, there is very little against them, too, obviously.

Mr. GIAIMO. Obviously. Now then, if there is very little covert activity against anyone, why in the last 25 years, and at the present day, do we need an agency involved in covert activities? Bear in mind I find no fault with your intelligence-gathering functions and your counterintelligence functions.

The question I have is: Does the United States have to have an agency involved in clandestine or covert actions, and does it benefit us to become involved with other nations—their political structure and so forth?

Mr. COLBY. Mr. Giaimo, we are talking about—

Mr. GIAIMO. What is so different that we now have to have an absolute dependence on this kind of activity which by virtue of its secrecy is so injurious or so dangerous to our American way of life and to our American rights?

Mr. COLBY [continuing]. Mr. Giaimo, we are speaking about a point in time when we are doing very little of this. In the 1920's we were then enthusiastic about naval disarmament. We had just built a brandnew battleship. We took it out off the North Carolina coast and we sank it to show how determined we were about naval disarmament. About that time, Secretary Stimson broke up a decoding unit, disbanded it because he said, "Gentlemen didn't need to read each others' mail."

Secretary of War Stimson some 15 years later was reading all the Japanese and German mail he could get his hands on, and he needed that battleship. Now, my contention at the moment is that during the days of confrontation, during the fifties and sixties, when there was concern about whether Western Europe would be subjected to military attack, economic collapse, or subversion, a general American program was developed to meet that threat. It consisted of NATO, the Marshall plan, and a great deal of covert activity for the democratic forces in Western Europe. That was successful, Mr. Giaimo.

It is not necessary today because the situation in Europe does not require that degree of effort. We still have a NATO; we still have economic relationships with Europe. If we should need some substantial assistance to democratic forces to Europe, I think we ought to have the capability of doing it, under the approved authority of our—

Mr. GIAIMO. No question.

Mr. COLBY [continuing]. Of our Government and under our constitutional structure.

Mr. GIAIMO. No question—

Chairman PIKE. The time of the gentleman from Connecticut has expired.

Mr. Stanton, do you wish to ask—

Mr. STANTON. No.

Chairman PIKE. Mr. Dellums.

Mr. DELLUMS. Thank you, Mr. Chairman.

First, I would like to make a brief response, following Mr. Johnson's line of questioning, with respect to the oversight of the Congress on improprieties carried out by the CIA and other members of the intelligence community. It is precisely for that reason that I have asked for the very specific information because I think that what we are going to find out is a rather tragic pattern where the various subcommittees charged with responsibility of oversight are not the ones who received information regarding the improprieties; it's individuals who then, behind closed doors, are caught in a Catch-22 situation, because it is in executive session, it is highly privileged information, and in my estimation, in direct violation of the principles of the Congress.

This is a group of 435 people. It is a group-oriented process. Yet I think what we are going to find out when Mr. Colby responds is that single, individual persons in the House and the Senate were given information with respect to these improprieties, and I think this is a gross violation of the concept of the group-oriented process.

With respect to Mr. Hayes' question and following my questioning regarding the reduction of force in the Inspector General's Office, I think this is a major travesty, for the justification for that cut to be inflation and budgetary considerations, when the CIA has a massive staff, spread out all over the world, with enormous potential for abuse, the place where you decide to make some economies happens to be in the Inspector General's Office, with reams and reams of abuses and allegations and charges, I find—I find the justification for cutting back on that Inspector General's staff, that is charged with the responsibility of investigating and overseeing the potential for abuses, really incredible.

I would like to ask you, Mr. Colby, was money from proprietaries ever transferred to your contingency fund, No. 1? And No. 2 is that legal if in fact you have transferred profits from proprietaries to your contingency fund for the purposes of financing other secret projects?

Mr. COLBY. It was transferred on one occasion, Mr. Dellums. On that occasion it was discussed in detail with the oversight committee of the two Houses in 1973. Since that time, our General Counsel has indicated that does not constitute the entire appropriations process and it will not be done again. It is being returned to the Treasury; any profits will be returned to the Treasury.

Mr. DELLUMS. Does the CIA maintain a voluntary pension plan for senior employees of your Agency?

Mr. COLBY. For any employees of the Agency who wish to join it.

Mr. DELLUMS. Are the investment decisions for this plan made by a committee that has access to sensitive economic intelligence?

Mr. COLBY. No. The investment decisions are made by an investment—a regular investment broker. The committee that decides—that runs the plan chooses the broker. From there on, all investment decisions are made by the broker or the mutual fund, or whatever it is, and no special information is used from CIA to effect those investments.

Mr. DELLUMS. Do the officers of this pension plan use the CIA's highly sophisticated computers to keep track of the stocks and bonds and generally to optimize returns?

Mr. COLBY. The CIA does use its computers particularly to keep note of the identification of the people who have joined the plan, because these are people whose identities as CIA employees must be protected. In the process they obviously have to tell what their ownership is and what their statistical and financial relationships are. The CIA has been carrying a part of the cost of running this, of the investment process itself, in the computers. There has been a question as to whether this should be absorbed as a cost of the running of the plan and charged to the plan. The plan, incidentally, has lost money in the stock market in the last year or two, along with every other such plan in the country.

Mr. DELLUMS. You can certainly understand the thrust of my questions.

Mr. COLBY. Yes.

Mr. DELLUMS. It is obvious you have probably one of the largest and most sophisticated computer systems in the world, with enormous intelligence-gathering potential and for you to have investment capability it would be a very easy thing to plug into that enormous computerized data bank. It is like going to the race track and knowing what horses are going to win all eight races. I would think if that is the case, that would be in my estimation improper, and I would like very much regarding those questions that you give full files, memorandums and data.

Mr. COLBY. I would be pleased to respond to that, Mr. Dellums. That plan was worked out in detail before it was instituted with the appropriate authorities of, I believe, the Civil Service Commission or Department of Justice, or somebody, and I would be glad to explain the details of it to you.

[The material subsequently provided in response to Mr. Dellums' questions is in the committee files.]

Chairman PIKE. The time of the gentleman has expired.

Mr. KASTEN.

Mr. KASTEN. Mr. Chairman.

I had intended to ask a number of questions having to do with the detailing of employees and of contacts of CIA and various agencies. It was my understanding yesterday and our understanding in three different telephone calls this morning that at our request you intend to make a statement which would respond to some of the questions I have raised over the past several days.

Mr. COLBY. I will.

Mr. KASTEN. I have a series of questions. It is my understanding you still don't have the information?

Mr. COLBY. I have a one-page answer, and I can answer a lot of the questions. I have some other facts here. We could either do it now or we could do it in executive session, either one.

Mr. KASTEN. I would much prefer to at least begin in open session because a number of these questions have already been raised in the press. It is important, I think, to begin with the fact that the committee and I don't want to brand someone because he has been a CIA employee to limit his employment opportunities in any agency.

Mr. COLBY. Perhaps—

Mr. KASTEN. But that is not the question at all. The question is the detailing of employees.

Mr. COLBY. Right.

Mr. KASTEN. And the question is when a person is in an agency, for example at the White House, and he is not identified as an employee of the CIA. The other questions involved the informal kinds of contacts that apparently exist in a number of departments throughout the Government.

How many CIA employees are presently detailed to executive agencies?

Mr. COLBY. Let me make a general statement on this, Mr. Kasten, and then I can, I believe, answer the specific questions in executive session. CIA has several different arrangements for detailing people. One is the detailing of people to another department or to the White House or wherever, as part of the rotation policy to let these people have some experience outside CIA to learn what the rest of the world is about, so that they can come back and be more efficient in CIA.

Any such detail is known to the management of that particular agency to which it is detailed. The second level is the arrangement we have with some departments to give our employees what is called cover, to let them appear abroad as a member of another department instead of appearing abroad as belonging to CIA. In some cases to retain that cover here in the United States, in some cases to have that cover here in the United States so that the activity will not be generally known as a CIA activity. There are many, many of our employees under that kind of arrangement; those are worked out with the appropriate departments, brought to the attention of the head of the department. They are not necessarily revealed to all members of that department. A junior officer in an embassy abroad may not be informed as to which of his fellow workers is actually a CIA officer but the Ambassador will be.

Mr. KASTEN. How about a high-level person in an agency or a high-level person in the White House?

Mr. COLBY. Somebody will be informed, the appropriate—in the White House they would be informed in the normal personnel machinery. The personnel machinery would know that that individual is the CIA agent because that would not be a cover arrangement. That would be a rotational arrangement.

Mr. KASTEN. Isn't it a fact that there have been occasions when a CIA man, not identified as a CIA man, working in the National Security Council, had a role in recommending White House approval of CIA covert action projects, and wasn't at least one such individual a member of the same CIA covert action branch whose projects he in fact reviewed?

Mr. COLBY. Yes.

Mr. KASTEN. I am not talking about putting somebody out for experience; what we are talking about is influencing decisions from a point—

Mr. COLBY. Right.

Mr. KASTEN [continuing]. At which the other people in the room aren't aware that this person is a member of the CIA. Isn't it a fact that the person in the National Security Council was passing on information that had to do with covert action projects in the CIA and wasn't known as a CIA agent?

Mr. COLBY. Well, there are several officers who worked there, have worked there over the years in various positions who have been CIA officers. They certainly were identified to the management as CIA officers. They did work in many cases in support of intelligence activities, facilitating the movement of intelligence to the right customers, helping to make recommendations on policy matters dealing with intelligence matters and with CIA's covert action activities.

Mr. KASTEN. But don't you see any conflict here?

Mr. COLBY. But in that job the individual was clearly working for the National Security Council or whatever other post he was in.

Mr. KASTEN. Clearly, by your definition, but possibly not by the definition of the people he is working with?

Mr. COLBY. Certainly the people he was working for knew it.

Mr. KASTEN. All right.

Mr. COLBY. Now, whether every individual he was working with knew it, I don't know.

Mr. KASTEN. Isn't it a fact that we have one individual, Thomas K. Latimer, Assistant to the Secretary of Defense, and he was designated by the Defense Department as our contact man with the Department of Defense, this committee's contact man?

Mr. COLBY. All right.

Mr. KASTEN. He was a CIA agent, he had been working in the White House as a CIA agent but not identified in the White House as a CIA agent?

Mr. COLBY. Oh, he was indeed identified as a CIA agent or officer there.

Mr. KASTEN. Not with the liaison people, the people he worked with?

Mr. COLBY. I beg your pardon. He was assigned to the National Security Council staff. His CIA background and relationship were clearly known to them at that time.

Mr. KASTEN. Right. His CIA background and relationship were never clearly known or understood by our committee staff or our committee until yesterday when we talked about it. I asked the representative from the Department of Defense yesterday, and he said no, there aren't any former CIA people.

Mr. COLBY. Mr. Latimer today works entirely for the Secretary of Defense, he does not work for me. He works and his loyalties run to the Secretary of Defense, and his directions come from the Secretary of Defense.

Chairman PIKE. Mr. Kasten, I can only say you have 4 more minutes, if you want to use them at this particular time.

Mr. COLBY. Mr. Latimer may have been, he may still be either on leave without pay or have some other relationship with CIA. I myself spent 3½ years assigned to the Department of State and AID not as a cover but directly employed by them, although I was on leave without any pay from CIA at the time. At that time my line of authority clearly ran to the Department of State and to the Agency for International Development, not the CIA.

Mr. KASTEN. My first question was how much CIA employees are detailed to executive agencies.

Mr. COLBY. I would like to give that answer in executive session, if I may.

Mr. KASTEN. How does the CIA deal with agencies other than agencies in which you have people specifically detailed, when you have a contact? Let's say, for example, the IRS, and the IRS is about to pursue an investigation which it has come upon, and it is not in the best interests of the CIA that that investigation take place, or with the immigration people, with an airplane company or whatever. Do you have informal contacts in these agencies, or do you have formal contacts in these agencies, when you desire to affect the outcome of an agency action?

Mr. COLBY. We have a formal point of contact with that agency designated by that agency. If we have a problem with a totally new agency we go to the top or near the top and ask with whom they would like us to deal on that question.

We have long established working relationships at a working level which are known to the management of that agency.

Mr. KASTEN. Isn't it a fact that you have informal contacts in these agencies, and in many cases those contacts are not known or understood by people in these agencies?

Mr. COLBY. No; I do not know what informal contacts, neighborhood relationships and so forth, might exist around the Washington community in various ways, but certainly in any official action goes to an official contact known to the leadership of that agency. There was one exception to that, which unfortunately was involved with a mail intercept operation, in which we gave a certain bonus each year to one individual in the Post Office Department which was plainly improper.

Mr. KASTEN. Is it possible that a person whom you have detailed could be in an agency long enough that the people in the agency would not know it? In other words, at one point it was announced and clearly known.

Mr. COLBY. Certainly.

Mr. KASTEN. And now 10 years later the people simply do not know because the people at the top have changed.

Mr. COLBY. The management would know it in that case. I know of one such case, and the management knew it even though they did make an attempt not to have it spread around too much.

Mr. KASTEN. Evidently we have examples of where not only didn't they know, but they were surprised and shocked when they found out. Is that because one key person desired to keep it quiet?

Mr. COLBY. One key person in that agency might have, yes.

There was a situation in which the head of an agency asked us to help do something in his agency. We would not do that today, quite frankly, but we did it then, but the leadership of the agency knew about it.

Mr. KASTEN. When a CIA employee is sent to work at an agency, is this at the request of the CIA or at the request of the agency?

Mr. COLBY. It could be either one. It depends on the circumstances of the case. I have asked for people to be assigned to CIA and I have asked for people to go from CIA and I have had requests for people from CIA.

Mr. KASTEN. What about the White House?

Mr. COLBY. Both.

Mr. KASTEN. You have had requests from the White House?

Mr. COLBY. Yes.

Mr. KASTEN. To have people come to the White House?

Mr. COLBY. To work.

Mr. KASTEN. As a CIA agent and it not be revealed to—

Mr. COLBY. Oh, no, not revealed; no, excuse me. I have been asked whether we had a nomination for a certain job in the White House that had something to do with intelligence. If we could turn up a good officer who could do that job, why we would detail him to the White House, but that there be no particular sensitivity about the fact that he worked with CIA.

Mr. KASTEN. Thank you, Mr. Chairman.

Chairman PIKE. The time of the gentleman has expired. I frankly was going to leave my questions to executive session, but this last exchange has sort of intrigued me. Was Mr. Latimer detailed to the Department of Defense to be liaison for this committee and other committees investigating the intelligence activities at the request of the Department of Defense?

Mr. COLBY. No; Mr. Latimer was detailed to the DOD when Secretary Schlesinger went to the Department of Defense, because he had gotten to know Mr. Latimer both down in the White House and in CIA, and he thought that he was a very effective officer.

Mr. KASTEN. Would you yield for just a moment?

Mr. COLBY. Yes, I would yield.

Mr. KASTEN. That point was asked yesterday of Dr. Hall and he gave exactly the opposite answer.

I asked that question yesterday as to whether or not he was detailed, and Dr. Hall—we can check the record.

Chairman PIKE. Wait a minute, we are not going to do all this on my time.

Mr. COLBY. We may be in a term of art on the word "detail." I am not sure.

Chairman PIKE. You said about Mr. Latimer, who is the Department of Defense liaison with this committee, that his loyalties run to the Secretary of Defense and not to the CIA and not to anybody else. Are you sure that his reports go only to the Secretary of Defense—reports about the activities of this committee?

Mr. COLBY. I assume so except to the extent that any of us coordinate the activities that we conduct with this committee and others.

Chairman PIKE. Would it be conceivable that his reports would go somewhere else without the Secretary of Defense even knowing about it?

Mr. COLBY. Certainly if the Secretary of Defense would disapprove that that go anywhere else, it would not go anywhere else.

Chairman PIKE. He couldn't disapprove if he didn't know about the report.

Mr. COLBY. No.

Chairman PIKE. What I am asking you is: Is it conceivable that Mr. Latimer could be reporting on the activities of this committee to someone other than the Secretary of Defense without the Secretary of Defense knowing about it?

Mr. COLBY. I doubt it, knowing both of the gentlemen.

Chairman PIKE. So what you are saying is that any reports which Mr. Latimer is filing to someone else, if he is filing reports to someone else, are with the approval of the Secretary of Defense?

Mr. COLBY. With the approval or with the authority of the Secretary in the sense that you allow your officers to do things without necessarily bringing up every little question to you. I allow my subordinates to do many things without individually referring them to me.

Chairman PIKE. I am sure that that does indeed happen, and I am sure that that is one of the reasons that from time to time the operation gets in some difficulty. I am going to reserve the balance of my time.

I yield to Mr. Hayes.

Mr. HAYES. Thank you, Mr. Chairman.

Mr. Colby, the obvious differences between the period we now exist in and that which you described to Mr. Giaimo are readily apparent, and I think that using the answers that you have given, I think it is worthwhile to point those out, that in fact during World War II when we were discussing assassinations of Adolph Hitler—

Mr. COLBY. I don't think we were discussing it at that time. I don't remember discussing it at that time.

Mr. HAYES. Mr. Donovan came down and talked to Carter Manasco at least, and that is the difference. Now no one is coming down here to discuss it with anybody. And so while a national policy is being debated in Congress and being discussed publicly, judgments to destabilize judgments, can originate anywhere, and perhaps even originate as one of those unobtrusive details about which a director does not wish to concern himself.

Mr. COLBY. Oh, no, no, it is not that at all. I am saying that a detail does not raise a policy question and really I am a busy man. I have got a lot of things to do and I do not expect every one in the agency to come up and check every step they take with me.

I expect to be able to define some policies and let them operate within those policies.

Mr. HAYES. You can certainly depend on your internal audit procedures then to reveal any problems that are going on that you might not catch at the moment they are happening.

Mr. COLBY. Certainly.

Mr. HAYES. Even though you reduce the staff from 15 to 4.

Mr. COLBY. I have a lot of other ways of learning, knowing what is going on in the Agency other than that one office. I have an audit staff of, I think, around 40, financial audit staff. I have independent links with various offices that exist there.

Mr. HAYES. You are an extremely sophisticated and knowledgeable person. We have been talking about very rarefied areas of policy-making. We have a difficult job as Mr. Milford pointed out in getting some legislative hardware together on this, and I think that it seems obvious to me that as you use terminology such as the "period of massive confrontation of the 1950s," and the "period of counter-insurgency in the 1960s," all of these kinds of things are sort of appeals to a very low level of political sophistication. And so as we talk about trying to define where these policy decisions and extremely difficult foreign policy decisions are going to be made, and where they are and how we can trace those down and we, in the Congress, can have some feel for them, you simply give us an end run by coming up that we have really no procedures that we can look to. We have no audit staff anymore. We have an OMB Director, who tells us that he is depending upon those internal audit procedures, and yet we find that their task has been cut back and cut down.

I simply make the point in order that those differentiations between 20 and 30 and 40 years ago that you were pointing out to Mr. Giaimo and scored on him with don't just simply slip past us as credits to you.

Mr. COLBY. I don't know quite what your point is.

Mr. HAYES. I am not trying to slip anything past you. I am trying to reflect the fact that the world has changed, the Nation has changed, the intelligence business has changed. And the Congress has changed.

Mr. COLBY. And the Congress is changing, and my job is to try to run the intelligence community and the Central Intelligence Agency as well as I can, and respond to Congress in the way that Congress wants me to respond to it. I am totally prepared to respond to Congress.

Mr. HAYES. But you see in fact most of the policy judgments that you have made run counter to that, because in fact when you do away with internal auditing procedures and along with that the personnel to accomplish those—

Mr. COLBY. I did not do away with internal audit procedures, Mr. Hayes.

Mr. HAYES. You don't say doing away with 11 people out of the contingency of 15, and not redirecting their efforts, was an effort—

Mr. COLBY. I think that was a reasonable judgment based upon the quality of the material that I was very familiar with, and had read over the previous year or two. I was not impressed with its value in determining for me any novel insights into the working of CIA that I did not know otherwise. I am convinced that today I do need more in that staff, but again the recommendation of my Inspector

General does not mean to say to go back to reinstitute that old procedure.

Mr. HAYES. Even though OMB may have been depending upon the existence of that, to take your word that what was done on certificate was done in a correct fashion?

Mr. COLBY. No; I think OMB was dependent upon many other audit procedures we had in the Agency. The activities of the Office of Finance, the activities of the Comptroller, the activities of the audit staff, the activities of the General Counsel, the activities of the different deputy directors with their direct responsibilities. There are many other ways of finding out what is going on in that agency other than depending on the IG to tell you.

Mr. HAYES. That is right, and we are depending on one last court of resort here and that is you at this point, because all of those others have disappeared.

Mr. COLBY. They have not disappeared. I have mentioned them. They all exist. They are right there, and you will have access to those reports of the audit staff, of the Inspector General, to the extent that there are those. You have seen some of those. You will meet the individual Deputy Directors. You will see the reports of the General Counsel. You will see the work of the other—the Comptroller work. All of those processes are available for your inspection. I believe that you will find that the Agency is very well managed indeed.

Chairman PIKE. The time of the gentleman has expired.

Mr. Johnson?

Mr. JOHNSON. Thank you, Mr. Chairman.

I want to return, Mr. Colby, to what I regard as most critical. That is the deficiency in our oversight system within the Congress. We were talking during the last 5-minute period that I had about the method that you had utilized to report to the two Members of Congress in detail and to the other two Members of Congress just in very general terms as to the contents of the Inspector General's report of May 21, 1973.

Do you know if the details of that report were made available to Members of Congress as those events occurred? In other words, this report covers a long period of time.

Mr. COLBY. Yes; I think the general answer would have to be no, Mr. Johnson. There might have been few of them that were revealed from time to time, but I think the general answer is no, just knowing the degree to which matters were discussed in those previous years.

Mr. JOHNSON. Why was that? As I have read through your testimony I have seen where you have said that you personally have only been here for a short period of time—since 1973—so I don't know if you are even able to comment on what previous Directors did, what occurred in their conversations and in their reporting process to the Congress.

You have indicated that you make available what is asked for. If a man doesn't know what to ask, obviously he is at a great disadvantage in trying to find something out.

Mr. COLBY. I have a further obligation that I have undertaken to my oversight committee to tell them.

Mr. JOHNSON. I want to make clear once again that the reforms you have initiated are worthwhile, laudable, and commendable and the public at large when they realize the extent of them will be grateful to you even though you are getting a lot of heat right now, but there may be other Directors who will return to previous ways and we want to stop that.

Mr. COLBY. Right.

Mr. JOHNSON. There really isn't any need to go into the sensational aspects of all this if we don't profit by it and learn to be able to prevent them in the future.

Mr. COLBY. Sure.

Mr. JOHNSON. Now, if the Members of Congress, those few Members who were involved, did not know of these activities as they went on, then obviously our oversight system was terribly deficient and has been, and I want to emphasize and see that that is emphasized again and again, so that the Congress will not object when we recommend changes.

Mr. COLBY. On that, Mr. Johnson, I participated in the briefings of Congress to some extent during the 1960's, and I met various Congressmen abroad when they would visit one of our stations.

In general I think we tried to give a fair picture of what was going on. We would go into really some detail on only some major operation, but we tried to give a reasonable picture.

In the 1960's, for example, we gave a rather full description of what was happening in Laos, but I wouldn't say we described every little thing around the world.

Mr. JOHNSON. In providing some of the details that Congressman Dellums has asked for, I wonder if it would be possible for you, in conjunction with our staff, to prepare a calendar of events, when things happened, such as those that are outlined in the Inspector General's report, when they happened, who in the Congress was informed?

Mr. COLBY. Right.

Mr. JOHNSON. How they were informed, the same thing with respect to all of the briefings of Congress with respect to the budget. It is my understanding that in preparation for the 1969 budget, only one Member of Congress was even informally briefed on it, and that satisfied the other Members and they forgot about it. I don't know if that is a true story or not.

Mr. COLBY. I don't know whether it is.

Mr. JOHNSON. But that is one of the things that we have an indication of what may have happened, so I wonder if it would be possible for you to prepare this kind of calendar of events, when these nefarious activities occurred and who was briefed, and when, and then whatever happened to that information insofar as the Congress is concerned?

Mr. COLBY. Yes, Mr. Johnson, I would be glad to.

Mr. JOHNSON. That may get the monkey off the back of some of your predecessors.

Mr. COLBY. Some of the things I think we will find were reported rather fully and some just did not reach that level.

Mr. JOHNSON. Thank you.

Chairman PIKE. Mr. Lehman?

Mr. LEHMAN. Thank you, Mr. Chairman.

I will try to be very brief because I know Mr. Colby has some other appointment.

Will you repeat the statement you made on the Monday meeting in regards to the role of the organization such as the CIA in the 1944 plotting against the life of Hitler? You made some statement and it is still kind of turning in my mind.

Mr. COLBY. It was a little hyperbole, Mr. Lehman. I was saying that I am against assassination. I do not agree with it. I think it is wrong

and I think it is counterproductive, and I have issued directives against it, but I confess in the dark, backreaches of my mind I would have very cheerfully helped carry the bomb into Hitler's bunker out in Poland in 1944.

Mr. LEHMAN. To pursue that, in other words, at some point it would be the proper function of CIA to participate in assassinations?

Would you have done the same thing to Hitler in 1940, before we ever got into war?

Mr. COLBY. No; I do not think so. I draw the distinction in that case, Mr. Lehman, if you send young men out to die, I don't think old men ought to be immune.

Mr. LEHMAN. Would you have participated—I am just trying to get some boundaries of philosophy that will help me later—would you have done the same thing to Hirohito at the same time you did to—

Mr. COLBY. Absolutely not, Mr. Lehman. Our Government took rather extensive efforts to avoid having anything untoward happen to the Emperor Hirohito all during the war.

Mr. LEHMAN. I think that I will just yield back the balance of my time.

Chairman PIKE. You can reserve the balance of your time.

Mr. Colby, I understand that you have to have a meeting with the Secretary of State. At this time, I will entertain a motion that the committee go into closed session.

Mr. KASTEN. Mr. Chairman?

Chairman PIKE. Mr. Kasten.

Mr. KASTEN. Mr. Chairman, I move that the committee resolve itself into executive session.

Chairman PIKE. The clerk will call the roll.

The CLERK. Mr. Giaimo?

Mr. GIAIMO. Aye.

The CLERK. Mr. Stanton?

Mr. STANTON. Aye.

The CLERK. Mr. Dellums?

Mr. DELLUMS. No.

The CLERK. Mr. Murphy?

[No response.]

The CLERK. Mr. Aspin?

Mr. ASPIN. Aye.

The CLERK. Mr. Milford?

Mr. MILFORD. Aye.

The CLERK. Mr. Hayes?

Mr. HAYES. Aye.

The CLERK. Mr. Lehman?

Mr. LEHMAN. No.

The CLERK. Mr. Kasten?

Mr. KASTEN. Aye.

The CLERK. Mr. Johnson?

Mr. JOHNSON. Aye.

The CLERK. Mr. Pike?

Chairman PIKE. Aye.

The committee is in recess until 2 o'clock this afternoon in executive session.

[Whereupon, at 12:40 p.m., the committee was recessed, to reconvene at 2 p.m., this same day.]

U.S. INTELLIGENCE AGENCIES AND ACTIVITIES

Part 1: Intelligence Costs and Fiscal Procedures

THURSDAY, AUGUST 7, 1975

HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON INTELLIGENCE,
Washington, D.C.

The committee met, pursuant to recess, at 10:05 a.m. in room 2118, Rayburn House Office Building, Hon. Otis G. Pike [chairman], presiding.

Present: Representatives Pike, Giaimo, Dellums, Murphy, Aspin, Milford, Hayes, Lehman, McClory, Johnson, and Kasten.

Also present: A Searle Field, staff director; Aaron B. Donner, general counsel; Richard S. Vermeire, counsel; James B. F. Oliphant, counsel; Peter L. Hughes III, counsel; Roger Carroll and Charles Mattox, investigator.

Chairman PIKE. The committee will come to order.

Today we move from the intelligence-gathering activities which are at least supposed to be operating in gathering foreign intelligence, to those which are gathering intelligence here in America.

Our very efficient staff has provided in the backup book a chapter from a book, based on a conference held at Princeton in 1971, "Investigating the FBI," and the title of the chapter is "The Bureau's Budget—A Source of Power."

It starts out, "The Federal Bureau of Investigation's budget—like the organization itself—stands unique within the Federal Government."

[The chapter on the FBI's budget, excerpted from "Investigating the FBI" and cited by Mr. Pike above, is by Walter Pincus. It is printed on pages 573 to 592 of the appendix.]

I am not going to read any more of this, but it is difficult within the domestic intelligence-gathering activities, as well as within the foreign intelligence-gathering activities, to find out exactly how much is being spent on gathering intelligence over American citizens.

We have today, as our principal witness this morning, Mr. Glen Pommerening, the Assistant Attorney General for Administration, accompanied by Mr. Eugene W. Walsh and Mr. James F. Hoobler.

We are delighted to have you here. I want you to tell us all you can tell us about how much money you spend for gathering intelligence over American citizens and foreign citizens who are located within America.

STATEMENT OF GLEN POMMERENING, ASSISTANT ATTORNEY GENERAL FOR ADMINISTRATION, ACCOMPANIED BY EUGENE W. WALSH, ASSISTANT DIRECTOR, ADMINISTRATIVE DIVISION, FEDERAL BUREAU OF INVESTIGATION; AND JAMES F. HOOBLER, DIRECTOR OF MANAGEMENT PROGRAMS AND BUDGET STAFF FOR THE JUSTICE DEPARTMENT

Mr. POMMERENING. Thank you, Mr. Chairman.

I appreciate the chance to appear before you today to talk about the Department of Justice budget as it relates to intelligence activities and the process by which these activities are reviewed.

My comments, of course, will be based upon my firsthand knowledge of the process, a review of the records of my organization and its predecessor, and such elements of historical knowledge of the Department as may be within my knowledge.

Part 28, subpart O, of the Code of Federal Regulations, vested in the Assistant Attorney General for Administration the responsibility to supervise, direct, and review the preparation, justification, and execution of the Justice budget. This responsibility encompasses the setting of general policies and procedures for the formulation of the overall budget requests for the Department and for each subordinate organization for a given fiscal year.

Our budget, like that of most other agencies, has traditionally reflected a "categorical" approach, organized by appropriation and organization, so that the programs of a given organization have fallen under one or more generalized budget "activities." In the past, these broad categories have not, by themselves, provided much detail on the scope of particular programs.

Beginning with the fiscal year 1975 budget cycle, however, the Department took steps to initiate a more thorough form of budget review when it initiated its management-by-objectives (MBO) program. Under this program, all organizations provided specific objectives for all of their programs for that year.

In the fiscal year 1976 cycle, the Department integrated the management-by-objectives program with the traditional budget process. This step required all organizations to provide specific program objectives in support of their fiscal year 1976 funding request. For the first time, the Department received financial data at the program level of detail, and all major organizations participated in an indepth internal hearing process with senior department officials.

The purpose of these internal departmental hearings was to explore significant policy, program, and resource issues, including those matters relating to the intelligence activities of the Federal Bureau of Investigation.

In carrying out this new program, the Federal Bureau of Investigation made the most extensive submission of data that had ever been given the Department.

While the Department's fiscal year 1976 management-by-objectives budget formulation and internal review process did provide a more comprehensive level of information to the Department's leadership, it was evident that a more structured, programmatic perspective was required to provide greater detail and to facilitate cross-organizational analysis of Department programs.

Consequently, for fiscal year 1977, the Department has developed and implemented an MBO/budget planning system with a detailed program budget structure which highlights over 350 specific programs, including those dealing with intelligence gathering.

This structure enables, and indeed requires, each organization to describe to the Department its fiscal year 1977 plans and the level of resources required. This system is still developmental in the sense that this is the first year it has been tried, but we expect to refine and follow this basic programmatic approach in future years, at least for internal review purposes.

In the fiscal year 1977 cycle, the FBI submitted detailed data on 42 separate programs, some of which are linked directly to its intelligence and counterintelligence programs. Much of this material is classified "Secret," but the submission is the most comprehensive the FBI has ever submitted as part of the Department's budget review process.

The Drug Enforcement Administration reported 38 program areas for fiscal year 1977, of which 6 related to intelligence, it noted that DEA has a budget activity for intelligence activities. The Immigration and Naturalization Service reported 34 program areas for fiscal year 1977, of which two were related to intelligence. Other organizations reporting programs related to intelligence activities in fiscal year 1977 are the Criminal Division and the Office of the Deputy Attorney General, which reported one intelligence program area respectively.

The internal review process for fiscal year 1977 continued the practice of extensive internal hearings oriented toward policy and program issues.

In summary, the Department had a basic but limited capacity to evaluate program and budget requests prior to 1974. Since then the amount of program information and analytical expertise available to the Department has increased markedly. These changes have improved the Department's ability to review programs. Although the formal submission to the OMB and the Congress does not reflect a comparable level of detail, we believe that our new MBO/budget planning system, and any subsequent refinements, will continue to insure Department awareness of intelligence programs and facilitate our ability to evaluate these programs and supporting budget requests.

This concludes my prepared statement, Mr. Chairman. Accompanying me today are Mr. Eugene W. Walsh, Assistant Director for the Administrative Division of the FBI and Mr. James F. Hoobler, Director, Management Programs and Budget Staff for the Department. We will be happy to answer any questions we can in this session and if you have questions related to classified material, we would be happy to respond to them at the appropriate time. Mr. Walsh also has a prepared statement.

[Mr. Walsh's prepared statement follows:]

STATEMENT OF MR. EUGENE W. WALSH, ASSISTANT DIRECTOR, ADMINISTRATIVE DIVISION, FEDERAL BUREAU OF INVESTIGATION

Mr. Chairman and members of the committee, the opportunity to appear before this committee is appreciated and I will do my best to respond fully and accurately to questions regarding the FBI's budget and programs.

While the FBI has submitted its budget request to the Department in a programmatic form only since the fiscal year 1975, it has always submitted its requests in strict conformance with Office of Management and Budget circular A-11 as do other agencies. This circular sets forth very detailed instructions concerning the preparation and submission of budget estimates.

However, extensive detail was provided in testimony before the Office of Management and Budget and congressional Appropriations Subcommittees with regard to the various FBI programs. Prior to the hearings for fiscal year 1975, the congressional appropriations hearings were held in executive session. Former Director Hoover customarily gave a portion of his testimony off-the-record when counterintelligence or other highly sensitive matters were discussed. At the conclusion of the open hearings held by the House Appropriations Subcommittee in connection with the fiscal year 1976 request, an executive session was called by the chairman to permit a discussion of counterintelligence and other similarly sensitive matters.

The FBI has always been willing to answer any inquiries by the Appropriations Committees or any other congressional committees concerning its programs or its use of funds. During the course of this present hearing, Mr. Chairman, should sensitive questions of a classified nature involving national security be brought up for response or discussion, I would request that this be done in executive session.

Chairman PIKE. Let us start with the basic question as to classified material. Who classifies it?

Mr. POMMERENING. Materials we receive are classified by the Federal Bureau of Investigation.

Chairman PIKE. Are they classified by the Director of the Federal Bureau of Investigation or are they classified at some lower level?

Mr. POMMERENING. I believe they are classified at a lower level but Mr. Walsh could better respond to the question.

Chairman PIKE. Who classifies the budget "secret?"

Mr. WALSH. In this particular response, Mr. Chairman, I acted as the classification officer, and it bears my number, No. 9.

Chairman PIKE. Now, what is there about the budget of the FBI that requires it to be secret?

Mr. WALSH. Mr. Chairman, there is nothing about the total budget that requires it to be secret. The only classification—

Chairman PIKE. All right, then what is the total budget of the FBI?

Mr. WALSH. The total budget of the FBI, Mr. Chairman, for fiscal year 1975, amounts to \$449,546,000.

Chairman PIKE. Roughly \$450 million?

Mr. WALSH. That is right, sir.

Chairman PIKE. Now, of that total amount, can you tell us how much is classified "secret?"

Mr. WALSH. I can't tell you exactly, Mr. Chairman, but the idea of the classification is—

Chairman PIKE. You mean you can't tell us because you don't know or you decline to tell us in open session?

Mr. WALSH. No, sir. What I mean is, if I may have an opportunity to explain in my own way, what we are seeking to do is not to reveal the specific resources and manpower committed to counterintelligence—

Chairman PIKE. I understand that, but I am not asking you specifically about resources and manpower. I am asking you for the number of dollars as to which you can't give us any details. How much of that \$450 million FBI budget is secret?

Mr. POMMERENING. Mr. Chairman, in our interpretation of the budget submission we have received from the FBI and the classifications that have been applied to them, the amount that we consider in one way or another constrained by classification is \$82,488,000, which is for fiscal year 1975.

Chairman PIKE. Of the amount which is not classified, how much is dedicated to gathering intelligence?

Mr. POMMERENING. None.

Chairman PIKE. So all of the money which is dedicated to gathering intelligence falls within the secret budget?

Mr. POMMERENING. That is correct.

Chairman PIKE. Is all of the money within the secret budget dedicated to gathering intelligence?

Mr. POMMERENING. My interpretation of the budget submission is that the answer is yes.

Chairman PIKE. Now, tell us why the amount of money—well, I guess it isn't secret any more because you have now told us how much of it is secret, so that is no longer a secret.

We have got \$82 million worth of "un-line-itemed" expenditures for the gathering of intelligence.

Does the GAO audit these expenditures?

Mr. POMMERENING. Yes; they do.

Chairman PIKE. On a complete line item basis whenever they want to without any restrictions?

Mr. WALSH. May I respond to that, Mr. Chairman?

Chairman PIKE. Certainly.

Mr. WALSH. Before I do, I would ask your leave to clarify one statement. I am not positive that the \$82 million figure mentioned by Mr. Pommerening includes intelligence gathered in the field of organized crime.

I would have to check that to make absolutely certain but I feel that type of intelligence is not included in the figure that Mr. Pommerening mentioned.

Chairman PIKE. Are you saying what we spend for intelligence against organized crime is not secret?

Mr. WALSH. It isn't secret in the category of the national defense or security category, but it would certainly be harmful to our effort I would say, Mr. Chairman, if organized crime were aware in specific detail—

Chairman PIKE. I don't have any trouble agreeing with you; all I am trying to find out is, is the \$82 million figure secret intelligence-gathering activities of the FBI which have nothing to do with organized crime?

Mr. WALSH. Mr. Pommerening has advised me that the entire intelligence effort is included in the \$82 million and I stand corrected on that.

Chairman PIKE. Mr. McClory?

Mr. McCLORY. You say that the GAO has reviewed the budget of the Department of Justice and the FBI, and if so, where is the GAO report? Is that available to us? May we have a copy of that?

Mr. WALSH. If I may explain, Congressman McClory, I have some exact data here on the extent of their audit and it is as follows:

During the past 15 years the General Accounting Office has conducted two separate site audits relating to an examination of the Bureau's payroll records.

On January 18, 1964, an audit of payroll records covering the period June 1, 1961, through January 18, 1964, was completed.

On August 3, 1972, GAO completed an audit of payroll records covering the period January 19, 1964, through January 8, 1972.

Mr. McCLORY. They have really never audited the expenditures of the FBI, have they?

Mr. WALSH. For the record, if I could add one additional thing, with regard to the GAO audit of voucher records, three separate site audits have been made during the past 15 years.

In January, 1965, GAO completed an audit of all voucher and related records for the fiscal years 1961 through 1964.

In May 1969 their audit covered the fiscal years 1965 through 1968 period and in April 1972, GAO audited these records covering fiscal years 1969 through 1971. That is the extent of their audit except for what is going on at the present time.

Mr. McCLORY. The FBI refused access to GAO for auditing their expenditures. How about the secret funds, the intelligence funds? They haven't been audited by the GAO, have they?

Mr. WALSH. No; Mr. Congressman, they have not specifically audited funds for intelligence.

Mr. McCLORY. How many people worked on the FBI budget?

Mr. POMMERENING. Mr. Chairman, I think that is a question for me. Mr. Walsh, of course, has an extensive staff assisting him in the preparation of the budget submissions of the FBI.

The staff which is available to me in budget preparation for the entire Department is 53 in number.

Mr. McCLORY. How many do the FBI?

Mr. POMMERENING. There are a total of five analysts assigned to the Federal Bureau of Investigation.

Mr. McCLORY. How many OMB personnel really go into the FBI budget?

Mr. POMMERENING. The Office of Management and Budget, I understand, has seven people whose responsibility includes the entire Department of Justice and the entire Department of the Treasury. They only have one person that I know of with the FBI.

Mr. McCLORY. Now, did the former Director, J. Edgar Hoover, defend funds that were available to him separately for his personal investigations, or his personal files that he maintained?

Mr. WALSH. To my knowledge, sir, he did not.

Mr. McCLORY. Would that be covered in any fiscal report, any budgetary report?

Mr. WALSH. I don't know that it would be covered anywhere, Mr. McClory. I just have never heard this situation raised.

Mr. McCLORY. How about the program of Cointelpro? Are you familiar with that?

Mr. WALSH. I am familiar with that, sir, in a very general way. It was never under my supervision—

Mr. McCLORY. Was that program presented to the Appropriations Committees of the House and the Senate, and appropriations specifically designated for that program?

Mr. WALSH. The Cointel program, as I understand it, was discussed off the record by Mr. Hoover before the House Appropriations Committee, on at least six occasions.

Mr. McCLORY. That would be a program that would go into the secret, unaudited funds, would it not?

Mr. WALSH. That program, sir, was not separately funded. There is no fund specifically assigned to what you are referring to as the Cointelpro.

Mr. McCLORY. Are the funds for those purposes discontinued, at the present time, do you know?

Mr. WALSH. That program has been discontinued.

Mr. McCLORY. My time is already up. Thank you.

Chairman PIKE. Mr. Dellums?

Mr. DELLUMS. Mr. Chairman, I request unanimous consent to reserve my time.

Chairman PIKE. Mr. Murphy?

Mr. MURPHY. How are the covert programs in the FBI currently reflected in the budget?

Mr. POMMERENING. Mr. Murphy, the way the budget is submitted through the Office of Management and Budget and to the Congress, the funds which are used for intelligence purposes are included under the category Security and Criminal Investigations and Field Investigations.

Mr. MURPHY. Is any of this money ever transferred to other agencies?

Mr. WALSH. No, sir.

Mr. MURPHY. Could you tell us how much money was spent last year on electronic surveillance?

Mr. WALSH. I do not have that information, Mr. Murphy. I would regard it as being confidential in the interests of national security. I would say if this committee required that information, we could obtain it and submit it but I do not have that information.

Mr. MURPHY. I wish you would submit it. We do require it. Would you please submit it to the committee?

[The information requested by Congressman Murphy will be printed in the appendixes of the November 18, 1975, hearing.]

Mr. MURPHY. Let me know if you use any other intelligence, garnered through electronic surveillance, from any other agency. In other words, does the NSA or the Central Intelligence Agency, do they let you share information they receive through electronic surveillance, or any other method in which they get it?

Mr. WALSH. If I may preface my response, Mr. Murphy, I am not an expert in this field.

Mr. MURPHY. To whom should we address these questions?

Mr. WALSH. That particular question would be within the realm of the responsibility and knowledge of Assistant Director Wannall. I know in a general way, Mr. Murphy, that all agencies in the intelligence community share intelligence information.

Mr. MURPHY. Did our staff indicate to you that we might get into these areas before your appearance here today?

Mr. WALSH. Not this particular area; no.

Mr. MURPHY. Any of you gentlemen? Your answer is no?

Mr. POMMERENING. No.

Mr. MURPHY. Do you maintain a central registry of informants' names?

Mr. WALSH. Yes, we do, Mr. Murphy.

Mr. MURPHY. Mr. Chairman, I am going to reserve what time I have left and pass at this moment.

Chairman PIKE. Mr. Aspin?

Mr. ASPIN. Thank you, Mr. Chairman.

Are any of you gentlemen the kind of person who could give us some opinions about the current status of wiretapping and what is legal and what is not legal? Is that in your purview?

Mr. WALSH. It is not in mine, Mr. Aspin.

Mr. ASPIN. Do you know, for example, does the FBI or the Justice Department provide information to the NSA and ask the NSA to help in conducting surveillance? I am thinking particularly of the NSA's wiretap operations. Do you provide input for them on those?

Mr. WALSH. I honestly can't respond to that because of lack of knowledge, Mr. Aspin. It is not in my field and I really don't have that information.

Mr. ASPIN. Could you tell us about the \$82 million in the budget? Give us broad categories as to what that goes to. What are the different things for which that money is spent?

Mr. POMMERENING. Mr. Aspin, the subcategories of that item—and I hasten to add that these are not all secret funds—the security classification is applied to the total, to eliminate the possibility, by subtraction, of isolating the figure which is the figure sought to be protected.

The program activities which are included in that category are, internal security, counterintelligence, and intelligence—broken down into general criminal, organized crime, internal security intelligence, and counterintelligence.

Mr. ASPIN. Can you tell us broadly within that—are there any numbers that can be released about how much is spent on those things?

Mr. POMMERENING. That is the problem we have, Mr. Aspin. If we release some, by the process of elimination—

Mr. ASPIN. Which is the biggest? Can you give me an order of magnitude of how much is spent?

Mr. POMMERENING. There are three of them that are at about the same level.

Mr. ASPIN. Can you tell us which three those are? Are those the three largest?

Mr. POMMERENING. Internal security, counterintelligence, and intelligence with its subcategories, are all—

Mr. ASPIN. Are all three about the same?

Mr. POMMERENING. That is correct.

Mr. ASPIN. What is the difference between internal security and counterespionage?

Mr. POMMERENING. In general terms—and, of course, the interpretation of these definitions, in large part, must rest with the operating agency which must assign costs and man-years between them. Under the internal security category—general guidelines—we have violation of constitutional rights, including civil rights; problems of terrorism, and problems of anti-Government activity.

Mr. ASPIN. Counterespionage would be what?

Mr. POMMERENING. In counterintelligence, we have the general problems of reviewing and being aware of intelligence activities of other nations, and attempts to assess the extent of them and to take appropriate measures to deal with them.

Mr. ASPIN. If you did wiretaps, for example, they might be under any of those?

Mr. POMMERENING. Yes.

Mr. ASPIN. As the cost of a particular wiretap connected with it, it would fall under the category of whatever it was, espionage, or there might be an internal security wiretap; is that right?

Mr. POMMERENING. Yes.

Mr. ASPIN. Mr. Chairman, my time is up.

Chairman PIKE. Mr. Kasten?

Mr. KASTEN. I want to go back to a question Mr. McClory raised. How was Cointelpro reflected in the FBI budget?

Mr. WALSH. Mr. Kasten, there is no such program at the present time.

Mr. KASTEN. How was it reflected in the FBI budget? It is my understanding it was not reflected in the FBI budget. Is that your understanding?

Mr. WALSH. Yes, sir. It was part of a general category of field investigations.

Mr. KASTEN. If another program like that were instituted today or tomorrow, would it be reflected in the budget under the new procedure, under the new format, or would it still be not listed? Would it still be completely hidden?

Mr. WALSH. It would have to be reflected in the material that we submit to the Department of Justice, specifically to Mr. Pommerening's organization, but I don't believe the formal budget submission has been adjusted by Congress to require, or reflect, that type of information.

Am I correct on that?

Mr. POMMERENING. Yes.

Mr. KASTEN. In fiscal year 1976 how many FBI personnel were stationed abroad?

Mr. WALSH. From recollection, sir, I would say 83, subject to correction of one or two employees.

Mr. KASTEN. It could be there were 77—54 legal attachés and 43 support people?

Mr. WALSH. That would be approximately correct.

Mr. KASTEN. About how much money do you think these people cost?

Mr. WALSH. I don't have that, sir, but I can easily obtain it.

Mr. KASTEN. Would \$4.2 billion be it?

Mr. WALSH. That does sound reasonable, sir; yes.

Mr. KASTEN. I want to ask some questions about the activities of the FBI abroad. Would you characterize a program to insure—I am quoting from a report that you prepared—"a program to insure a constant and prompt exchange of information" a form of intelligence gathering?

Mr. WALSH. I think it could be so characterized.

Mr. KASTEN. If this were done overseas, would it not be a form of foreign intelligence gathering?

Mr. WALSH. I think, Mr. Kasten, it depends on your definition. We are not operational in any way whatsoever abroad. We must rely on what our counterparts impart to us—

Mr. KASTEN. That quote "program to insure a constant and prompt exchange of information" which you agreed was a form of intelligence gathering, was extracted from the budget justification for the FBI legal attaché program. That is page 117 of the fiscal year 1977 spring planning call.

My question is, why isn't the legal attaché program simply called "foreign intelligence"?

Mr. WALSH. Primarily, Mr. Kasten, because that would constitute, I would say, a minor portion of their responsibilities. A great deal of their efforts go into an exchange of criminal information and searching out of information, regarding fugitives who are abroad and things of that nature.

Mr. KASTEN. You said it would be a minor part of their responsibilities. Could you define further that minor part of their responsibilities. The foreign intelligence part of the legal attaché responsibilities, which you said was a minor part? Exactly what is that?

Mr. WALSH. You take the normal legal attaché office, it has only one or two agents assigned. That office has the responsibility of maintaining liaison with the top law enforcement agencies in the entire area under its jurisdiction.

Mr. KASTEN. There is a portion which you would describe as foreign intelligence; is that correct?

Mr. WALSH. It could be so described, Mr. Kasten; yes, sir.

Mr. KASTEN. In the spring planning call of fiscal year 1977, I have a question about an informant classification of \$413 million. Why was this listed under Object Class 212, "Travel and Transportation of Persons," this year where in previous years it was listed under a category called Other Services? Why are you making this change? It makes it hard to follow if you keep putting the numbers in different categories.

Mr. WALSH. What happened there, Mr. Kasten, if you will give me a moment to refer to this, historically, payments to informants were carried in the FBI budget under Object Classification 21, entitled "Travel and Transportation of Persons."

Beginning with fiscal year 1977, it was decided in conference with the Department of Justice that it would be more appropriate, if it were set forth under Object Classification No. 25, which is Other Services.

Mr. KASTEN. My question was, what are you doing here? Do you just think it is more appropriate?

Mr. WALSH. What happened, sir, in the past fiscal year, the Congress restricted travel by statute during the middle of the fiscal year and the interpretation that we placed on that was a very strict one and we construed it to mean that any expenditure by the FBI under Object Classification No. 21 had to be restricted by that congressional enactment.

Chairman PIKE. The time of the gentleman has expired.

Mr. Milford?

Mr. MILFORD. I will reserve my time, Mr. Chairman.

Chairman PIKE. Mr. Hayes.

Mr. HAYES. Thank you, Mr. Chairman.

I wonder if either of you, or anybody, is prepared and can discuss with me the method of budgeting and the procedures that were used in the Mississippi civil rights investigation and the ultimate civil rights prosecutions, particularly the one in Philadelphia, Miss., involving the murder of civil rights workers and the penetration of the Klan there. Do you happen to know how those budgets were allocated, how the funds were—

Mr. WALSH. I may be able to give a partial response.

Mr. HAYES. Maybe you can submit that, if you can't discuss it now. None of you are familiar with that area, how it was done?

Mr. WALSH. If I may give a partial response, sir. There would have been no specific budgeting for that.

Mr. HAYES. Under your organization chart here, would it not be in the Internal Security Branch? Would it have been in the "IS-1" section?

Mr. WALSH. No, sir, Congressman Hayes, that type of investigation was supervised in another part of the FBI, the General Investigative Division.

[The organizational chart of the FBI is printed facing page 397 of the appendix.]

Mr. HAYES. Is that a common practice to have something operate out of your Intelligence Division, yet being supervised from another branch?

Mr. WALSH. No, sir. What I meant to convey was that civil rights can be construed as both a criminal violation and an internal security type violation. For a long time, all civil rights cases were investigated out of the General Investigative Division.

We had a whole section, and still do have a whole section, in the General Investigative Division, devoted to that type of activity.

Mr. HAYES. So that General Investigative Division may have used part of its funds, then, for what, in essence, can be described—at least according to your functional organizational chart—as an intelligence activity?

Mr. WALSH. Absolutely, sir.

Mr. HAYES. Penetration of an organization like the Ku Klux Klan or any ad hoc group like that?

Mr. WALSH. Absolutely. Yes, you are correct.

Mr. HAYES. Would those funds in the other branch have been confidentially held and not, for example, allocated after having been testified to before the Appropriations Committee?

Mr. WALSH. There was no testimony, Mr. Hayes, required, as to that type of funding. Testimony would have been in general terms. I cannot recall ever being required to testify with that degree of specificity.

Mr. HAYES. Let me discuss at this point, then, in terms of funding the items for the intelligence division's work and particularly that part outlined as the "IS-1" section which has to do with black and American Indian extremists and white hate organizations and individuals, extremist Spanish-American activities, civil unrest and acts of violence, extremist informants. Now, the funding for that particular operation, is that a hidden budget item, or do you have a line item listed like that?

Mr. WALSH. We don't have a line item, Mr. Hayes, but I don't regard it as hidden funding. It is simply that in presenting our budget for congressional approval, there has not been a requirement to specify with that degree of particularity, all of the expenditures of the FBI.

If that were done, sir, I submit the FBI budget would be hundreds of pages.

Mr. HAYES. I don't want to quarrel with you about it. You may be right. It may be 9,000 pages.

Is it a matter to which you testify as to what kind of operations and programing you intend to carry out under that section when you go down and testify? Do you testify in closed hearings on that item?

Mr. WALSH. No, Mr. Hayes, the type of testimony is published. I have here a reprint of the 1976 testimony before the House Subcommittee on Appropriations.

Mr. HAYES. I understand. Have you ever confidentially testified—I am not asking about the substance of it—have you ever confidentially testified as to what type activities you carry out under that section, to a committee of Congress?

Mr. WALSH. I have no recollection that that was done.

Mr. HAYES. Has anybody?

Mr. WALSH. I couldn't say 100 percent that it was not, but I have no recollection or knowledge that it was done.

Mr. HAYES. Thank you.

Chairman PIKE. Mr. Johnson.

Mr. JOHNSON. Thank you, Mr. Chairman.

I think, Mr. Walsh, you testified that the organized crime portion of the budget was included in the \$82 million that was kept secret; is that correct?

Mr. WALSH. Mr. Johnson, that was organized crime intelligence to which reference was made.

Mr. JOHNSON. Why would that be regarded as an intelligence-gathering activity, and why must that be kept secret? The amount you spend—

Mr. WALSH. It would provide some assistance to those elements in organized crime which we are attempting to counter, if they knew exactly how much money was being committed for intelligence gathering and exactly how much manpower was being committed by the FBI to counter the threat which organized crime imposes upon this country.

I think that information would be extremely valuable to them.

It is not classifiable as national security information, but I do believe it should not be publicly revealed.

Mr. JOHNSON. That is the justification for its not being published; is that right?

Mr. WALSH. That is it, sir; yes.

Mr. JOHNSON. Who classifies that? Who makes the determination it should be classified?

Mr. WALSH. We made that determination in executive conference of all the assistant directors, and the Director, and it is a matter of policy that the FBI's position is that should this information be revealed publicly, it would be a source of comfort to organized crime figures whose activities—

Mr. JOHNSON. You, yourself, made that determination even though you admit it is not a matter of national security.

Mr. WALSH. That is exactly right.

Mr. JOHNSON. Did any Members of Congress object to that, as far as you know?

Mr. WALSH. No, sir.

Mr. JOHNSON. Did they ever question you about it, as far as you know?

Mr. WALSH. No; not as far as I know, sir.

Mr. JOHNSON. Which committee of Congress do you report to regularly?

Mr. WALSH. We have no procedure for reporting regularly to any committee of Congress, Mr. Johnson. We appear once a year before the House Subcommittee on Appropriations and once a year before the Senate Committee on Appropriations and that is the extent of regular appearances.

Mr. JOHNSON. How long do you generally testify before those subcommittees?

Mr. WALSH. Three hours, four hours, something like that, sir.

Mr. JOHNSON. During that period of time do they really get into your activities? They obviously cannot; can they?

Mr. WALSH. The various Congressmen have particular items in which they are interested and they question the Director, who is the principal witness concerning those items of interest to them, in addition to what we have submitted in writing.

Mr. JOHNSON. Has there ever been a detailed investigation by the Congress as to why you have classified this various information? Have they ever asked you to justify the amounts that are spent and kept secret from the public, with respect to just the intelligence designation of organized crime?

Mr. WALSH. No, Mr. Johnson. To my knowledge we had no conversation with the Congress on that subject.

Mr. JOHNSON. Have you ever been before the Judiciary Committee and explained your activities in detail so they can analyze your programs and activities?

Mr. WALSH. I have not, sir, but at the direction of the Judiciary Committee we are currently undergoing a rather extensive audit by the General Accounting Office.

Mr. JOHNSON. But so far as you know, there have never been any appearances before the Judiciary Committee explaining in detail the intelligence gathering activities and everything designated as intelligence.

Mr. WALSH. No; I believe those hearings will be forthcoming, Mr. Johnson.

Mr. JOHNSON. When was the last time they had any hearings like that, if you know?

Mr. WALSH. I don't know.

Mr. JOHNSON. Not since memory of man goeth to the contrary?

Mr. WALSH. I just don't know of any.

Mr. JOHNSON. In effect what you are saying then is that there has been no congressional investigation, no congressional knowledge. Not necessarily as a result of the FBI trying to hide anything, but just because the Congress has not looked into it?

Mr. WALSH. What I am saying, sir, is that we have made our budget presentation each year in accordance with statute and—

Mr. JOHNSON. You indicated that your budget, though, is in very broad, general terms.

When you have your budget presentation, how many line items are there?

Mr. WALSH. I think that term "line item," Mr. Johnson, is sometimes misunderstood. We do not have a line item budget as such. We have program activities under which we budget and they are five in number: Security and criminal investigations, identification by fingerprints, criminal and scientific laboratory, training, and general administration.

You could refer to those as line items if you wanted to, but those are the items under which we have been reporting traditionally and still will be reporting, as I understand it.

Chairman PIKE. The time of the gentleman has expired.

Mr. LEHMAN?

Mr. LEHMAN. Thank you, Mr. Chairman.

The four main areas are intelligence gathering, organized crime, general crime, internal security, and counterespionage?

Mr. WALSH. Yes, sir.

Mr. LEHMAN. For the sake of understanding what these mean, in which of these categories would the Patty Hearst case fall?

Mr. WALSH. That would be a general investigative activity.

Mr. LEHMAN. None of these?

Mr. WALSH. No, sir.

Mr. LEHMAN. For instance, how about the Jimmy Hoffa case: would that fall into these categories?

Mr. WALSH. No, sir, it would not.

Mr. LEHMAN. Do you wiretap and have electronic surveillance in all these four areas I just mentioned?

Mr. WALSH. I will have to review that again.

We do have in the organized crime field wiretaps under title III. These are wiretaps which are pursuant to warrant, authorized by title III.

There are very few that would be utilized in the general crime area and they would be within the prescribed boundaries of the statute.

In the field of internal security, to my knowledge, there are none, but I must state I am not the Bureau's expert on that and as to counterespionage, we have had in the past, and possibly do today—I can't speak authoritatively on that.

Mr. LEHMAN. You are not sure whether you have wiretaps or not on internal security?

Mr. WALSH. I am quite certain that we do not.

Mr. LEHMAN. Do you have any wiretaps on any kinds of classification other than these particular four? For example, political dissidents or the enemy's list from the last administration.

Do you do any wiretaps other than in these particular four categories?

Mr. WALSH. I know of none, Mr. Congressman.

Mr. LEHMAN. Have any wiretaps been placed on the Hill, for instance? Are there any FBI wiretaps on Capitol Hill in congressional offices or offices related thereto?

Mr. WALSH. Absolutely not.

Mr. GIAIMO. Will the gentleman yield?

Mr. LEHMAN. I yield.

Mr. GIAIMO. Would you know if there were?

Mr. WALSH. Mr. Congressman, this is not my field—

Mr. GIAIMO. That can be answered easily. You either would or wouldn't know. My suspicion is you would not know.

Mr. WALSH. If we are seeking an answer as to a legally constituted—

Mr. GIAIMO. Would you know if in fact there are wiretaps on Capitol Hill today? Can you assure us that there are not?

Mr. WALSH. All I can assure you, sir, is that to my knowledge there are not but it is not my field.

Mr. GIAIMO. You don't know.

Mr. WALSH. Legally speaking that is true.

Mr. LEHMAN. What I am trying to find out is, if there were, can you give me any legal authority for such wiretaps?

Mr. WALSH. No, sir. I just am not the expert in that field. I regret I can't answer your question. I am not prepared to do so.

Mr. LEHMAN. If there were wiretaps in the Hill, or in any offices on the Hill, would they be illegal wiretaps under any legal authority, which you would know?

Mr. WALSH. I just cannot address myself to that question, sir.

Mr. LEHMAN. I yield back the balance of my time.

Mr. GIAIMO. I am a little confused as to the thrust of your testimony, Mr. Pommerening. Recently you said that heretofore there was no need for the type of specificity, then you said there were no procedures, and then I understood you to say in response to questions of congressional oversight, that there were 3- or 4-hour hearings on your budget.

I have served on the Appropriations Committee since 1963, which is quite a long time. Since that time I have formed certain conclusions. One of my conclusions was that the FBI had a very sacrosanct budget, which truly did not receive any kind of congressional oversight or or congressional scrutiny.

Was I wrong in that conclusion and assumption?

Mr. WALSH. I didn't play a——

Mr. GIAIMO. I understand you didn't but you have been in the Justice Department and I suppose you have been for some years, and you are familiar with the budget.

Mr. WALSH. I represent the FBI, sir, and I am Mr. Walsh, rather than Mr. Pommerening. I just wanted to make sure who you want to answer the question.

Mr. GIAIMO. You.

Mr. WALSH. And the question is?

Mr. GIAIMO. On the adequacy of oversight by Congress of the FBI's budget you said there was no need for specificity; procedures were few and far between.

Is it not a fact that for the first time the Bureau's budget is really beginning to be looked at by Congress like other budgets? Hasn't the Bureau's budget really been treated specially as a practical matter by Congress? I don't think that is a strange fact to the American people, but I would like to hear your comment on it.

Mr. WALSH. I think that the testimony of former Director Hoover was given great weight by the members of the Appropriations Committee.

Mr. GIAIMO. It certainly was, it certainly was.

Mr. WALSH. That is my response to the question. I believe his testimony was given great weight by the members of the Appropriations Committee.

Mr. GIAIMO. Does that explain the reason why there was very little congressional oversight or very little need for specificity or procedural development in the budget of the FBI?

Mr. WALSH. Our budget, sir, was submitted in compliance with OMB guidelines in their circular, A-11. It went right down the line.

Mr. GIAIMO. I think you have answered the question.

In response to a previous question, did I understand clearly that the reason for secrecy in your budget was primarily, and almost practically, so that organized crime could not take comfort from the budget figures?

Mr. WALSH. No, sir, that was a side issue. The principal reason is that in our counterintelligence effort, we feel it would be a source of comfort to our adversaries if they know the number of employees and the financial resources being committed to the counterintelligence effort.

Mr. GIAIMO. Now define "adversaries" for me because an adversary could be anyone charged with a crime in the United States.

Mr. WALSH. In this instance we define adversaries as the members of foreign intelligence gathering organizations who are directed against the United States.

Mr. GIAIMO. I am referring to that prior colloquy that you had with Mr. Kasten. I believe it was about organized crime taking comfort from having a knowledge of your secret budget figures.

Mr. WALSH. Yes, sir. We have a program to combat organized crime, and it is well known and it has been testified to that we do have such a program and it is my feeling that should a specific number be publicized as to the agent manpower and financial resources being committed to that program, it would provide a source of comfort to organized crime figures. That is all I meant in that regard.

Mr. GIAIMO. Mr. Chairman, I reserve the balance of my time.

Chairman PIKE. Mr. Field?

Mr. FIELD. Thank you, Mr. Chairman.

Mr. Walsh, I would like to get into the area of duplication and how good some of these programs are. I would like to begin with the counterintelligence program.

How much of the \$82 million budget goes to counterintelligence? Is there an approximate figure you could give us?

Mr. WALSH. This is just the thing, Mr. Field, that I asked relief from answering on the ground—

Mr. FIELD. Let us say it is substantial portion of the budget. In fact I think one of the things the staff was most amazed by is that it is a large part of your intelligence budget.

Does this include overseas authority? In other words, can you do some counterintelligence overseas?

Mr. WALSH. No, sir, we are not operational overseas.

Mr. FIELD. You have no counterintelligence overseas.

Mr. WALSH. You get to a question of definition, Mr. Field. If the chief—

Mr. FIELD. May I interrupt for a second?

Your own program description indicates that you do.

Is that wrong?

Mr. WALSH. No, sir, it is a question of definition, as you see it.

Mr. FIELD. I would like to go into the kind of jobs we do here.

How many foreign agents are there in this country?

Mr. WALSH. I haven't any idea, Mr. Field and I don't think anybody else does.

Mr. FIELD. In other words we spend all this money but we don't really know how many people are out there? Do we have even an approximate idea within a couple thousand?

Mr. WALSH. I think there are estimates, Mr. Field, ranging up as high as 40 percent of the official establishments of some foreign governments.

Mr. FIELD. I thought the range went from 35 and in some cases even up to 80 percent. Nevertheless it is a lot of people. Thousands and thousands of people.

I will tell you why I raise this: We have seen an enormous effort made to keep our staff and keep this committee from finding out even fundamental things like the budget of our intelligence community.

I am trying to figure out how much effort we have put into actually keeping the so-called enemy from finding out these things.

How many of these thousands and thousands of foreign agents where you have spent millions and millions of dollars and thousands and thousands of man-years to catch—how many have you caught? In the last 6 months, let's say.

Mr. WALSH. Mr. Field, as I indicated to the gentlemen of the committee, here, I am not the Bureau's expert in this field—

Mr. FIELD. Have you a rough ball park idea? Have you caught, let's say, two?

Mr. WALSH. I don't have a rough ball park—

Mr. FIELD. Have you caught three out of these thousands?

Mr. WALSH. I can't address myself to that.

Mr. FIELD. Are you aware that the CIA, the DIA, the Army, the Navy, the Air Force and NSA, all have their counterintelligence programs?

Mr. WALSH. I haven't acquainted myself with their programs, sir.

Mr. FIELD. Perhaps I can help coordinate the intelligence community, here.

Do you know how much they spend?

Mr. WALSH. No, sir, I haven't the slightest idea.

Mr. FIELD. Do you know if the CIA spends more than you do?

Mr. WALSH. I would certainly think so.

Mr. FIELD. We could again perhaps help you. I will have the staff afterward, if you like, give you some idea of what they are spending because it might help.

Do you know how many they have caught?

Mr. WALSH. I haven't the slightest idea.

Mr. FIELD. Do they tell you what they are doing in general terms, even?

Mr. WALSH. We have liaison with them, Mr. Field, but it is not under my supervision and I cannot speak with any degree of expertise on it.

Mr. FIELD. Has anybody in the administration ever told all of these people, who spend multi-multi millions of dollars, over and over again—really on the same program—has anybody in the vernacular of my generation, told them to "get their act together"?

Mr. WALSH. I have no knowledge on that, no, sir.

Mr. FIELD. Is the real reason that the FBI spends a lot of money on counterintelligence perhaps not because they are going after the same person the CIA is, but because the FBI, under the guise of counterintelligence, is really going after such foreign threats as Angela Davis and that kind of thing? Is that really not where most of the manpower and the money is going?

Mr. WALSH. No, sir.

Mr. FIELD. Thank you very much.

Mr. Chairman, I yield back the balance of my time.

Chairman PIKE. Mr. Pommerening, what is the total budget for the Department of Justice?

Mr. POMMERENING. I believe our estimates for the fiscal 1976 budget are \$2,116,000,000.

Chairman PIKE. That is close enough.

In the budget book for fiscal year 1976 it says that the FBI received, in 1974, 745,840 matters to investigate. Don't these investigations constitute gathering intelligence on American citizens?

Mr. POMMERENING. The gross number of matters which FBI received to investigate—of that gross number, the vast, vast majority are violations of Federal criminal statutes. And in—

Chairman PIKE. You say the vast majority of investigations constitute violations of Federal criminal statutes. How many of your investigations are just the kind of background investigations that I had to get for every member of my staff sitting down here? Just background investigations of American citizens?

Mr. WALSH. I would say, if I may respond to that, Mr. Chairman, we had a survey which would embrace that and it is 3.798 percent of our efforts devoted to applicant matters.

Chairman PIKE. Roughly 4 percent, then, of these 745,000 investigations would be that kind of investigation; is that right?

Mr. WALSH. That is right, Mr. Chairman.

Chairman PIKE. Out of these 745,840 criminal investigations, how many were submitted for prosecution?

Mr. WALSH. The 745,000-odd embraces all of the investigations, not just criminal.

Chairman PIKE. All right. The vast majority of these are criminal investigations?

Mr. WALSH. Yes, sir, that is correct.

Chairman PIKE. Give me the number. How many of them were criminal investigations?

Mr. WALSH. I don't have the number offhand, sir. I could take a guess at it; 75 percent would be my guess.

Chairman PIKE. So you have 25 percent—you have roughly 150,000 investigations which were conducted last year, which were noncriminal investigations; is that correct?

Mr. WALSH. I'd say so.

Chairman PIKE. What were they all? If only 3 or 4 percent of them were these background investigations? What are you investigating besides crimes?

Mr. WALSH. We have jurisdiction over certain civil statutes, Mr. Chairman. I regret I don't have a list of them here—

Chairman PIKE. Are not the things you are investigating under these statutes supposed to be crimes? You investigate people who have not committed crimes, other than these background investigations? As to which there is no allegation of crime?

Mr. WALSH. The principal investigative activity that we have is based on an allegation of crime, yes, sir.

Chairman PIKE. That I know, but I am talking about the one-fourth of them that are not allegations of crime.

Mr. WALSH. The majority of them are the applicant-type and security investigations.

Chairman PIKE. We have a statistical problem here.

Under what authority, Mr. Walsh, do you take out a red stamp and say that "This document shall be secret"?

Mr. WALSH. There are regulations promulgated by the——

Chairman PIKE. Do you know what the regulations are?

Mr. WALSH. I can't——

Chairman PIKE. What is your authority to classify your budget figures as secret?

Mr. WALSH. An Executive order, sir.

Chairman PIKE. Do you know the number of the Executive order?

Mr. WALSH. I don't.

Mr. POMMERENING. Executive Order 11652, Mr. Chairman.

Chairman PIKE. It says Mr. Walsh may classify such figures as he wishes to as secret, as far as the budget is concerned. That is his authority. I don't mean to indicate he is using this in an arbitrary fashion, but——

Mr. POMMERENING. The Executive order gives the Bureau the authority to classify items of information, the dissemination of which would be prejudicial to the national security of the United States.

Chairman PIKE. National security of the United States.

Now is there any other authority that Mr. Walsh has by which he can classify documents secret?

Mr. POMMERENING. No, sir.

Chairman PIKE. Whose judgment is it that the budget would be prejudicial to the national security of the United States?

Mr. POMMERENING. Mr. Chairman, the budget of the FBI is not, in total, classified.

Chairman PIKE. Well, any portion of it, on the budget.

Mr. POMMERENING. The determination of the Bureau.

Chairman PIKE. Mr. McClory?

Mr. McCLORY. Mr. Pommerening, you have undertaken an in-house investigation of how to better evaluate your own programs and to get better dollar value for the different activities which are carried on by the Federal Bureau of Investigation; have you not?

Mr. POMMERENING. We are, yes.

Mr. McCLORY. And that was done just recently. Well, it is completed isn't it? Was there not an investigation undertaken by the FBI's inspection division of its own activities in April, March, and April of this year?

Mr. POMMERENING. The internal audit staff of the Department of Justice is under my jurisdiction. It has recently initiated the first major audit that has been made on the departmental level within the jurisdiction of the FBI. The subject of their review is the inspection capacity and ability of the FBI.

Mr. McCLORY. The work has all been completed, has it not?

Mr. POMMERENING. The audit, I believe, has been completed.

Mr. McCLORY. You have not made that report available to our committee yet, have you?

Mr. POMMERENING. I don't believe I have gotten it from my staff, Mr. McClory.

Mr. McCLORY. Do you know when you are going to have it? When you have it, we can have it; can we not?

Mr. POMMERENING. Certainly.

Mr. McCLORY. Are you familiar with the report on the Interagency Committee on Intelligence of 1970, in which Mr. Hoover participated?

Mr. POMMERENING. I am not.

Mr. WALSH. I am not, Mr. McClory.

Mr. McCLORY. That would be a secret document, but you would have it in your possession, would you not, because Mr. Hoover had one.

Would you get that and would you look it over please? It has something to do with coordinating activities in the area of intelligence. Would you do that?

Mr. POMMERENING. Certainly.

Mr. McCLORY. Would you make that available to this committee, too? Since I know you have a copy. I am not going into any of the details regarding it but, you see we are trying to get, really, at the crux of the problem and one of the problems is that we have a terrible lack of coordination between the intelligence agencies, including the FBI.

[The 1970 report requested by Mr. McClory is in the committee files.]

Mr. McCLORY. We established the Drug Enforcement Agency. What I would like to know is this: What has happened as far as the FBI's interception, interdiction, whatever you call it, of drug traffickers as a result of this, since they have separate and independent authority to investigate and apprehend drug traffickers? What I am concerned about is, maybe what the Congress does by developing more agencies and more divisions to attack particular problems, is really create problems for ourselves by dispersing authority. Could you comment on that?

Mr. POMMERENING. The enforcement of the Federal criminal laws in the area of narcotics and dangerous drugs is a discrete area of law enforcement and the administration and the Congress in their infinite wisdom have deemed it appropriate it be handled by a separate organizational entity within the Department of Justice.

Since the creation of the Drug Enforcement Administration on July 1, 1973, our staff in its activities in supervising that budget has been impressed by the good levels of liaison and cooperation that exist between the two organizations. As I understand it, any information or any leads that the Bureau surfaces in the pursuit of their other responsibilities are immediately transmitted to DEA for their appropriate action.

Mr. McCLORY. My information is we have really had a breakdown in apprehending the big drug traffickers. We are getting more of the middle level drug traffickers and those in the lower levels but some of the big operators in hard drugs are not being detected the way they were just a few years ago.

Do you utilize the CIA in connection with drug enforcement as well?

Mr. POMMERENING. I would have to, Mr. McClory, go back and review some of my DEA materials in order to respond with the degree of accuracy to which I think you are entitled. I did not do that prior to this morning's session.

Mr. McCLORY. I see my time is up, Mr. Chairman.

[The information requested is in the committee files.]

Chairman PIKE. Mr. Dellums.

Mr. DELLUMS. Mr. Chairman and members of the committee, while we are proceeding on our long journey to follow the dollars, what is really at issue here is the people's freedom specifically guaranteed by the Constitution and the Bill of Rights to that Constitution.

It seems to me here the question is whether or not we have already lost many of our freedoms through agencies ostensibly designed to protect those precious freedoms on the part of the people.

I have an FBI document dated February 26, 1971, to the Director of the FBI from the special agent in charge, San Francisco. The document regards a constituent of mine whose name I will not use.

The next to the last paragraph reads:

Due to lack of information and activities of subject, San Francisco is not submitting a summary report at this time. Subject is not being recommended for inclusion on the security index as it is felt additional investigation is required before this evaluation can be reached.

I would like responses to the following questions:

What is the security index?

What was the authority for it?

Is it still in operation?

If not, when did it end?

Was this operation ever discussed with Congress or OMB?

Did the budget show funds for this operation?

Please provide full files and data to this committee.

I have, Mr. Chairman and members of the committee, another document here dated January 21, 1971, to all agents, from SAC, Portland, subject FBI intelligence letter for the President, code name "Inlet." Research satellite matter. I would like to read some short parts of this:

For information of all agents. The Bureau, during 1969 initiated captioned programs of furnishing high level intelligence data in the security field to the President and the Attorney General on a continuing basis. The materials to be furnished to the Bureau is not of routine nature but rather that which has the quality of importance and timeliness necessary to secure the President's interest and to provide him with meaningful intelligence for his guidance.

The Bureau is not interested in more rumors or nebulous information.

It goes on to describe such intelligence including the following listed in item No. 6:

Items with an unusual twist, or concerning prominent personalities which may be of special interest to the President or the Attorney General. It is to be noted that the type of information desired in paragraph 6 may be obtained through investigations not wholly related to the security field.

I would like to ask:

Who authorized "Inlet"?

Is Inlet still in operation?

Did it include political intelligence?

Has the FBI ever gathered political intelligence?

When; for whom?

Please provide for the committee full files.

Mr. Chairman and members of the committee, to follow on the questions of Mr. McClory:

The FBI has hired a significant number of informants. I would like to focus for a moment on a case that speaks to the use of funds, method of operation, and the capability of audit. I would not use specific names.

The gentlemen from the FBI, I am sure, can verify this narrative. In the early 1970's a former member of the Minuteman organization was recruited as an FBI informer. He was the leader of a right wing organization called the Secret Army Organization.

The prime function of the informer was to surveil and harass activists.

While on the FBI payroll at \$200 per month, plus expenses, the informant participated in bombings and burglaries. During one of the burglaries a gun was stolen. Some days later that gun was fired at the house of an activist shattering the elbow of a young woman. The informer was in the car from which the gun was fired.

The informant took the gun and gave it to his FBI contact. The agent hid the gun under his couch for 6 months until the SAO member who did the shooting was apprehended by local police. The incident finally cost the agent his job.

During this same period, the informer published at least indirectly at FBI expense these two very interesting gems: No. 1. "Boobytrap." A how-to treatise; No. 2. The use of ammonium nitrate in high explosives. I would assume to discredit the progressive political community in this country.

I hope this committee will look fully into this matter.

I would like to ask the FBI representative if he is familiar with the case and wishes to comment, but with a preface of several questions.

How many informers does the FBI have?

How many informers in the last decade have been found to have participated in lawless acts while informants?

How much money is budgeted for informants?

What kind of controls are there on informers?

What authority and regulations governing use of informers do we have?

Are there now FBI counterintelligence programs that utilize informers?

I would ask the gentleman to please provide for this committee full data and information.

I have also before me a memorandum, FBI, dated May 9, 1960, to W. C. Sullivan from C. D. Brennan. Subject: Counterintelligence program, internal security, disruption of the New Left.

I would like to read the first paragraph:

Our Nation is undergoing an era of disruption and violence caused to a large extent by various individuals generally concerned with the New Left. Some of these activists urge revolution in America and call for the defeat of the United States in Vietnam. They continually have falsely alleged police brutality and do not hesitate to utilize unlawful acts to further their so-called causes.

The New Left has on many occasions viciously and scurrilously attacked the Director of the FBI in an attempt to hamper our investigation of it and to drive us off college campuses. With this in mind, it is our recommendation that a new counterintelligence program be designed to neutralize the New Left and the key activists.

The key activists are those individuals who are the moving forces behind the New Left and upon whom we have intensified our investigations.

I wonder if the program was started because the Director was called names.

I have also a Cointel paper dated March 4, 1968, to all agents in charge from the Director of FBI entitled "Counter-intelligence programs, Black Nationalist Hate Groups, Racial Intelligence."

I would like to read a part of it:

2. To prevent the rise of a Messiah who could unify and electrify the militant black nationalist movement——

And I leave out names——

—— might have been such a Messiah.

He is the martyr of the movement today. ——, ——, and —— all aspire to this position. —— is less of a threat because of his age. —— is to be a very real contender for this position should he abandon his proposed obedience to white liberal doctrines, nonviolence, and embrace black nationalism. —— has the charisma to be a real threat in this case.

I characterize this as extremely racist and extremely dangerous and it is appalling that an agency of the Government charged with the responsibility to defend the delicate rights of human beings in this country would ever embark upon this kind of statement.

I have papers that show that an operation Cointel program to include harassment, disinformation, warrantless entry, unauthorized access to bank records, defamation, and illegal mail coverage.

I would like to ask for full files on Cointel and the following questions.

Does FBI have any intelligence or counterintelligence programs presently underway?

If so, what are they?

Did FBI have a counterintelligence program to pit Black Panthers against organized crime?

What is the FBI's role in CONARC program, code word "Garden plot?"

Please furnish full file.

Does the FBI operate in Canada in any role beyond liaison?

Has the FBI ever provided confidential information to ITT?

Within the last decade has FBI initiated any intelligence or counterintelligence programs against labor unions?

Has the FBI ever attempted surreptitiously to monitor the defense efforts of a Federal defendant?

Has the FBI, any agent, or informant ever authorized or directed, suggested, or participated in an assassination or such an attempt?

Has the FBI ever initiated any operations or efforts against radio stations, news services, or newspapers?

Has the FBI ever sought or obtained illegal access to bank records?

Has the FBI ever participated in surreptitious entry operations?

Were any with or for the CIA or NSA?

Has the FBI ever participated in mail covers?

Is there any FBI program against AIM, the American Indian Movement?

Explain fully the specific Operation Cointel program.

Are similar programs now in existence?

Please furnish files.

Were Cointel programs discussed with OMB, the Attorney General, or Congress prior to their initiations?

What authority was there for expenditure of funds and manpower for Cointel?

What is the and has been the FBI relationship with the Bell Telephone Co. and ITT?

Please furnish all files.

What is the Law Enforcement Intelligence Unit?

Does it maintain files on U.S. citizens?

What was the authority?

Does it pass information to State and local agencies?

How is this program funded?

Now, with respect to DEA. Please explain the full nature and scope of the CIA's relationship with the Drug Enforcement Agency, including CIA personnel serving with DEA.

Give the committee full data.

Explain Operation Silver Dollar and the relationship of the Drug Enforcement Agency offices and Mr. Howard Hughes.

Please give this committee all data.

How many—

Chairman PIKE. The time of the gentleman has expired.

Mr. DELLUMS. Thank you, Mr. Chairman.

Chairman PIKE. Did you wish to make any response?

Mr. WALSH. I cannot make a response, sir.

I started to take some notes, but I am inadequate in that regard and I would like to suggest, if it is agreeable to the Chair, that the questions be submitted to us in writing.

Chairman PIKE. That certainly will be done in that manner.

Mr. WALSH. Thank you, sir.

[The response to the questions asked by Mr. Dellums above follows:]

U.S. HOUSE SELECT COMMITTEE ON INTELLIGENCE ACTIVITIES (HSC)

REQUESTS FOR INFORMATION MADE BY MEMBERS OF HSC AT HEARING HELD AUGUST 7, 1975, REGARDING "BUDGET INQUIRY ON INTELLIGENCE ACTIVITIES"

On August 7, 1975, Assistant FBI Director Eugene W. Walsh appeared before a hearing of the HSC dealing with the subject matter "Budget Inquiry on Intelligence Activities." During the course of the hearing, members of the Committee made specific inquiries into the operations of this Bureau, which inquiries, it was stated by the HSC Chairman, "ran some distance" from budgetary matters. Set forth below are Bureau responses which have been cleared with the Department of Justice and which are believed to be responsive to applicable inquiries made of Mr. Walsh on the above occasion. These inquiries were extracted from a review of the transcript of the above hearing.

Pages 1278 to 1286 [pages 297 to 300 in the printed hearing] of the transcript testimony contain a series of questions concerning Bureau operations posed by Representative Ronald V. Dellums. Responses to these inquiries are set forth below.

Page 1279 contains a series of questions concerning the Security Index. Information responsive to these inquiries has been incorporated into a memorandum prepared by this Bureau and directed to the HSC under the date of September 12, 1975, in response to an HSC inquiry dated August 27, 1975, concerning the operation of the ADEX.

Pages 1279 and 1280 of the transcript testimony contain a series of questions relating to "INLET" as follows:

(a) Who authorized INLET? The FBI intelligence letter for the President (acronym: INLET) was instituted in November, 1969, pursuant to then FBI Director J. Edgar Hoover's instructions to keep the President fully informed of significant intelligence developments within the purview of this Bureau's security responsibilities. Dissemination was restricted to the President and the Attorney General.

(b) Is INLET still in operation? No. The last INLET was issued during August, 1970. Changes in this Bureau's communications capability including the ability to afford immediate teletype dissemination of intelligence data to The White House rendered the intelligence letter as such obsolete by 1970. Items submitted by field offices designating INLET were disseminated in other ways. By late 1972, it was concluded that the use of the designation INLET was no longer

necessary and in December, 1972, the last vestige of the INLET program was discontinued and the field offices so advised. The field offices were also advised, however, that they had a continuing responsibility to be alert for high level intelligence data of the type formerly specified under the INLET program.

(c) Did it include political intelligence? No. Instructions regarding INLET referred to information developed through ongoing investigative operations and which were within the purview of this Bureau's security responsibilities. This Bureau's instructions, when initiating this program, indicated that "mere rumors or nebulous information will have no place in this letter."

(d) Has the FBI ever gathered political intelligence? No. The FBI has never as a policy collected political intelligence. Bureau investigations are strictly based on authority and jurisdiction as mandated by statute, Presidential Directives and instructions from the Attorney General. The end product of this Bureau's investigations may, in certain instances, contain information which might be defined as political intelligence by some. This information is, however, not the object of this Bureau's investigative interest. Moreover, the product of this Bureau's investigations is considered by Departmental regulations to be confidential in nature and its dissemination outside the Bureau is severely restricted by this Bureau's dissemination policy.

Page 1282 of the transcript testimony contains a series of questions relating to this Bureau's use and handling of informants. Materials and documents responsive to inquiries relating to this matter have previously been furnished the HSC by memoranda dated August 7, 1975, August 18, 1975, September 5, 1975, and September 10, 1975, all prepared in response to written HSC inquiries dealing with informant matters.

Pages 1284-1286 contain a series of questions relating to COINTELPRO. Extensive information concerning this Bureau's participation in COINTELPRO was made available by this Bureau to HSC representatives on August 29, 1975, and September 12, 1975.

Page 1284 of the transcript testimony contains the question "What is the FBI's role in CONARC program, code word 'Garden Plot'?" FBI Headquarters indices do not contain any references to the term CONARC. These indices do, however, contain several references to "Garden Plot." These references are news releases indicating that in 1970, the Department of Justice disclosed that the Federal Government had developed as early as mid-1967, a plan under the code name "Garden Plot" which called for the use of Federal troops to quell civil disturbances.

Page 1284 of the transcript testimony contains the question as to whether the FBI operates in Canada in any role beyond liaison. The policy of the FBI is and all investigative personnel are so advised that the FBI does not operate in Canada in any role beyond liaison.

Pages 1284 and 1286 of the transcript testimony contain questions concerning any relationship that does or may have existed between the FBI, the International Telephone and Telegraph Company (ITT) and the telephone company. In answer to specific questions, there is no information in FBI Headquarters files indicating this Bureau has ever provided confidential information to ITT. The FBI has a normal customer relationship with both the telephone company and ITT. ITT has been consulted from time to time concerning business services and systems which have been of interest to the FBI. This has been especially true in the communications field as the FBI operates its own extensive radio and teletype systems. Additionally, the telephone company provides leased lines for use in technical surveillances all of which are authorized by the Attorney General. FBI personnel install and connect these technical surveillances to the leased lines. Telephone company personnel are not involved in the installation of such surveillances. The telephone company also furnishes toll call records upon authorized requests in connection with ongoing FBI investigations.

Page 1285 of the transcript testimony contains a question as to whether the FBI has ever attempted surreptitiously to monitor the defense efforts of a Federal defendant. No. The FBI Manual of Instructions, Section 107 F 12, a copy of which has been made available to the HSC, contains specific instructions regarding the procedure to be followed in situations where efforts are made by defense interests to involve our informants in a defendant's defense preparations. These instructions are designed to prevent any legitimate claim that this Bureau has invaded the defense camp.

Page 1285 of the transcript testimony contains a question as to whether the FBI, a Bureau Agent or a Bureau informant ever authorized, directed, suggested or participated in an assassination or an assassination attempt. There is no reasonably retrievable manner available to this Bureau short of a manual search of all existing Bureau files to reply absolutely to the above question. It is pointed out, however, that Bureau involvement in any such action would be entirely contradictory to the long-established and recognized code of conduct for Bureau employees. A check with knowledgeable Bureau personnel concerning this matter failed to uncover any incident substantiating the participation of the FBI, Bureau personnel or informant acting under the direction of the Bureau as having engaged in such activities.

Page 1285 of the transcript testimony contains an inquiry as to whether the FBI ever sought or obtained illegal access to bank records. Again, an absolute reply to this inquiry would require a manual search of every file maintained by the FBI. To the best recollection of Bureau individuals in a position to be cognizant of such matters, the FBI has never sought or obtained illegal access to bank records. Requests for such records have been fulfilled through requests made of authorized bank officials or by the use of a subpoena duces tecum.

Page 1285 of the transcript testimony contains a question concerning the FBI and its possible use of mail covers. The FBI, on a selective basis during official investigations, utilizes mail covers in accordance with procedures set out in the Postal Manual, Part 861. Mail cover requests are directed to the appropriate Regional Postal Inspector in Charge in criminal and fugitive situations and to the Chief Postal Inspector in national security matters. Final decision as to whether a mail cover is effected lies with the appropriate postal official.

Page 1285 contains an inquiry as to whether there is any FBI program against the American Indian Movement. No FBI program has been directed against the American Indian Movement. The FBI has conducted investigations based on information indicating that the American Indian Movement or individuals associated with that organization have engaged in activities which could involve a violation of Title 18, U.S. Code, Section 2383 (Rebellion or Insurrection), Section 2384 (Seditious Conspiracy) or other Federal statutes. Investigation has also been conducted at the specific request of the Department of Justice. For example, by letter dated November 21, 1972, Deputy Attorney General Ralph E. Erickson requested that this Bureau intensify its efforts in identifying violence prone individuals or organizations within the American Indian movement who may be planning future violent demonstrations or criminal activities; by letter dated April 26, 1973, Assistant Attorney General Henry E. Petersen requested "reports of significant incidents involving Indians that might suggest the development of any future militant confrontation between Indians and the Government"; and by letter dated April 22, 1974, Assistant Attorney General Petersen reiterated the aforementioned instructions of November 21, 1972.

Page 1286 of the transcript testimony contains a series of questions relating to the Law Enforcement Intelligence Unit.

The Law Enforcement Intelligence Unit (LEIU) was originally established in 1956, and maintains its national clearinghouse at the California Department of Justice's Bureau of Identification and Investigation (CII), Sacramento, California. For administrative purposes LEIU has divided the country into four zones: northwest, southwest, east, and central, and membership is open to regular law enforcement organizations therein, including city police departments, sheriffs' offices, and other agencies. There is no fee for membership, but each agency joining is required to maintain an "intelligence unit," even if it consists of only one person.

The information exchanged by LEIU pertains to hoodlums, mobsters, and organized crime in general, with particular reference to those criminals who move about from one jurisdiction to another or whose operations extend beyond the jurisdiction of any one agency.

The FBI has not accepted membership or formal participation in the activities of LEIU, but this Bureau has, when invited, sent representatives to attend meetings as observers.

In an article dated May 14, 1975, from the Los Angeles Times, Associated Press Wire Service, it was set forth that LEIU has its headquarters in Long Beach, California, and operates a computerized information bank known as the Interstate Organized Crime Index. That index, based in the California Department of Justice, has received \$1,338,486 from the Federal Law Enforcement Assistance Administration. About 230 police agencies in the United States and Canada belong to the LEIU.

Chairman PIKE. Mr. Murphy.

Mr. MURPHY. Thank you, Mr. Chairman.

Mr. Walsh, or Mr. Pommerening, recently the head of the Justice Department relieved Mr. John Bartels as head of the DEA. Subject to an investigation on the Senate side by the Jackson Subcommittee on Investigations, one of the charges made by that committee was that there was "endemic corruption" in the DEA.

I understand a Mr. Silberman, who is now our Ambassador to Yugoslavia, on two occasions undertook to investigate Mr. John Bartels and the charges leveled against him.

My information is said to be that Mr. Silberman found no corruption on Mr. Bartel's part. What have you, if anything, found in your auditing of the DEA that would indicate there was corruption in the DEA under Mr. Bartels' leadership?

Mr. POMMERENING. None of the contacts of my staff has indicated the presence of any corruption.

Mr. MURPHY. I didn't hear that.

Mr. POMMERENING. None of the activities of my staff, in their several responsibilities in working with DEA, gives me any reason to believe there was corruption of any kind, endemic or otherwise, in DEA.

Mr. MURPHY. So there was no corruption, and your staff would know, is that right?

Mr. POMMERENING. I didn't say that, Mr. Murphy.

We audit the programs, we audit the budgetary requests, we audit the finances.

Mr. MURPHY. You also audit any money they would have used to pay their informants, would you not? Did you find anything questionable in this regard?

Mr. POMMERENING. No; we did not.

Mr. MURPHY. Did you find anything as far as corruption with regard to their payroll?

Mr. POMMERENING. No, sir.

Mr. MURPHY. Did you find anything with regard to corruption involving foreign travel?

Mr. POMMERENING. No.

Mr. MURPHY. In the maintenance and running of any of their foreign offices?

Mr. POMMERENING. No.

Mr. MURPHY. In the maintenance and running of any domestic offices?

Mr. POMMERENING. None of my audit activities—

Mr. MURPHY. I want to make sure we are covering everything your audit would cover, Mr. Pommerening.

In other words, 90 percent of the DEA's work is done with money coming from the budget, is that correct?

Mr. POMMERENING. Mr. Murphy, we are not in a posture of continuous audit in any one of the organizations in the department. We have an audit staff of 52 people covering all organizations in a 50,000-man Department. Our audits are, at intervals, divided between special activities or programs in the organization.

Mr. MURPHY. How often would you audit DEA's books?

Mr. POMMERENING. In their totality?

Mr. MURPHY. In any part. Any part. At least once a year?

Mr. POMMERENING. No, sir.

Mr. MURPHY. You don't audit that often?

Mr. POMMERENING. Absolutely not.

Mr. MURPHY. What is your procedure for auditing?

Mr. POMMERENING. Our procedure is to make audits of selective programs, and if we can achieve a 3-year cycle, we would be very happy. We have not been able to do that. Nor have our audits in the case of DEA or any organization in the Department covered the totality of the operation.

Mr. MURPHY. Do you know anything about the investigation Mr. Silberman undertook of the DEA?

Mr. POMMERENING. I do not.

Mr. MURPHY. Do any of you gentlemen? How about you, Mr. Walsh?

Mr. WALSH. I do not, sir.

Mr. MURPHY. Could we get that information?

Mr. WALSH. I know nothing about it, sir.

Mr. MURPHY. Could you ask?

Mr. POMMERENING. I would suggest if the committee wanted the file, they would be advised to direct a request to the Deputy Attorney General.

Mr. MURPHY. Who in the FBI would we bring before this committee when we are looking for whether or not there is a connection between NSA and its intelligence-gathering activities and FBI? I understand you people are not in that line of work.

Mr. WALSH. I would suggest that Assistant Director Wannall would be the proper individual.

Mr. MURPHY. The Assistant Director?

Mr. WALSH. Yes, sir.

Mr. MURPHY. Thank you, Mr. Chairman. That is all the questions I have.

Chairman PIKE. I will say to the gentleman the Director would know about it, too. We might even ask him.

Mr. Aspin.

Mr. ASPIN. Thank you, Mr. Chairman.

I would like to ask the gentleman a couple of questions about where the authority comes from for doing some of the things that are being done.

For example, you know in the CIA the authority for the CIA's activities are that 1947 act which lays out certain kinds of provisions.

The authority for the National Security Agency getting involved is that very secret executive order which we finally were able to get.

Where is the authority for the Justice Department and the FBI to get involved in things like internal security and counterespionage? Where does that arise?

Mr. WALSH. I haven't that information, Mr. Aspin. I would be glad to respond in writing. I do not have it in my memory.

Mr. ASPIN. Does anybody you have brought with you know where this comes from?

Where in the law is there authority for the FBI and the Justice Department to do these kinds of investigations?

Or which Executive order? Where is the charter for what you are doing? Where is the authority?

Mr. POMMERENING. Mr. Aspin, I have a long series of statutory references covering in general the areas in which you are expressing interest. I can just read some of them—and they are scattered through this long document. I wasn't aware you might be asking that specific question so I did not pull them together. If you would like to take the time for me to page through this and cite them, I will. Otherwise, I will put them in the record in an orderly fashion.

Mr. ASPIN. Provide it for the record if you can.

Mr. POMMERENING. We do have a statutory reference to every one of the programs which we view as our grant of authority.

Mr. ASPIN. What kind of statutory reference is it? Is it a law, an Executive order in general? What kind of things are you talking about?

Mr. POMMERENING. There are various Federal statutes including rebellion and insurrection, title 18, United States Code, section 2383.

Mr. ASPIN. Does it mention the Justice Department and FBI?

Mr. POMMERENING. I haven't the full text here, Mr. Aspin.

Mr. ASPIN. As we are not going to be able to do it in this kind of discussion, perhaps the best thing to do is just provide that information that you have for the record.

Mr. POMMERENING. I would be very happy to make an orderly compilation.

Mr. ASPIN. What I am particularly interested in is, what gives FBI the authority to, for example, conduct intelligence operations within organizations which have not committed a crime? I understand there are certain authorities where you suspect someone of committing a crime. FBI feels they can investigate organizations which have not broken the law. I'd like to know from where that authority comes.

Mr. POMMERENING. We would be happy to give you our justification.

[The material submitted in response to Congressman Aspin's question is in the committee files.]

Mr. ASPIN. Let me ask another question: The FBI essentially does three different kinds of things. It does, for example, security checks of the kind where, you know, somebody needs a security clearance to get a job, or get a security clearance in order to receive classified information from Government agencies and that kind of thing. It also does criminal surveillance and it also does noncriminal surveillance, like the checkup on antiwar groups and other things to keep an eye on them.

When you have those three things and have them all mixed together, is there a way to keep those separate? In other words, the files being done on people for security checks, do they get mixed in with other files? Is there any procedure to make sure those things are separate? As I understand, it is the same kinds of people which are doing the same checks in many cases.

Mr. WALSH. The files, Mr. Aspin, are maintained in the Files and Communications Division.

Mr. ASPIN. Which files do you now speak of?

Mr. WALSH. All files.

Mr. ASPIN. They are kept in what office?

Mr. WALSH. Files and Communications Division of the FBI.

Mr. ASPIN. All files on anybody. If you did a security check on Sam Jones to get a job, that would be kept by that Division as well

as if you were doing a check on somebody because you thought they were the people who were involved in a bank robbery.

Mr. WALSH. Maintained according to classification. Each type—

Mr. ASPIN. How do those classifications work and how are they kept separate?

Mr. WALSH. They are in chronological order. For example, classification 1 deals with the National Academy and training matters as to all investigations.

Mr. ASPIN. When you have a classification No. 1, is there any reason why somebody can't transfer information from one category to another? For example, a file done on somebody which is just a sheer security check kind of file, what would prevent that from being added to another information picked up somewhere else?

Mr. WALSH. Nothing, sir.

Mr. ASPIN. Nothing would prevent that?

Mr. WALSH. Nothing.

Mr. ASPIN. So in fact it could happen?

Chairman PIKE. The time of the gentleman has expired.

Mr. Kasten.

Mr. KASTEN. Mr. Walsh, does FBI include State and local police budgets or is the money you spend with State and local police included in the overall FBI budget?

Mr. WALSH. I am sorry, sir, I don't understand the question.

Mr. POMMERENING. The answer is "Yes," Mr. Kasten.

Mr. KASTEN. How is it included in the budget?

Mr. POMMERENING. One of the primary categories where FBI budgeted funds are used for State and local law enforcement purposes is in the training of State and local law enforcement people at Quantico.

Mr. KASTEN. Do you use State and local police to collect intelligence? Specifically for wiretapping or surveillance?

Mr. WALSH. No, sir, not to my knowledge.

Mr. KASTEN. Is it not a fact you have used District of Columbia police for wiretapping?

Mr. WALSH. I have no knowledge of that. I am completely uninformed on it, sir. I don't know.

Mr. KASTEN. If this was in fact going on, one of the reasons may be that the State and local laws are sometimes less restrictive in areas of wiretapping and surveillance than the Federal law.

Mr. WALSH. I can't respond to that, sir. I have no knowledge in that field.

Mr. KASTEN. Are you aware of the existence of a school in Fort Lauderdale, Fla., known as the National Intelligence Academy?

Mr. WALSH. No, sir.

Mr. KASTEN. Mr. Pommerening?

Mr. POMMERENING. I am not aware of it, Mr. Kasten.

Mr. KASTEN. There is a sign on the receptionists' desk in that Academy: "U.S. Government regulations prohibit any discussion of this organization, or this facility." Do you know anything about this at all?

Mr. POMMERENING. I do not.

Mr. WALSH. I do not.

Mr. KASTEN. It is run evidently by a Jack Holcomb, who has been working with the NIA. He has publicly boasted of being contacted by FBI to handle "anything the Feds won't touch." In the past 16

months, the National Intelligence Academy has been teaching sophisticated skills of electronic spying to many officers, including two foreign nations. From the quote in Newsweek magazine, he is working with the FBI. Are you aware of this?

Mr. WALSH. I am not aware of this in any way, sir.

Mr. KASTEN. Then I can't ask you whether you contract with them under any circumstances, or where those funds would be, could I?

I wonder if we could ask, Mr. Chairman, that they research this?

Chairman PIKE. I think perhaps the gentleman could respond as to where the funds would be if they did contract with them, even if he is not aware of it.

Mr. WALSH. Mr. Chairman, we have no contract with an organization of that name, I can tell you that. The contracts come under my jurisdiction. I have never heard the name, sir.

Mr. KASTEN. Let me go back to the question of working with local governments in training and other kinds of ways.

When we talk about the cost of Federal intelligence, are you satisfied that the work that takes place in State and local governments, coordinating with the FBI in some cases on wiretapping, or surveillance—is that being reflected in addition to the training money? Do you deny any of this coordination goes on?

Mr. WALSH. No, sir; we have no cooperative effort to get local police to place wiretaps in our behalf, if that is what the question is, sir.

Mr. KASTEN. It is clear to me in one case you have been working with State and local police, and what I am interested in is whether or not this work which I believe is going on with State and local police should be reflected somewhere in the overall FBI budget, in addition to the training?

Mr. WALSH. If we could respond to that, Mr. Kasten, in writing, I would be pleased to prepare a response. I am just ignorant on the subject.

Mr. KASTEN. Thank you, Mr. Chairman. I yield back the balance of my time.

Chairman PIKE. I just want to say on behalf of Mr. Walsh, that in fairness to Mr. Walsh, we did indicate that the basic thrust of our questioning today would pertain to budgetary matters. I realize that a great deal of the questioning has run some distance from that. When you say, as you have too often, "I am ignorant of these matters," don't keep using those words; just say, "It doesn't come within my jurisdiction." It sounds a lot more classy.

It is fair to you to say that we recognize that this does not all come within your jurisdiction.

Mr. Milford?

Mr. WALSH. Thank you, Mr. Chairman.

Mr. MILFORD. Thank you, Mr. Chairman.

Chairman PIKE. Does the gentleman yield for a parliamentary inquiry?

Mr. MILFORD. Yes.

Mr. DELLUMS. I would like to ask, are the questions that I raised to be submitted for the record?

Chairman PIKE. Oh, yes.

Mr. MILFORD. I have no specific questions, but I would like to make just one short statement that bothers me a little bit. There seems to be kind of a new fad that is very popular with some of our

citizens and even a few of our colleagues in Congress that would seemingly paint our intelligence community as "guys with black hats."

The premise seems to be that anything that is secret is bad. The sensational revelation in the Watergate episode and a few illegalities discovered within our police and intelligence agencies have furthered this black-hat image.

I think it is important for us to keep a proper perspective and recognize a few facts of life. There are divisive elements operating within this country that pose a definite threat to our society and to our governmental system. These elements do not respect human rights. They do not respect laws, civil rights, or any other principles of our democratic system. While I would not in any way want to deny any American citizen his due process or the protection of our laws, we must also realize that the divisive elements will use these same laws to hide their activities. The job of our intelligence community is very difficult, yet very vital.

I think that the Congress must recognize that society, as a whole, has the right to exist and to be protected. We have a narrow line to walk in, being sure that our laws protect both the society and the individual.

While neither this committee nor I would tolerate illegal activities within our police or intelligence agencies, I would not want to condemn the thousands of loyal employees in these agencies because of the acts of a few.

Frankly, as an ex-police officer some years back, I have the highest respect for the Federal Bureau of Investigation. I think it has an outstanding record, and I would not want anyone to feel that I, for one, feel that it is wearing a black hat.

Mr. McCLORY. Would the gentleman yield?

Mr. MILFORD. I yield.

Mr. McCLORY. I thank the gentleman for yielding, and I want to concur in the statement that the gentleman has made. I would also like to add that, you know, any of my inquiries which tend to test the activities or the expenditures of funds or inquiring into what might be regarded as excesses, or improper actions, should not be interpreted as any lack of respect for the legitimate and extremely important function of the FBI and the other agencies, including all the intelligence agencies.

Mr. MILFORD. I will join with you in the inquiry. I think we should probe and probe deeply, but at the same time I wouldn't like the impression to go out that all is bad in the situation.

I yield back the balance of my time, Mr. Chairman.

Mr. POMMERENING. Thank you.

Chairman PIKE. Mr. Hayes.

Mr. HAYES. Thank you, Mr. Chairman.

Mr. Pommerening, since your having assumed your present responsibilities in August of 1974, approximately a year ago, can you tell me how many audits your internal audit section has completed under your direction?

Mr. POMMERENING. Off the top of my head, Mr. Hayes, I cannot.

Mr. HAYES. Are you responsible for delineating the audits, how they are perceived, and in what particular section they are perceived,

whether or not they are to be directed to a special activity or a program?

Mr. POMMERENING. I have a general responsibility. However, it has been my policy to clothe the internal audit staff with a large measure of autonomy so they can move on their own motion into areas where, by reason of their working with the organization, they think there is a problem that should be reviewed.

There are occasions where there are special program areas or sub-areas which come to my attention, which I feel warrant some review, in which case I will review the matter with the Director of the audit staff and he will generally, at my direction, move into that area.

Mr. HAYES. Within your specific responsibilities, then, have you had occasion to have brought to your attention by part of the audit staff, any internal audit section work with what we have been discussing generally as the intelligence responsibilities of the Federal Bureau of Investigation?

Mr. POMMERENING. No.

Mr. HAYES. So during at least that period of time there have been no audits undertaken by the Internal Audit Section?

Mr. POMMERENING. To this point the activity of my staff in the FBI—and I referred to this earlier—has been to undertake and, I believe, as I think Mr. McClory mentioned, they are almost at the conclusion, an audit of the inspection and internal audit capacity of the Federal Bureau of Investigation.

Mr. HAYES. Repeat that. You say there is a special report being done on the internal audit capacity of the FBI?

Mr. POMMERENING. That is correct.

Mr. HAYES. Who directed that to be undertaken?

Mr. POMMERENING. I did.

Mr. HAYES. Did you do that in response to specific requests from the Attorney General?

Mr. POMMERENING. No, sir.

Mr. HAYES. On your own motion, then?

Mr. POMMERENING. Yes, sir.

Mr. HAYES. To your knowledge that is the first one of those in the history of the FBI?

Mr. POMMERENING. Yes, it is, in that area. There has been one other audit we have conducted in the FBI, and that was a part of the departmentwide audit.

Prefacing that comment I must say the internal audit staff in the Department of Justice did not exist until June of 1970, and it has been developed from a zero resource organization—

Mr. HAYES. So, in other words, that audit is sometime between 1970 and the present?

Mr. POMMERENING. There is another audit as part of a departmentwide review, and that is an audit of what is known as the confidential funds in the FBI, which is an annual appropriation of \$70,000 that can be dispensed—

Mr. HAYES. That is two audits.

Can you tell me whether or not you have been directed by anyone to reduce your internal audit staff due to pressures of inflation or due to Presidential directives to save money and economize?

Mr. POMMERENING. That is not true. It has never been suggested to me. This is the first time I have heard that.

Mr. HAYES. I have just inquired. Have you?

Mr. POMMERENING. No. As a matter of fact, the staff has grown continuously.

Mr. HAYES. Do you have underway at the present time discussions on specific audits of the intelligence section that are to be undertaken in the future, either in conjunction with the general congressional overview of intelligence activities, or for any other reason?

Mr. POMMERENING. Mr. Hoobler's staff has in recent months done some work with the Criminal Division in evaluating and assisting them in the program of organized crime intelligence.

In addition, in my organization I have an information system staff charged with reviewing all automated data processing and telecommunication programs within the department. Some of these, of course, pertain to the intelligence efforts of some organizations in the department. Because of the very particular area of expertise there, the primary and indepth reviews and audits are handled by that staff, and they are ongoing in organizations within the department.

Mr. HAYES. By that staff of Mr. Hoobler?

Mr. POMMERENING. No; this is the information systems staff.

Mr. GIAIMO [presiding]. The gentleman from Colorado is recognized for 5 minutes.

Mr. JOHNSON. Mr. Walsh, when you established there was no congressional direction of where the FBI spends funds or how it spends them or really if there was any interest on the part of the Congress, I would like to know who makes the decisions with respect to how much money will be spent in the intelligence field, and in counterintelligence?

Mr. WALSH. They would be made by the Director of FBI in consultation with the Executives Conference.

Mr. JOHNSON. Who constitutes the Executives Conference?

Mr. WALSH. The Executives Conference is composed of the 13 Assistant Directors, each of whom heads a division; two Assistants to the Director, one of whom is in charge of all administrative matter. And the other is in charge of all investigative matters; the Associate Director, Mr. Callahan; and Mr. Kelley.

Mr. JOHNSON. At this level is there any input from the Director of Central Intelligence?

Mr. WALSH. At that level, sir?

Mr. JOHNSON. When you are starting to make up your budget and are allocating the amount of money you want to put into your budget for intelligence and counterintelligence, do you have any contact with the Director of Central Intelligence?

Mr. WALSH. Yes, sir. Mr. Wannall's Division. He is the Assistant Director in charge of the Intelligence Division which has liaison with the Director of Central Intelligence.

Mr. JOHNSON. What do you mean when you say they have liaison? They get together for coffee once in a while, or do they have continuing contact? Does he talk to the Director of Central Intelligence or does he talk to his secretary or to his assistant? What actual contact do they have to coordinate this spending? Does the Director of Central Intelligence say "We need to have you spend this much money or do this kind of activity"?

Mr. WALSH. The specific details of their relationship, Mr. Johnson, I am not acquainted with.

Mr. JOHNSON. How about the Attorney General, does he have any input into this budgetmaking process?

Mr. POMMERENING. I would like to respond to that. Mr. Walsh has described elements of the process within the Bureau. After they have made their determinations and make a submission to the department based upon the very complicated and definitive program structure which I described to you earlier, it is then reviewed in my office. Questions or issues are isolated and the major ones are brought to the attention of the Attorney General and the Deputy Attorney General who then review them and may confer with me and my staff. They may confer with Director Kelley and his staff, and make final judgments of their own as to the appropriate allocations of resources for the Bureau's activities which are then incorporated in the departmental budget that is submitted to the Office of Management and Budget.

Mr. JOHNSON. You participate in this process, yourself, then?

Mr. POMMERENING. Yes, I do.

Mr. JOHNSON. You went over in detail the amount of money they allocated for intelligence activities?

Mr. POMMERENING. I can't answer that without making the time frame more precise. I tried to illustrate the fact that the departmental involvement in this process has escalated rapidly over the last 3 years. That involvement 3 years ago was not nearly as intense and as rigorous as it is today.

Mr. JOHNSON. So 3 years ago we will say there was in effect little or none?

Mr. POMMERENING. Much less.

Mr. JOHNSON. How much time did you spend analyzing the amount of money that is going into intelligence activities and what detail you are going into them?

Mr. POMMERENING. For what year?

Mr. JOHNSON. This year.

Mr. POMMERENING. This year in development of the fiscal year 1977 budget, Mr. Johnson—

Mr. JOHNSON. I am just referring now to the intelligence-gathering activities because that is the scope of this investigation as you know.

Mr. POMMERENING. Four of five of my people spent 4 weeks of long days reviewing the FBI budget and in assessing their time commitment I would think that probably half of that was devoted to a review of the intelligence programs that exist in the FBI.

Mr. JOHNSON. So then you reviewed that and then that went to the Attorney General?

Mr. POMMERENING. It has not yet.

Mr. JOHNSON. But it will in the process?

Mr. POMMERENING. It will.

Mr. JOHNSON. Now when you go to OMB they don't really take a close, hard look at it and say "Well, we think maybe you are duplicating." They obviously haven't time for that do they?

Mr. POMMERENING. They haven't the resources to devote to it that I do.

Mr. JOHNSON. Does the President have any input into this? Has he any knowledge as to what CIA and FBI are doing in this kind of domestic intelligence?

Mr. POMMERENING. I can't speak for President Ford.

Mr. GIAIMO. The time of the gentleman has expired. The gentleman from Florida is recognized for 5 minutes.

Mr. LEHMAN. Thank you, Mr. Chairman.

I mentioned before Patty Hearst and Jimmy Hoffa and you indicated that they were basically an investigative type of operation—not intelligence. To clarify, can you give me a ball park figure on how much you have spent on Patty Hearst? Whether it is \$500,000 or \$20 million or what? Can you give me a rough idea, on the cost of that investigation?

Mr. WALSH. In response to that, Mr. Lehman, the principal expenditure is manpower. If we were to compute the salaries of the agents working on that—if you are asking for an off-the-top-of-my-head figure, I would say half a million dollars at least, to date, but I can furnish the information for the record if any cost data have been collected.

[The following information was furnished for the record:]

Following the initial and major thrust of the Hearst investigation, cost figures collected on a one-time basis disclosed that as of May 5, 1974, \$2.6 million had been expended by the FBI on the case. Specific figures as to the cost of this investigation have not been collected since that time.

Mr. LEHMAN. Of course I think just from what you read in the papers, it must have been several times that much money. What I am trying to say is that investigation costs cover a lot of your intelligence costs and by transferring these operations, or transferring the results of these operations, are you not really spending a lot more for intelligence than is indicated in the \$82 million?

Mr. WALSH. It gets down to a question of definition and what you say is certainly true but there is no way to compute that.

Mr. LEHMAN. I think I have made my point that perhaps from the standpoint of actuality, \$82 million does not include your whole intelligence budget.

Let me go back to what Mr. Pike was talking about in the statistics in regard to the number of files that you have. I think you said there were 700,000 active files?

Mr. WALSH. No, sir, these are investigative matters received. There were many more times than that.

Mr. LEHMAN. You have that many——

Mr. WALSH. There are over 6 million files in the Files and Communications Division of the FBI and some 58 million index cards I believe.

Mr. LEHMAN. What do you call those that you had the 700,000 on?

Mr. WALSH. Investigative matters received in a fiscal year.

Mr. LEHMAN. In those investigative matters you said 75 percent were regarded as criminal investigations, about 4 percent were security clearances, and the other 20 or 21 percent were all others that were basically neither criminal nor security.

Would all those others include such files as perhaps Joan Baez, or Jane Fonda, or citizens that have not committed a crime and have not applied for security clearance? I wonder what is in that other 20 percent and what is the authority for pursuing this kind of activity?

Mr. WALSH. I can't tell you with specificity, sir, but every individual that we have acquired information on in pursuance of our mission could very likely have a file open.

Mr. LEHMAN. Are there any Congressmen in those particular files?

Mr. WALSH. I believe there are files on Congressmen, sir, and I think we have reported the specific number in another forum. I haven't that statistic with me but we have reported that number.

Mr. LEHMAN. Can I ask you a very personal question?

Mr. WALSH. Certainly.

Mr. LEHMAN. Am I in there?

Mr. WALSH. I don't know that, sir.

Mr. LEHMAN. Could you let me know?

Mr. WALSH. I imagine I could, sir, yes.

Mr. LEHMAN. If you did have one, could I see it?

Mr. WALSH. I can't answer that because there are procedures that have to be followed——

Mr. LEHMAN. I am not trying to make this personal, but I am trying to relate it to what is the basis for this kind of activity.

Mr. WALSH. Under the Freedom of Information Act, Mr. Lehman, I would assume that your file and anyone else's file is available.

Mr. LEHMAN. All these files you have, can anyone see theirs if they request the information in that file?

Mr. WALSH. The terms and regulations under the Freedom of Information Act are very technical.

Mr. LEHMAN. About these noncriminal and nonsecurity clearances, what is the legal justification for this activity? On what legal basis do you acquire this information?

Mr. WALSH. Security clearances are pursuant to Executive order. I would like to mention, sir, the vast majority of those investigations, the preponderant majority of them, are not conducted by the FBI. They are conducted by the Civil Service Commission.

Mr. GIAIMO. The time of the gentleman has expired.

Mr. Walsh, can you tell us how much the FBI spends on computers, hardware, and all that is encompassed within the expenditures for computers?

Mr. WALSH. We have those figures, Mr. Chairman. Whether we have them with us or not I can't tell you, but we know specifically how much that is.

Mr. POMMERENING. For fiscal year 1975, which is the year I have been quoting figures from, the amount of moneys committed for computer systems support was \$9,384,000.

Mr. GIAIMO. That is for systems support?

Mr. POMMERENING. That includes hardware rental, acquisition, staff, software, telecommunication lines, and so forth.

Chairman PIKE. Can you tell me if you know what types of information the computers are used for? Are they strictly for FBI usage or are they tied in, in any way, to other governmental services or agencies of any kind?

Mr. POMMERENING. To the best of my knowledge, they are used solely for FBI purposes, plus the contact which is maintained with Federal, State, and local law enforcement to enter data and retrieve data and make inquiries with the NCIC system. NCIC, as you know, is composed of eight files including fugitives, stolen cars, stolen securities, stolen firearms, and these sort of things.

Chairman PIKE. If you can enlarge on that question for the record, we will appreciate knowing whether or not in fact you gain information and data from any knowing governmental agencies other than the FBI and the activities within the jurisdiction of the FBI.

I yield back the balance of my time and recognize counsel, Mr. Field.
[The information requested by Congressman Pike will be printed in the appendixes of the November 18, 1975, hearings.]

Mr. FIELD. Thank you, Mr. Chairman.

I would like to probe this figure that we talk of, the total budget figure.

This morning you told us, and by telling us you have told the American people, that they are spending \$82 million a year for intelligence. That is all intelligence costs, now.

I would maintain that is not entirely accurate.

Let me go through a few things.

What about background check? A full field investigation was done on me. That cost a considerable amount of money.

Do you consider that intelligence? Is that in the secret \$82 million budget?

Mr. WALSH. No; it is not, Mr. Field.

Mr. FIELD. If that is not intelligence, then the purpose of that background check is now over. Am I to presume you have destroyed those files?

Mr. WALSH. No, sir.

Mr. FIELD. You are keeping them?

Mr. WALSH. Yes, sir.

Mr. FIELD. That is information?

Mr. WALSH. Yes, sir.

Mr. FIELD. That is intelligence?

Mr. WALSH. No, sir.

Mr. FIELD. It is not intelligence.

Mr. WALSH. It depends on your definition, sir.

Mr. FIELD. Why are you keeping it, if it is not intelligence?

Mr. WALSH. We follow the regulations of the Archivist of the United States. That is an official document—

Mr. FIELD. Does the Archivist define intelligence for the FBI?

Mr. WALSH. No, sir.

Mr. FIELD. I would appreciate it if you would either include the cost of the intelligence you have about me in your budget or else get rid of it, because I think it is not fair to treat it as though it is not intelligence, as far as your budget is concerned, but to keep it as intelligence for practical purposes.

Was my background check given to anybody else, such as the Department of Defense, or the CIA?

Mr. WALSH. I am not acquainted with details of your background check, Mr. Field.

Mr. FIELD. Could it have been?

Mr. WALSH. It could have been under certain circumstances.

Mr. FIELD. So in fact it is intelligence. It is used by people to find out about me.

Mr. WALSH. I cannot agree with that definition.

Mr. FIELD. I appreciate that, for the record. I think we have a pretty good understanding of common sense and it sounds to me like intelligence.

What about the cost of computers? The National Crime Information Center is fairly expensive. Is that considered a cost of intelligence?

Mr. WALSH. No, sir.

Mr. FIELD. That is not information that is used as intelligence about people?

Mr. WALSH. No, sir.

Mr. FIELD. It is not used for that.

I would appreciate knowing what it is used for, if it is not used for that purpose.

Mr. WALSH. May I ask, sir, if you are going to address these questions to me in writing?

Mr. GIAIMO. He is addressing them now if you can respond. If you want additional time to respond in writing you may have that.

Mr. FIELD. We have a different problem. We are not interested in keeping the budget down. We are not interested in making it look as though there is not very much intelligence being done in this country. Our problem is to tell an oversight committee what to look at, when they start assessing how much this is costing the taxpayer.

How about the cost in fingerprint files in that whole fingerprint division?

Mr. WALSH. We have exact costs on that.

Mr. FIELD. That is included in the \$82 million?

Mr. WALSH. No.

Mr. FIELD. Is it \$50 million or something like that? That is not information; that is not intelligence.

Mr. WALSH. No, sir.

Mr. FIELD. How about the cost of living and allowances at foreign posts for FBI people?

Mr. WALSH. That is not intelligence.

Mr. FIELD. And they are not over there on intelligence, they are just in foreign countries carrying out domestic——

Mr. WALSH. A liaison assignment but I have conceded there can be some intelligence developed——

Mr. FIELD. It sounds like that is all they are over there for and that that is a way of shifting the real cost of intelligence out of that budget.

How about the National Bomb Data Center?

Mr. WALSH. Yes, sir.

Mr. FIELD. That is intelligence?

Mr. WALSH. It may be in the dictionary's definition, sir, but it is not in ours.

Mr. FIELD. Investigations. We never really did find out what they were beyond a certain small percentage. Investigations. The word is there. It is not intelligence?

Mr. WALSH. Not in the sense we are trying to break out these costs, Mr. Field.

Mr. FIELD. I appreciate that for the record and it is an interesting answer.

If we were to add in all these things but start adding in the Drug Enforcement Administration, the internal security activities of the Justice Department, isn't it a fair statement that the American taxpayer is paying closer to half a billion dollars for intelligence in the Justice Department, a lot closer to that, than he is the \$82 million? Wouldn't that be a fair statement?

Mr. WALSH. I can't agree with that, sir.

Mr. FIELD. I yield back the balance of my time.

Mr. MILFORD. Do you consider the local police identification names and the personnel files of this Congress as being intelligence?

Mr. GIAIMO. We are not going to get into an open colloquy between members of the committee and counsel. I believe the point counsel makes is that the \$82 million which the FBI claims as its budget for intelligence does not take into account other portions of their total budget which also are used in the intelligence-gathering field and when taken in total, total a great deal more than the \$82 million.

In other words, it is within the effort of certain agencies, and I believe Justice is one of them, to try to keep their intelligence budget figure low so it will be a more appealing figure to Congress. Therefore it doesn't take in some of these other aspects, which in a stricter definition—and, of course, Mr. Walsh is correct when he says it depends on the definition—but from a broader scope, that are necessary in order to carry on an intelligence function and which can well be considered by us as meaning that intelligence functions are more than \$82 million.

At this time we will complete the hearing with the present gentlemen, Mr. Pommerening, Mr. Walsh, and Mr. Hoobler, and the committee will stand in recess until 2 o'clock this afternoon, at which time we will have with us the Commissioner of the Internal Revenue Service, Mr. Donald Alexander.

[Whereupon, at 12:15 p.m., the committee was recessed, to reconvene at 2 p.m., this same day.]

AFTERNOON SESSION

Chairman PIKE. The committee will come to order.

Our witness this afternoon is the Commissioner of the Internal Revenue Service, the Honorable Donald Alexander.

Mr. Alexander, it is very nice to see you again. I apologize for the number of times we have seen each other this year. That was my Ways and Means hat. This is a different one.

The subject is essentially the same. You may proceed with your prepared statement.

STATEMENT OF HON. DONALD ALEXANDER, COMMISSIONER OF THE INTERNAL REVENUE SERVICE, ACCOMPANIED BY WILLIAM E. WILLIAMS, DEPUTY COMMISSIONER; MEADE WHITAKER, CHIEF COUNSEL; SINGLETON WOLFE, ASSISTANT COMMISSIONER, COMPLIANCE; WARREN BATES, ASSISTANT COMMISSIONER, INSPECTION; ROBERT POTTER, ASSISTANT DIRECTOR, INTELLIGENCE DIVISION; MISS ANITA ALPERN, ASSISTANT COMMISSIONER, PLANNING AND RESEARCH; JOSEPH DAVIS, ASSISTANT COMMISSIONER, ADMINISTRATION; AND ALAN BECK, FISCAL MANAGEMENT OFFICER

Mr. ALEXANDER. Thank you, Mr. Chairman, it has been my pleasure to appear before you in your capacity as a member of the Ways and Means Committee Oversight Committee several times, and my colleagues and I look forward to appearing before you and the other members of the Select Committee on Intelligence this afternoon to discuss with you what we do, why we do it and how we do it.

First I would like to introduce my colleagues to you, Mr. Chairman. On my immediate left is Mr. William E. Williams, Deputy Commissioner of Internal Revenue.

On Mr. Williams' left is Mr. Warren Bates, our Assistant Commissioner, Inspection.

On my immediate right is Meade Whitaker, Chief Counsel of the Internal Revenue Service, and on Mr. Whitaker's right is Mr. Singleton Wolfe, our Assistant Commissioner, Compliance.

Others who may respond to questions that the committee may have about detailed activities or expenditures of the Internal Revenue Service include Miss Anita Alpern, Assistant Commissioner, Planning and Research, behind Mr. Williams.

Mr. Joseph Davis, Assistant Commissioner, Administration, and to Miss Alpern's right, Alan Beck, our fiscal management officer.

Mr. Chairman, I have a prepared statement which has been distributed to the committee, along with a pink document which the committee received yesterday on our new information-gathering guidelines. I would like to summarize the statement and submit the statement as a whole for the record.

Chairman PIKE. Without objection, the statement and information gathering guidelines will be placed in the record.

[The information-gathering guidelines referred to by Mr. Alexander are printed on pages 593- to 601 of the appendix. Mr. Alexander's prepared statement follows:]

STATEMENT BY DONALD C. ALEXANDER, COMMISSIONER OF THE INTERNAL REVENUE SERVICE

Mr. Chairman and Members of the Committee, I am pleased to be here this afternoon, to discuss with you the information gathering activities of the Internal Revenue Service, and to place those activities in perspective to the Service's overall operations and resource requirements. At the outset, let me state that I am going to be as open and as candid with you as the data available to me permits. However, as I shall describe to you shortly, the incorporation of a variety of IRS operations under a single organizational function does make it difficult, in some instances, to identify precise figures with regard to specific individual activities. Moreover, this problem with respect to the concerns of this Committee, is compounded somewhat by semantics. Nevertheless, we are going to do our best to provide you with all the facts and figures at our disposal.

Before getting into any detailed discussion, I would like to clear up the semantic problem which I just mentioned. Obviously, the IRS collects enormous quantities of information covering every taxpaying entity in the Nation. This information is essential to the Service in determining a taxpayer's proper tax liability. The vast preponderance of this data is submitted to us, timely and accurately, by the taxpayers themselves, in voluntary compliance with the law. The Service, in turn, bears a responsibility to the taxpayers for the careful custodianship of the data with which they entrust us, just as we bear a fiduciary responsibility for the taxes we collect.

This represents the bulk of information gathered by the IRS. We do, however, collect additional information regarding taxpayers, under three general sets of circumstances. The first and by far the largest, is our normal audit process, where we are generally seeking substantiation rather than information itself. In the second set of circumstances, additional information regarding specific taxpayers is sought by the Service in connection with specific tax investigations, where we have established a controlled case file based upon data already in our hands that suggests that probable existence of criminal or civil tax fraud. The establishment of such an investigation will frequently have come about as a result of our normal audit procedures, such as the application of the discriminant function by our service center computers, or as a result of data acquired incident to the audit of another taxpayer. The collection of specific, case related information is made through professional law-enforcement investigative methods, such as interviews and the examination of third party records.

The third set of circumstances in which information is gathered by the Service, which may be described as "intelligence gathering", involves the evaluation of a variety of information items as potential indicators of revenue non-compliance or of breaches of our own integrity. As we understand it, Mr. Chairman, it is this sort of information gathering in which your Committee is interested, and it is these Service activities I would like to discuss with you in detail this afternoon.

Internal Revenue's "intelligence gathering" activities fall into two basic areas of concern; (1) those activities related to enforcement of the Internal Revenue Code; and (2) those activities related to the Service's internal security and the integrity of its employees and its operations. The former area is by far the larger of the two, and includes three distinct activities: The Intelligence Division's information item and background files, our Joint Compliance Program, and our Return Compliance Program.

I should point out that the name of our Intelligence Division may be somewhat misleading from the Committee's point of view. This division, as many of you may know, is the Service's criminal enforcement arm, and the bulk of its resources are expended directly upon specific tax fraud investigations. As an example, only an estimated \$4.3 million of the Intelligence Division's FY '75 budget of \$100 million was spent on generalized information gathering. Much of the resources expended in this activity relates to the evaluation of tens of thousands of unsolicited "tips" which the Service receives from the public each year. Over the last three years, we have evaluated roughly 100,000 such publicly submitted information items annually. In addition, the Intelligence Division receives about 20,000 information items per year from other Service activities, such as our Audit and Collection Divisions, and another 20,000 or so items from other Government agencies.

Of the approximately 140,000 total information items we receive each year, about one half are found to have no present revenue potential, or no relationship to tax law enforcement whatever. Those with no tax-relevance whatever that appear to have potential interest to other law enforcement agencies are forwarded to the appropriate organization, following review and concurrence by the Director of the Intelligence Division. Under present procedures, the information items are held by the receiving office for five years.

After five years, they are destroyed. We are in the process of revising these procedures to shorten the retention period for those items that are not directly tax related.

The other information items we receive are either subject to further Intelligence investigation, or are forwarded to other IRS activities, as appropriate. Those items which, upon detailed evaluation, do not appear to justify any action are also held for five years in manual files for possible further reference. After five years they are destroyed. In addition to those information item files, our field Intelligence organizations also retain a "background file" on taxpayers who are under investigation, but upon whom a civil or criminal case file has not yet been established. Under our recently revised and tightened procedures, all information in these files must be directly tax related. These files contain unsolicited data received by the Service, as well as information which the Service may have actively sought from other government agencies, or from informants.

As I stated a moment ago, our Intelligence organization estimates that it spent approximately \$4.3 million on the generalized information gathering activities which I have just described. The bulk of this expenditure was devoted to the review, evaluation, and disposition of the information items involved. This figure represents a substantial reduction from the resources spent on these activities during prior years. This is because the IRS halted its generalized intelligence gathering activities in January 1975, pending a thorough review of procedures in this area. This review has been completed. Copies of our newly revised and tightened procedures have been furnished to the Committee. The expenditures for this activity in FY '74 were an estimated \$6.5 million. During FY '73, these amounts were even higher—roughly \$11.8 million was spent in our generalized intelligence gathering and evaluation activities, representing nearly 16% of the FY '73 Intelligence Division budget of \$74 million. Our projection for FY '76 indicates that anticipated generalized information gathering efforts will be a far smaller percentage of our total Intelligence Division expenditures.

We have two other enforcement-related information gathering programs in the Service: our Joint Compliance Program and our Returns Compliance Program. The Joint Compliance Program, or JCP, is a loosely structured district level program designed to allow our district directors to have some local research and analysis capability in order to determine taxpayer compliance in the areas under

their jurisdiction. Manpower is allocated to the Districts for research to determine the extent of non-compliance with the tax laws within locally selected occupations, industries, or geographic areas that would not be identified by other established Service non-compliance detection processes. Information from a variety of sources is analyzed and the areas that appear most likely to have the highest degree of non-compliance are selected for project attention. The scope of non-compliance is determined by a taxpayer sample, and remedial actions are suggested. Such actions would include: taking appropriate enforcement actions; revising the tax regulations, forms, etc., or recommending revisions of the law; and working with taxpayer associations to educate members of tax reporting requirements.

In FY '75, the Service expended an estimated \$3.5 million on JCP activities. This represents a reduction from our FY '74 operational level of approximately \$5.3 million.

Our Returns Compliance Program, or RCP, is administered by our Collection function. RCP activities are designed to identify delinquent return filers from leads generated both within and without the Service. Outside leads typically include state records of licenses and permits, industry trade associations, and other largely public documents. Such information is then cross-checked against IRS records to ascertain the existence of non-filers. In the past three years, RCP has produced an estimated 885,000 delinquent tax returns, with combined assessments in excess of \$370,000,000. In Fiscal Year 1975 our RCP activity cost \$10.7 million.

The three areas I have discussed so far this afternoon represent the Service's total enforcement intelligence gathering efforts. In sum, for FY '75, they cost an estimated \$18,515,000. This represents approximately 1.2% of the Service's FY '75 budget.

As I indicated at the outset, in addition to our enforcement-related intelligence gathering activities, we also engage in a very small amount of general information collecting in association with our own Internal Security operations. The major duties of the Internal Security Division of the Inspection Service are to conduct background investigations of job applicants; investigate complaints of misconduct or irregularities concerning employees; and investigate persons outside the Service who attempt to bribe or otherwise corrupt Service employees and who threaten or assault employees.

The preponderance of Internal Security activities is directed at specific cases and allegations. Internal Security has no formal system for "general intelligence gathering" as such. However, inspectors do get general intelligence information as part of their job. This may be unsolicited from such sources as rank and file employees, management officials, the Congress, state and Federal government agencies, anonymous letters, etc., or it can be incident to an ongoing investigation. Information gathered in this way is evaluated and, based on the judgment of Internal Security managers, may result in a specific case or may be put in a miscellaneous file for possible future reference.

On a very limited basis, Inspection has paid money to non-IRS individuals for information, and expenses related to securing that information. This information is very specific and almost always results in an investigation. In Fiscal Years 1973-1975 this has totaled approximately \$3,500. In addition, payments have been made to IRS employees for expenses they have incurred in assisting investigations by Inspection. These expenses are incurred almost exclusively in connection with bribery investigations. In Fiscal Years 1973-1975 this totaled approximately \$11,000.

While Inspection has no ongoing system for general intelligence gathering there have been several individual projects involving limited intelligence gathering. During Fiscal years 1973-1975 the money spent on these projects totaled approximately \$36,383.00. These projects have all been stopped because they did not indicate integrity breakdowns.

In summary, Mr. Chairman, I have presented you with a broad, but I believe, complete picture of Internal Revenue's general intelligence gathering activities, and the costs associated with those activities. My associates and I look forward to your questions.

Mr. ALEXANDER. Mr. Chairman, we will do our best to cope with the expectation of precision that you have.

We gather, as you know, in your other capacity, more information from more people about their financial affairs and about their lives than any other agency, and we have a duty to gather this information

only to the extent that it is necessary in the administration and enforcement of the Internal Revenue laws, and we have a duty to safeguard the information that we gather.

So, in the broadest sense of the term, we are probably the largest information or intelligence-gathering agency to appear before this committee in the exercise of its responsibilities.

In addition to the information that is given us voluntarily, we must ask for and obtain further information. Much of this is requested and obtained in the course of our fulfillment of our audit responsibilities. Last year we conducted almost 2,500,000 audits, and in connection with each of those audits, it was probably necessary for us to ask for information beyond that submitted on the taxpayer's tax return.

This information is largely information to substantiate deductions or credits, or the characterization of items on the return, but in addition to this type of information gathering, which we engage in to a very large extent, and which we must engage in to fulfill our responsibilities, we engage in other and much smaller and narrower types of information gathering. It is those we would like to explore with you this afternoon.

In one set of circumstances, additional information regarding a specific taxpayer is sought in connection with specific tax investigations where we have already established a file that suggests the possibility of civil or criminal fraud.

Generally, these investigations come about as a result of our normal audits or our collection processes and the referral of cases to Intelligence. Here we need to collect certain specific and case-related information through professional investigative methods.

Another set of circumstances which can be described as intelligence gathering in the broad sense of the term, involves the evaluation of a variety of information items as potential indicators of revenue non-compliance or sometimes breaches of our own integrity.

As we understand it, Mr. Chairman, it is this particular type of information gathering in which your committee is most interested.

Now, intelligence-gathering activities of this type fall into two basic areas: First, those related to enforcement of the Internal Revenue Code, and second, those related to our own internal security and the integrity of our employees and operations.

Of these, the former is the larger area. It includes our Intelligence Division and our joint compliance program. Our intelligence Division is our criminal enforcement arm. Last year it was budgeted at about \$100 million. Only about \$4.3 million, however, of this \$100 million was spent on generalized information gathering.

Much of these resources relate to thousands of tips or informant communications we receive from the public each year unsolicited. Perhaps "informant" is the wrong word. These are communications from people to the Internal Revenue Service about other people's taxes.

We receive more than 100,000 information items of this type annually, and then we receive from the inside of the Service another 40,000 or so such items annually. We find that many of these have no potential whatever. Many of them are grudge letters or crank letters. I understand that Congressmen are not immune from receiving such letters, and I think we can tell one when we see one and know what to

do with one. We keep it for a while. We keep it because the person who sent it may follow up and complain about a possible violation of integrity on the part of the Service in not following up, or the person may claim a reward under section 7623 of the Internal Revenue Code which contains a provision for reward.

We keep them, but we don't do anything with them.

Those that relate to possible violations of laws other than those that we have the authority to enforce are referred to the proper agency, and those that are related to enforcement of the tax laws are retained and evaluated. After a period of normally 5 years, these items, if not used, are destroyed. We are reevaluating that retention period in connection with the new information guidelines we have submitted to this committee.

Now, under these new guidelines, all information that is put in our case files must be directly tax-related. We have a definition that we will be glad to explore with you, a definition by example of what is directly tax-related on page 2 of the pink guidelines.

As I mentioned, our intelligence organization estimates that it spent about \$4.3 million on this generalized information-gathering activity, and the bulk of this expenditure was in the review and evaluation and disposition of information items. This \$4.3 million is a substantial reduction in the corresponding expenditures made in prior years.

On page 6 of my statement, I point out, in fiscal year 1973, we spent about \$11.8 million in these same generalized information-gathering and evaluation activities and this represented nearly 16 percent of our 1973 intelligence division budget.

In 1974, this \$11.8 million was reduced to \$6.5 million and last year it fell to \$4.3 million.

In evaluating the resources made available to us and the need for proper utilization of these resources, we don't place generalized information-gathering at the top of the scale. I mentioned earlier that we had two other enforcement-related information-gathering programs. Our joint compliance program and our returns compliance program, JCP and RCP. JCP is comparatively small and somewhat loosely structured district level program designed to allow our district directors to have some local freedom in meeting local needs in the administration and enforcement of the tax laws. We allocate manpower, a small part to the district for research to determine the extent of noncompliance within locally selected occupations, industries, or groups—areas that would not be identified sufficiently by our general system of selection of taxpayers for investigation.

We analyze information from a variety of sources. We attempt to determine the scope of noncompliance and the actions which should be taken to remedy it, and these actions include not only enforcement but also revising our regulations and our forms, recommending revisions to the law, and working with groups of taxpayers or employers in an effort to solve problems.

In fiscal year 1975, we spent about \$3.5 million on joint compliance programs and this represented a reduction from our fiscal year 1974 expenditure of a considerably larger amount.

Our returns compliance program is administered by our collection function, and returns compliance is designed to do what its name would imply: To identify people who should have filed returns but who

didn't file returns. We identify these people from leads generated both from within and without the Internal Revenue Service. We use State records of licenses and permits. We use industry trade association periodicals, and other largely public documents, including the yellow pages. We cross-check this information against IRS records to ascertain the existence of nonfilers, and in the past 3 years, this returns compliance program has produced an estimated 885,000 delinquent tax returns, with large combined assessments of taxes.

This activity cost \$10.7 million in fiscal year 1975.

These three activities together, our intelligence division activity in this respect, our joint compliance program, our returns compliance program, cost in the year 1975, about \$18.5 million, or about 1.2 percent of our total 1975 budget.

At the outset, I mentioned that we also engaged in a small amount of information-collecting in association with our internal security operations, designed to protect the integrity of the Internal Revenue Service. The major duties of the Internal Security Division of the inspection service include checking job applications, investigating complaints of misconduct or irregularity concerning employees, and investigating persons outside the Service who attempt to bribe or otherwise corrupt Service employees or who threaten or assault employees.

The preponderance of internal security activities is directed at specific cases and specific allegations. It has no formal system for general intelligence-gathering as such, but inspectors do get some general intelligence information as part of their job. It may be unsolicited in connection with an ongoing investigation. We evaluate this information and it may result—and sometimes does—in a specific case, or it may be put in a miscellaneous file for possible future reference. On a very limited basis, inspection has paid money to individuals outside the IRS for information and expenses. In fiscal years 1973 through 1975, this has totaled approximately \$3,500. We have also made certain payments to IRS employees for expenses incurred in assisting inspection investigations; in the same fiscal years, 1973 through 1975, this totaled about \$11,000.

There have been several individual projects for inspection involving limited intelligence-gathering; the money spent on these projects in the same fiscal years, 1973 through 1975, was approximately \$36,000. These projects have all been stopped.

Mr. Chairman, this is a broad overview of our intelligence-gathering activities and the costs associated with these activities. We look forward to your questions and the questions of your committee members and staff with respect to this issue of costs, the issue of intelligence gathering generally, and the further issue of our relationship with the other agencies charged with law enforcement responsibilities with intelligence-gathering responsibility.

Thank you.

Chairman PIKE. Thank you, Commissioner Alexander.

First of all, I would like to just state publicly that the amounts which you spend in this regard compared to the amounts which we have run into being spent by other agencies in this regard are so puny that they appear to be almost negligible in the total scheme of things.

This morning, the FBI reported to us that they thought it would be very detrimental to their efforts to prosecute organized crime if organized crime knew how much money was being spent by the FBI in order to investigate them.

You have no reluctance telling us what you spend to investigate taxpayers or get intelligence against taxpayers. Is it because the taxpayers are disorganized, that you don't find this a necessarily secret figure?

Mr. ALEXANDER. I wouldn't say that that was the reason. We have found some taxpayer groups to be very highly and efficiently organized and it takes an efficient organization on our part to cope with the problems such organizations produce.

We have no problem—

Chairman PIKE. You understand, Mr. Alexander, you are the first person to come before this committee who has told us what you spent in gathering intelligence—told us in open session what you spent in gathering intelligence—and it comes as kind of a shock and a breakthrough to us to hear somebody come in and say, "We spend this much money doing this kind of thing." It is rather refreshing.

When other intelligence-gathering agencies pay informants in the United States of America for information, does the Internal Revenue Bureau know about it?

Mr. ALEXANDER. Mr. Chairman, first I will try to respond, and then I will ask Mr. Wolfe to speak.

Chairman PIKE. I assume nothing is withheld, as a withholding tax, for money that is paid for information?

Mr. ALEXANDER. We think informants, like others, share the privilege of all Americans in paying taxes upon their income, including what they get for being informants, and we have a responsibility to see to it that informants meet their tax responsibilities.

Chairman PIKE. You are not necessarily dealing with the best white collar element in American society when you are talking about these informants and I just wonder to what extent they do pay taxes on the money they get for being informants.

Mr. ALEXANDER. I am not sure that we have any special programs that would identify the degree of compliance or noncompliance in the informant population which I am told is growing to some degree. Programs using informants are not growing to as great a degree now because Internal Revenue has terminated its association with many of them in the Miami area and elsewhere.

Chairman PIKE. How about when FBI pays an informant, do you know what the FBI has paid an informant?

Mr. WOLFE. Mr. Chairman, we do not know what other agencies have paid to informants, no, sir.

Chairman PIKE. It is perfectly conceivable one element of our Government is paying informants money which never really gets taxed at all; is that conceivable?

Mr. WOLFE. That could be conceivable that one agency could be paying money that was not reported as taxable income; yes.

Mr. ALEXANDER. I don't believe there is any withholding.

Chairman PIKE. I don't believe so either and that is exactly why I raised the question.

When you collect information which may involve crimes or offenses other than income tax evasion, you say you turn it over to other authorities.

Do you follow up on what happens to this, at all, or do you just turn it over to the other authorities?

Mr. ALEXANDER. So far as I know we don't follow up. Can you add to that, Mr. Wolfe?

Mr. WOLFE. No, sir, Mr. Chairman, we do not follow up.

Chairman PIKE. When you get information—I presume, Mr. Alexander, you run a pretty broad computer system in the IRS. Into your computer gets cranked all kinds of information about all kinds of American citizens. Am I right thus far?

Mr. ALEXANDER. You are certainly right, sir.

Chairman PIKE. Does anyone have access to your computers, other than the Internal Revenue Service?

Mr. ALEXANDER. Let me put this in context, Mr. Chairman. We have our major computer system, which has the information that you described in our master file, at Martinsburg, W. Va. Access to this computer system is limited to the Internal Revenue Service. However, other people—congressional committees, other agencies of the Government, and others beyond congressional committees and other agencies—can obtain tax returns and tax return information from us.

Chairman PIKE. Who spends more time getting information from you, congressional committees or other agencies of the Government?

Mr. ALEXANDER. Other agencies of the Government.

Chairman PIKE. I was pretty sure of that.

Mr. ALEXANDER. Oh, yes.

Chairman PIKE. It would be at least 95 to 1, would it not, as far as the amount of information that you give to congressional committees compared to other agencies of the Government?

Mr. ALEXANDER. I would certainly think so, because the Department of Justice, which is our largest customer, has the largest need.

Chairman PIKE. My time has expired. Mr. McClory?

Mr. McCLORY. Thank you, Mr. Chairman.

You say that these tips come from tens of thousands of persons. How many are there? Thirty thousand? Eighty thousand?

Mr. ALEXANDER. Let me make it clear that I was talking about the number of communications that we receive annually. Now, one person might send in several communications, but assuming the number of communications is roughly equivalent to the number of communicators, we receive, I am told, more than 100,000 of these communications annually from the outside. Is that correct, Mr. Wolfe?

Mr. WOLFE. Yes, sir. Last year, in fact, in fiscal year 1974, we received about 106,000.

Mr. McCLORY. You are paying out \$4.3 million from the intelligence funds? Is that a bounty or reward? What is that?

Mr. ALEXANDER. Oh, no. That is the cost as we see it, an estimate of our costs, of our generalized intelligence-gathering work in the intelligence division. It includes the evaluation and followup of items such as those which you have just described.

Mr. Wolfe can clarify the other activities.

Mr. McCLORY. There is no bounty or reward involved in the \$4.3 million?

Mr. WOLFE. No, sir, that is just our payroll costs and other processing costs of gathering this information.

Mr. McCLORY. Are you engaged in strike force operations with the Department of Justice?

Mr. ALEXANDER. Yes.

Mr. McCLORY. In that connection, you supply, readily, of course, the Internal Revenue information necessary there?

Mr. ALEXANDER. Could I clarify that, Mr. McClory? The strike force is, as you pointed out, a combined effort under the aegis of the Department of Justice. To obtain tax returns however, a request must come from an Assistant Attorney General, the Deputy Attorney General, or the Attorney General, to me, for the tax return information with respect to a specific taxpayer.

Mr. McCLORY. Then you might use your intelligence activities or engage in intelligence activities to get additional information, contacting individuals with whom the strike force object is doing business and the banks and other sources of information?

Mr. ALEXANDER. That is correct, after a case has started.

Mr. McCLORY. One of the things that has been disturbing to Members of the Congress and the American public has been the rather lax manner in which some directors of the Service have handled the confidentiality of Federal income tax returns. That is, making the information available maybe to selected Members of Congress or to the President of the United States or others.

There is no basis for making any such charge today; is there?

Mr. ALEXANDER. Charges can be made, but this charge, would in my judgment, be without foundation, considering the way we are trying to administer the law. But the law needs correction, Mr. McClory. The law is too broad. The law governing confidentiality or lack thereof should be, as we see it in the Treasury Department and the Internal Revenue Service, tightened up considerably.

Mr. McCLORY. Would you be willing to make specific recommendations to our counsel and to this committee? One of the principal objectives, it seems to me, of the work of this committee is to try to improve the law relating to all of our intelligence agencies, to enhance confidentiality, wherein confidentiality is important, and otherwise to close up the gap, to correct the defects in the existing law. Would you be willing to do that?

Mr. ALEXANDER. Yes, Mr. McClory.

Mr. ALEXANDER. Last fall, Secretary Simon sent up to the Hill a legislative recommendation for correction of a number of defects in the present law. That would be a good place to start. We will get that to you.

Mr. McCLORY. Thank you very much.

[Subsequently, the IRS submitted to the committee (1) a draft bill "To amend the Internal Revenue Code of 1954 to restrict the authority for inspection of returns and the disclosure of information with respect thereto, and for other purposes"; and (2) a "Proposal to amend section 6903 and related Code sections having to do with disclosure of Federal tax returns and return information." The draft legislation—S. 4116, 93d Cong., introduced by Senator Bennett—and the proposal are in the committee files. A letter from Mr. Alexander to Mr. Field relating thereto is printed on pages 602 to 603 of the appendix.]

Mr. McCLORY. Have there been any recent changes with regard to access to information at the Martinsburg data center to prevent widespread or unauthorized use of data from that source?

Mr. ALEXANDER. We are continually reviewing our security measures to prevent unauthorized access to Martinsburg and to the gold mine of information stored there. I know of nothing specific beyond that. Do you, Mr. Bates?

Mr. BATES. No.

Chairman PIKE. The time of the gentleman has expired.

Mr. Giaimo?

Mr. GIAIMO. Thank you.

Mr. Alexander, I'd like to get a little more specific on your statement that you get a great deal of inquiry from congressional committees.

Mr. ALEXANDER. I think that the chairman put it in context when he indicated about a 95 to 1 relationship with Congress on the low side.

Mr. GIAIMO. Let me put it in a little greater degree of context. Can any Congressman call IRS and ask for John Doe's tax return?

Mr. ALEXANDER. Not unless that Congressman is John Doe.

Mr. GIAIMO. Do I understand that the congressional committee that would deal mostly with IRS probably would be the Joint Committee on Taxation?

Mr. ALEXANDER. The Joint Committee on Internal Revenue Taxation, the Ways and Means Committee, the Finance Committee, and the Senate Select Committee has an Executive order, I believe. Who else, Mr. Whitaker?

Mr. GIAIMO. Isn't it basically the committees which are concerned with the Tax Code of the United States and the administration of the Tax Code of the United States?

Mr. ALEXANDER. That is correct.

Mr. GIAIMO. Can those committees get tax returns of individuals, or do they get statistical information?

Mr. ALEXANDER. They can get tax returns.

Mr. GIAIMO. Do they get many tax returns of individuals?

Mr. ALEXANDER. No.

Mr. GIAIMO. I assume that the Department of Justice gets many because of your enforcement procedures; is that so?

Mr. ALEXANDER. That is, to a large extent, the reason why they get a large number of tax returns. I mentioned that we get a number of requests in connection with strike force activity.

Mr. GIAIMO. It is in the enforcement division; isn't that so?

Mr. ALEXANDER. That is correct.

Mr. GIAIMO. IRS has come in for some criticism, primarily in very recent years and days because of the fact that Presidents and/or Presidential assistants were obtaining tax returns of individuals and because of the dangers of enemy lists, and so forth; isn't that so?

Mr. ALEXANDER. That is so, and President Ford has issued an Executive order materially tightening up White House access. We have issued a similar directive in the Internal Revenue Service centralizing any such requests in my office or the Office of the Deputy Commissioner.

Mr. GIAIMO. Do you get many requests for tax returns of individuals or corporations from the FBI or the CIA?

Mr. ALEXANDER. Many? No; as a matter of fact, I don't know if we get into any as such, from the FBI.

Mr. Wolfe, that disclosure comes within your function.

Mr. WOLFE. We do not. At least in the last few years we have not acted on any requests from the FBI.

Mr. ALEXANDER. How about the CIA?

Mr. WOLFE. I have received no request from the CIA.

Mr. GIAIMO. You said in the last few years. What happened to change the pattern? The last few years happen to have been a critical period in American history.

Mr. WOLFE. I am trying to recollect the total time in which I have been in my job.

Mr. GIAIMO. For the record, would you look into this matter and let us know, going back for about 10 years the number of requests you have received from FBI, from CIA, from Department of Justice, from Congress, and, most importantly of all, from the White House.

Mr. ALEXANDER. Yes; we give a report to the Joint Committee on Internal Revenue Taxation, of requests for tax returns, the source of the requests and the reason for the request.

I don't know whether we have these reports 10 years back.

Mr. GIAIMO. I won't argue about the number of years, but I would like your report to precede the gentleman's tenure and certainly cover more than 2 or 3 years. I won't hold you to a 10-year period, however.

[The information referred to is printed on pages 604 to 627 of the appendix.]

Mr. GIAIMO. During the period of 1969 to 1973, you had a special service staff to obtain information and conduct clandestine investigations on activist organizations and on prominent individuals; is that so?

Mr. ALEXANDER. The special service staff was created in 1969, and I terminated it when I issued such an order on August 9, 1973. The special service staff was created by IRS as its response to the needs, or purported needs, described in much more detail than I could describe them this afternoon, by the staff of the Joint Committee on Internal Revenue Taxation in the report that it issued on June 5, 1975.

The special service staff in April of 1973 was supposed to be confined to dealing with the problem of tax resisters and tax protestors—those attempting to defeat the enforcement of the laws that we are sworn to uphold.

Upon becoming Commissioner, I had a briefing on the special service staff on May 30, 1973, the day after I was sworn in, and I agreed to its continuance on the understanding that its activity would be so limited. Finding, in August, that its activities or at least its own view of its activities was not limited in accordance with those instructions and those expectations, I ordered it disbanded, and I hope that no special service staff will ever be created by the Internal Revenue Service in the future.

Mr. GIAIMO. Can you tell us the statutory authority for setting up this Special Services Staff?

Mr. ALEXANDER. No specific statutory authority, sir. Just the authority and the responsibility conferred generally upon the Internal Revenue Service to administer and enforce the tax laws.

Mr. GIAIMO. What disposition was made of the information and the intelligence gathered by this Special Service Staff?

Mr. ALEXANDER. It is still retained. We instructed that it be retained until all the congressional committees and other official investigative bodies with any interest in the Special Service Staff agreed to its destruction. That process has not yet been completed. I hope it will be completed by the year 2000 if not before and at that time we would like to get rid of this junk.

Chairman PIKE. The time of the gentleman has expired.

Mr. Dellums?

Mr. DELLUMS. Thank you, Mr. Chairman.

Mr. Alexander, you, in response to Mr. Giaimo's question pointed out that this Special Service unit was set up and targeted against those persons who are organized to protest taxes; is that correct?

Mr. ALEXANDER. No, I said, Mr. Dellums, that in 1973, just before I became Commissioner, a manual supplement, which really is an organizational statement, was issued so describing and so constricting the activities and function of the Special Service Staff, but as far as the original creation of the Special Service Staff was concerned the Special Service Staff concerned itself with extremists, in quotes, or perhaps without quotes.

I found in October 1972, if I have picked the right month, the Special Service Staff was reviewed by senior Internal Revenue officials and a memorandum issued which stated an interest in such things as rock festivals, where youth might be attracted. I don't think that is relevant or a proper part, of the enforcement of the Internal Revenue laws.

Mr. DELLUMS. I agree with you.

I would now like to ask this. I was prepared to read from an exhibit of a meeting that set up this SSS. I would now like to ask, since it was targeted against so-called extremists, radical, ideological groups in the country, did the Special Services unit ever conduct an investigation against Members of Congress?

Mr. ALEXANDER. I don't know. The Special Service Staff itself did not conduct any investigations, but it did acquire information. It did transmit that information to the field. As to any particular person, Mr. Dellums, including yourself, who might want to make an inquiry as to whether he or she was included in the Special Service Staff file, we would be glad to look into the file and respond to that inquiry.

Mr. DELLUMS. I am way ahead of you, Mr. Alexander.

Members of this committee staff have indicated to me that this Special Service forces that I think had a rather distorted and illegal operation on the part of IRS, did in fact carry out investigations against myself and Michael Harrington. As I understand you went against the wrong Michael Harrington, even, so that was a botched up job. I would like very much to find that out. Not because I am not worried. I have all kinds of records. What we find out here is that people who stand up and speak their views often have files in some agency and I don't know why IRS would be above that.

Can you tell me why this force was set up in the first place?

Mr. ALEXANDER. I think you will have to ask my predecessor who was in office at the time it was set up. I abolished it, Mr. Dellums. I abolished it because I believe that social or economic views, whatever they may be, whether people stood up to state them or state them sitting down, are irrelevant to the tax system.

Mr. DELLUMS. Let me move to another area of questioning.

Why is it that your intelligence budget has been so drastically reduced? When one takes a long view perspective, your budget has now very seriously been reduced. Is that because of public exposure of activity such as Operation Leprechaun in Miami where you look into keyholes to determine the sex lives of individuals?

What reason can you give this committee for why you so drastically reduced your intelligence budget?

Mr. ALEXANDER. Let me first state that the budget that I described was only a part of our intelligence division budget as a whole. Instead of it being reduced, our intelligence division budget as a whole has increased.

That particular portion, sir, as you point out, was materially reduced. It was materially reduced between fiscal year 1973 when it was almost \$12 million, and fiscal 1974 when it was slightly over \$6 million. That was before Operation Leprechaun—an operation for which I have the same distaste as you—came to light.

Mr. DELLUMS. I am sure Mr. Lehman is going to ask you many questions.

Mr. ALEXANDER. I am sure he is. I will be surprised if he doesn't.

We have limited resources to do an extraordinarily large job. We have an obligation to use those resources most effectively, and I question whether general intelligence gathering is the best way to use a lot of money and a lot of people that we need to work cases.

Mr. DELLUMS. Given that function, do you audit the files of CIA covert employees or agents?

Mr. ALEXANDER. They are not exempt from tax. They don't have immunity from the tax system, and we audit CIA people the way we audit other people, which I trust is effective and fair.

Chairman PIKE. Mr. Kasten?

Mr. KASTEN. Thank you, Mr. Chairman.

I want to follow up on the questions of Mr. McClory on the number of returns that you are seeming to audit.

There is a statement that was made recently in the press: "It is hard to imagine a situation in which a Federal agency cannot get a tax return."

Is that in fact the case, that people can just ask for tax returns in a helter-skelter way without much backup?

Mr. ALEXANDER. A Federal agency can, under the Presidentially approved regulations, request a tax return in writing, signed by the head of the agency, in connection with a matter officially before the agency.

Mr. KASTEN. Is it true that in the last year, Federal agencies demanded and got 30,000 tax returns filed by more than 8,000 individuals?

Mr. WOLFE. That is correct.

Mr. KASTEN. 30,000 by 8,000 individuals.

Mr. WOLFE. Precisely there were 29,529 returns on 8,210 taxpayers.

Mr. KASTEN. Your numbers about match mine.

I would like to now talk about the trend here.

In 1972, there were 493 requests received by IRS involving 6,553 taxpayers.

In 1973 you doubled that, going from 493 to 1,127. Number of taxpayers involved, 7,625.

In 1974, you again doubled over 1973. Number of requests received 2,112. Number of taxpayers involved, 8,210.

Is that correct?

Mr. WOLFE. I don't have the figures that you cited for the previous years. I only have for calendar year 1974. They sound correct and I will be happy to verify them for the record.

[The information referred to appears in the appendix.]

Mr. KASTEN. Is it also true for all practical purposes that State and local officials get tax returns on magnetic tapes on a regular basis and that that offers IRS no effective way to monitor the use of information which is supposed to be confidential information, by literally thousands of local and State officials? Is that true?

Mr. ALEXANDER. State and local officials do, under section 6103 of the Code and our exchange agreements with the States, obtain Federal tax return information.

Mr. KASTEN. You have no safeguards over how they use that material?

Mr. ALEXANDER. Yes, we do, and we are imposing further ones.

What we are doing is giving effect to the concern we share with you. We believe we have an obligation to help States make their tax systems work effectively but we believe we have a greater obligation to protect the confidentiality of income tax returns. We are revising all our agreements with States to impose additional duties on the States to safeguard this information.

Mr. KASTEN. At the present time you believe you have got a problem; is that right?

Mr. ALEXANDER. At the present time we believe we do have a problem and the States have a problem. We are concerned about this problem and we are correcting this problem.

Mr. KASTEN. I want to back up a little bit to the law on this question.

In 1974, the Privacy Act provided that no Federal agency "shall disclose any record to another agency except pursuant to a written request by, or with the prior written consent of, the individual to whom the record pertains."

In addition we have the fourth amendment safeguard against invasion of privacy and the fifth amendment safeguard against self-incrimination.

Now are you telling me the law isn't clear on those points?

Mr. ALEXANDER. No, I am not telling you that. If I was, I would like to clarify it.

First as to the Privacy Act, I believe there is an exception for routine use, to the requirement that you described for routine use and I believe—

Mr. KASTEN. Mr. Alexander, may I interrupt?

The problem is this so-called routine use is getting awfully routine as you double the number of checks without these safeguards.

Wouldn't you agree?

Mr. ALEXANDER. Without safeguards I would be seriously concerned but I believe that Senator Ervin on the floor of the Senate described the transmission of information that you and I are reviewing, as a routine use.

I share your concern, Congressman Kasten, and I would hope that in the new section 6103 that Congress might enact to replace the present section 6103 safeguards would be written into the law with respect to the transmission of income tax returns and tax return information to the States.

I certainly would not recommend that these exchange agreements be abrogated in their entirety, because of the problems of a few, but I surely do not think that these problems should be permitted to continue.

Mr. KASTEN. Thank you, Mr. Chairman.

Chairman PIKE. Mr. Murphy?

Mr. MURPHY. Thank you, Mr. Chairman.

Mr. Alexander, I understand you just took over, May 24, 1973; is that correct?

Mr. ALEXANDER. May 25. I was sworn in May 29.

Mr. MURPHY. Mr. Alexander, there have been reported allegations of extensive wiretapping of citizens conducted in Baltimore and Chicago, according to newspaper reports.

Is your IRS investigating these allegations?

Mr. ALEXANDER. We certainly are.

Mr. MURPHY. To what extent are you going into this?

Mr. ALEXANDER. As deeply as possible. We are quite concerned about these allegations. The Internal Revenue Service has a flat prohibition against wiretapping. When an allegation of wiretapping is made against the Service you can be sure we take it very seriously.

Mr. MURPHY. We were told, Mr. Alexander, by a former Attorney General of the United States—and this is prior to your administration—that a school was held for IRS Special Agents on the use of wiretapping.

Apparatus and a lot of this equipment was bought by the agent's own money or through a special fund and the head of the IRS said that he didn't want to know about it. If you had good results, bring them in, and if you got caught, you were on your own.

Is there any truth to that?

Mr. ALEXANDER. I surely hope not.

Now IRS did have a school, a very unfortunate school which, as I recall, was terminated in 1965 by my predecessor, Sheldon Cohen.

Mr. MURPHY. What was the genesis of that school? Who ordered that school and what was taught at that school?

Mr. ALEXANDER. As to who ordered the school, sir, I do not know. I can try to ascertain it.

Mr. MURPHY. Would you give the committee that information—who gave the instruction, did they use outside agencies, electronic firms, and was equipment bought? How much money was spent for that equipment?

Would you get that information to us?

Mr. ALEXANDER. I will do my best to supply it.

[The information follows.]

The Technical Investigative Aids School was a Treasury Department school held at the old Treasury Law Enforcement School (now the Criminal Investigator School, Federal Law Enforcement Training Center), 711 12th Street, Washington, D.C., which was attended by criminal investigators from all the Treasury law enforcement agencies.

The first school was held in 1955, and from then until it was terminated in 1965, eleven schools were held. A total of 108 special agents from the Intelligence Division attended.

The school was started because it was felt at that time that criminal investigators needed as much knowledge and skill as possible in the use of various types of technical investigative aids which, if lawfully employed, would strengthen investigators' capabilities to detect criminal violators.

This technical school's curriculum was designed to provide a basic knowledge of various types of equipment and technical aids in investigative work. The equipment and aids were all commercial projects generally available to most law enforcement agencies.

The course included such subjects as legal boundaries, basic electronics, microphones, telephone security, amplifiers and recorders, photography, and lock security.

Instruction was given by personnel from the various Treasury law enforcement agencies and personnel from the U.S. Army Intelligence School, Fort Holabird, Maryland. Demonstration of investigative equipment—such as lock-picking kits, etc.—was given by various manufacturers.

It is possible that individuals may have purchased investigative equipment for personal use with their own money at the time of the manufacturers' demonstrations. Use of personally owned equipment on official business, however, was prohibited as early as August 26, 1960, by IRS Policy Statement P-1-109.

We have no procurement records or other information to indicate that IRS bought any equipment for that school. However, we believe that IRS did reimburse the Treasury Law Enforcement School for a pro rata share of the school's cost. Records of those pro rata reimbursements (made over ten years ago) no longer exist.

Mr. ALEXANDER. I thought one of the problems with that school—terminated, sir, in 1965, some 10 years ago—is that it taught such things as lock picking and the like. That again is not a part of the enforcement of the tax laws.

Mr. MURPHY. Did this not seem incredible to you as Commissioner of the Internal Revenue Service, that this could happen in the United States, in the IRS?

Mr. ALEXANDER. In defense of my predecessors I don't believe any of my predecessors would want to take the attitude "Do it but don't tell me." I think they were fine, honorable people trying to do their job right.

Mr. MURPHY. Who is authorized to supervise the use of wiretaps in the course of IRS investigations?

Mr. ALEXANDER. No wiretaps.

Mr. MURPHY. None whatsoever?

Mr. ALEXANDER. None.

Mr. MURPHY. Any, prior to your tenure?

Mr. ALEXANDER. Probably.

When did this rule against wiretaps come about?

Mr. WOLFE. I think this was over 10 years ago. Former Senator Long from Missouri conducted a Senate investigation on the illegal and improper use of electronic equipment. It came out during those hearings that there were some instances in IRS in which illegal wiretapping was performed by our people. It was at that time we put out an order—the then Commissioner of Internal Revenue put out an order—strictly proscribing the use of: (1) wiretapping, or, (2) the improper use of any electronic surveillance.

To my knowledge every year since then, I think every Commissioner of Internal Revenue has put out some document warning our people and admonishing them not to get involved in this, or to use any of this equipment.

Mr. MURPHY. Would you have any recommendations you could prepare and send to this committee which we as members of Congress could enact into law to further protect your right to prevent this sort of thing from happening again?

Mr. ALEXANDER. We will consider that, Mr. Murphy. We are deeply aware of our responsibility as the largest law enforcement agency in this country, if not the world, to go about our tasks wisely and responsibly.

Mr. MURPHY. I want to tell you something. I come from the city of Chicago. There have been extensive investigations and indictments out there. I have had more people come to me telling me of pressure from Federal agents. Witnesses who were going to testify in certain celebrated trials were told that if they did, their tax returns would be looked into. People that did business with them would be looked at, those people contacted and harassed.

I would like to sit down with you some day and give you the details of these allegations but I would urge today in open session that this not take place in this country.

Mr. ALEXANDER. I share your view completely.

Chairman PIKE. The time of the gentleman has expired.

Mr. ALEXANDER. The actions you describe have no part in our tax system or in the Internal Revenue Service or this country. I would like very much to get as much detail as possible from you or from anyone else having knowledge of the matters you describe, because I would like for our inspection service to follow up on these and make sure that tax enforcement is not used as that sort of completely improper and illegal threat.

Mr. MURPHY. I appreciate your comments, sir.

Chairman PIKE. Mr. Milford?

Mr. MILFORD. I have no questions.

Does anyone want my time?

The gentleman from Wisconsin, Mr. Kasten, a couple of minutes.

Mr. KASTEN. Thank you.

I want to go back to my previous questions and point out it is not just State and local government we have the problem with. I don't want to make it appear if we solve the State and local government problem we are all fixed up.

You can probably answer yes or no to these questions.

Does the Civil Service Commission use tax return data to investigate job seekers?

Mr. ALEXANDER. Not that I know of.

Mr. KASTEN. We have information that they do.

Does the Veterans' Administration—

Mr. ALEXANDER. I would like to have that information.

Mr. KASTEN. Does the Veterans' Administration use tax returns to check the income of pension claimants?

Mr. ALEXANDER. Has anybody any knowledge of this?

The same answer.

Mr. KASTEN. Does the Federal Housing Administration look into the eligibility of families for housing assistance by inspecting tax returns?

Mr. ALEXANDER. They might ask for the income tax returns on their own without going to us. As you know some colleges have gone into tax returns in order to determine eligibility for scholarships.

Mr. KASTEN. Has the Federal Communications Commission, in ferreting out payola taken by disk jockeys, examined tax returns?

Mr. WOLFE. I have no record of them in the last calendar year of 1974—

Mr. KASTEN. I am not talking about just in 1974, but on all these subjects maybe we need to do a little homework.

Mr. WOLFE. Mr. Congressman, maybe you could do this: If you would let us have those and let us supply them for the period you would like, we will be more than happy to do it for you.

Mr. KASTEN. Has the Federal Home Loan Bank Board determined whether savings associations and their staffs violated Federal laws by examining tax returns?

Mr. WOLFE. I have no record of it.

Mr. KASTEN. Has the Security and Exchange Commission made regular use of tax returns in surveillance of stockbrokers?

Mr. ALEXANDER. I think SEC has made some request of us but I don't know for what purpose the tax returns may have been used. The SEC has been most cooperative with us in giving us information that we need.

Mr. KASTEN. A Professor Emory talked about tax violations before the Committee on Ways and Means recently and at that time made the suggestion that one of the problems is in the years since 1960 there has been a rivalry developing between the strike force attorneys and the U.S. attorney's office prompted by some ambitious prosecutors, and that these people are now kind of conducting fishing expeditions. In many cases the Department of Justice, for example, was using tax returns and tax return information simply to conduct fishing expeditions—a use which cannot be regarded as consistent with the basic confidentiality to which the returns are entitled.

I wonder if you would comment on that point.

Do you think that is why you have doubled every year since—well, I don't know what you are going to do next year but that would be close to 4,000 returns if you continue the record of doubling every year.

Mr. ALEXANDER. I hope they are not using returns for fishing expeditions. Of course, they could answer that question better than I can. I think that U.S. attorneys and strike force attorneys, have done some very fine work. I am not going to suggest that all their work is necessarily very fine.

Mr. KASTEN. Mr. Alexander, do you now have or have you ever had any CIA employees working at the Internal Revenue Service?

Mr. ALEXANDER. I don't know of any but I suppose if a CIA employee were to come to the Service and be employed by us, I wouldn't know about it.

Mr. KASTEN. Excuse me. If a CIA employee—I didn't understand what you said.

Mr. ALEXANDER. Let me make that clear. That was an elliptical statement.

Mr. KASTEN. I think you said if a CIA employee came to IRS, you would not know about it?

Mr. ALEXANDER. Presumably, I would not know about it if the employee wanted to remain under cover. Is that correct?

Mr. DAVIS. He would have no knowledge. If somebody had a whole series of cover experiences validated in a background check we would not know that that person was a CIA employee.

Mr. KASTEN To your knowledge, Mr. Alexander, you do not at the present time have any CIA employees detailed to the IRS, either at your request, or at the request of the CIA?

Mr. ALEXANDER. To my knowledge, I do not.

Mr. KASTEN. How do you handle contacts with the CIA? Let's just take a hypothetical example in which one of your investigations uncovers activities of a CIA proprietary or some individual in the CIA and the investigation would destroy the cover of that individual. Someone at CIA has to notify the IRS to back off, or whatever, I would assume.

How does that work, if you have no contact specifically—

Mr. ALEXANDER. Not back off. I will ask Mr. Wolfe to describe this.

Mr. WOLFE. Mr. Kastan, usually a return will be selected—when a return is selected, we don't know that this individual may be a CIA person. Our revenue agent will go out and start conducting his examination. That person whom he is examining, if it is a CIA person, will call the Central Intelligence Agency and report that the return is under examination and then the CIA will call our office.

Now, my deputy is a liaison between Internal Revenue Service and CIA. We conduct that examination the same as we would any other examination, but to the extent that this Revenue agent may get into an area that has been classified as either secret or top secret then this agent must have clearance to go in and get the material that he needs to make his audit.

But the agent goes ahead and makes his audit and we will assess additional taxes just as we would with any other taxpayer.

Mr. KASTEN. Confidential contacts from the CIA are handled through a deputy in your office. What is his name and title, just for purposes of the record?

Mr. WOLF. My deputy's name is Harold P. McGuffin, Deputy Assistant Commissioner, Compliance.

Chairman PIKE. The time of the gentleman has expired.

Mr. Johnson.

Mr. JOHNSON. You suspended the special services staff for the reasons you described. The information-gathering retrieval system is a similar type of operation.

Mr. ALEXANDER. The information-gathering and retrieval system was quite different from the special service staff. We terminated the special service staff because we thought its activities were not a proper part of tax administration. The information-gathering and retrieval system was a computerized system of attempting to handle the information that the Internal Revenue Service gathers in the course of its regular enforcement activities. But it got out of hand.

The Deputy Commissioner, being concerned about the possibility that the system was not operating as it should have, and I began looking into it, I think last December. In January I issued an instruction to stop what we were then doing. There were too many names, among other things, put in for a variety of purposes, some of which had little relevance to our job of tax administration and tax enforcement.

We had, as I recall, by count, on January 15 of this year, some 465,442 names in this system, and my name was in the system, Mr. Johnson. I can say that without violating the privacy of any other taxpayer.

We curtailed this system and have introduced, as I mentioned, a new system of information-gathering guidelines, if you will. I believe "guidelines" is a more appropriate term than "system."

Under this, we do our best to make certain that we gather and retain what we need to gather and retain, and that is information directly related to our job, and that we do not gather information extraneous to our job.

We are not interested in sex or drinking habits, except insofar as they may be relevant to tax enforcement, and that is the unusual case.

Mr. JOHNSON. Mr. Alexander, you said that the President had issued an order with respect to this activity and you have issued a couple of orders suspending two activities that have been "delicate," to say the least.

How do we go about preventing this from happening by law? Why do we have to have a system that depends upon a person such as yourself coming in and suspending something? Obviously, the authority must be there for the Internal Revenue Service or some of these other agencies to just run amok. Do we need—in the Congress, do we need to pass something that says specifically that the Internal Revenue Service cannot go beyond the authority that perhaps you are asserting right now?

Mr. ALEXANDER. Certain things can be corrected by law. Certain things can't without going too far, without performing overkill, without actually impeding, rather than furthering, proper tax administration.

I think we need a combination of good laws, good procedures, good people, continual oversight, and constant vigilance by the press.

Mr. JOHNSON. I think the record should reflect, Mr. Chairman, that Mr. Alexander is also an Ivy Leaguer with degrees from two of the schools and he is obviously one of the great civil libertarians we have had before us and perhaps this will offset some of the bad things that were said—

Chairman PIKE. Nobody said anything bad about Ivy Leaguers; I guarantee you.

Mr. GIAIMO. I want to make note that the other day in discussing the Ivy League there was a great deal of discussion about Princeton and Harvard and I want to emphasize the fact that the gentleman, as I understand it, went to Yale.

Mr. JOHNSON. Also to Harvard.

I yield back my time.

Chairman PIKE. Mr. Dellums.

Mr. DELLUMS. Mr. Alexander, on the record you have testified and will probably give us additional information with respect to warrantless wiretapping. I would like to ask you: Has the IRS ever engaged in surreptitious entry and mail cover?

Mr. ALEXANDER. Mail cover, yes; the IRS has engaged in mail cover activities, Mr. Dellums. I am talking about mail cover rather than mail opening. So that we will be clear on the distinction.

Chairman PIKE. The time of the gentleman has expired.

Mr. DELLUMS. He didn't answer the last part of the question.

Mr. ALEXANDER. As to surreptitious entry, Mr. Dellums, that is not a proper part of tax enforcement.

I cannot give you, however, the negative assurance that I would like to give you, that we have never engaged in a particular activity.

Sometimes people let their zeal outrun their judgment. I think that accounts for Operation Leprechaun.

Chairman PIKE. Mr. Hayes.

Mr. HAYES. Thank you, Mr. Chairman.

Commissioner Alexander, turning your attention to the manual supplement of June 23, 1975, which you provided to the committee, I assume that is the procedures you described as having recently been revised on page 5 of your testimony?

Mr. ALEXANDER. That is correct.

Mr. HAYES. In regard to paragraph 11, section 5, you have indicated that that category of information not directly tax related and not indicating a violation of other Federal laws will still be segregated and stored as provided by section 3. What statutory authority, or any regulatory authority, period, do you have to continue to maintain non-tax-related, non-criminal-statute-violating information such as that?

Mr. ALEXANDER. Among other things we have an obligation to Senate and congressional committees—

Mr. HAYES. I asked what statute you rely on.

Mr. ALEXANDER. The statute we rely on in doing our job—I will get later to whether this is part of our job, sir—is the Internal Revenue Code.

Mr. HAYES. Do you want to cite me a section that says that you may maintain as of now information that does not relate to taxes and does not relate to the violation of the laws of the United States?

Mr. ALEXANDER. I will have to give you an example of the type of information that you don't like, and I don't like, if I might, sir.

Mr. HAYES. No; I am asking for a statute or citation, Mr. Alexander. I want to know where your legal authority is for maintaining that. If you don't know now, you may submit that legal authority.

Mr. ALEXANDER. There is no specific provision in the Internal Revenue Code, Mr. Hayes, that says, "You shall maintain non-tax-related information." There is no such provision.

Mr. HAYES. That is exactly what I want to elicit. If you have any other authority, you can give it to me.

[The information follows:]

Section 7801(a) of the Internal Revenue Code charges the Secretary of the Treasury with the administration and enforcement of the Code. Further, section 8022 provides that it shall be the duty of the Joint Committee on Internal Revenue Taxation, among other things, to investigate the administration of internal revenue taxes by the Internal Revenue Service and to conduct such other investigations in respect of the internal revenue tax system as the Joint Committee may deem necessary.

Maintenance of information having nothing to do with tax administration or enforcement and not indicating a violation of other Federal laws is, of course, unrelated in a positive sense to the duties of the Secretary under section 7801(a). Where such information has or may have been in fact collected, however, it stands to reason that destruction of the material prior to completion of Congressional investigations would not be in the interests of sound tax administration or, for that matter, sound conduct of the business of the Federal Government. On the contrary, such a course of action could be—and would be—viewed as thwarting legitimate inquiries into the ways in which the Code is or may have been administered and enforced. In this sense, then, maintenance of nontax related information pending completion of Congressional inquiries would appear mandated by sections 7801(a) and 8022.

Further, section 7601 of the Code gives the Internal Revenue Service a broad mandate to investigate and audit "persons . . . who *may be liable*" for taxes. The authority granted by this provision, as applied in the area of "John Doe"

summons, was recently approved in *U.S. v. Bisceglia*, 420 U.S. 141 (1975). In the course of inquiring into the possibility of tax liability, it is often difficult to determine at the outset of the investigation whether information is or is not tax related. The actual relevance of some information to possible tax liability may have to be determined by other information collected at a later stage of the inquiry. By the same token, the Service does have an obligation to avoid, to the maximum extent possible consistent with effective tax administration, collecting information with respect to taxpayers which has no bearing on actual or potential tax liability. Because of this, on June 23, 1975, the Service issued new and tighter guidelines on information gathering, a copy of which is attached.

Mr. HAYES. In regard to the definitions, which you have outlined under section 4, (1) through (4), you have defined a case as being an accumulation of facts concerning a taxpayer which are segregated, associated with the taxpayer's name, and evaluated for potential assignment. At subparagraph 4, you define an informant's communication as being "from anyone outside the Service, written or oral, voluntarily submitted, identifying one or more taxpayers and providing information about the taxpayer. The informant may be anonymous."

Do you have either constitutional authority or statutory authority for maintaining that for either civil or criminal purposes? Either one of those definitions?

Mr. ALEXANDER. I am a little confused about how to respond to a definition of "case" because if we did not have the authority under the Internal Revenue Code—and I think we have it maybe under sections 7601, 7602, 7801, or 7802 to accumulate facts, tax administration would come to a halt. I think an accumulation of facts is a very necessary ingredient to the conduct of an audit, a responsibility clearly imposed upon the Internal Revenue Service.

Mr. HAYES. In regard to your definition of an informant's communication, do you, for example, see any problem with the kind of requirements of reliability and credibility on informants for the purposes attached to criminal law, or do you see any kinds of problems for initiation for purposes of civil action?

Mr. ALEXANDER. I am concerned about informants' communications, because some of them are grudge letters where someone is trying to use the tax system as a means of getting even with someone else.

Mr. HAYES. Are your procedures designed so that the very first action you take is to determine the reliability and credibility of the informer?

Mr. ALEXANDER. No. Some times the informant is anonymous. There is no way we can determine the reliability and credibility of the informant when the informant doesn't say who he or she is.

Mr. HAYES. Do you think that you could use that to go before a magistrate, for example, and have a search warrant issued or is any other kind of legal process available to you?

Mr. ALEXANDER. I will ask counsel whether we could. I don't think we could.

Mr. WHITAKER. I don't believe we could.

Mr. HAYES. Then what is the reason for keeping it, Mr. Commissioner? If it is absolutely useless for criminal purposes, what is the reason for maintaining that information in a file pursuant to paragraph 11, section 5?

Mr. ALEXANDER. I think that section 3.02 is the key provision here, sir.

I mentioned earlier——

Mr. HAYES. Mr. Commissioner, your responsiveness is what I am concerned with.

Section 3.02 has to do with record retention and destruction for the purposes of living through the lifetime of the Select Committee.

You have drawn a circular, here, which is going to handle information gathered from now on, and what I am trying to drive at is, further tightening up your procedures, don't you believe that those specific sections of your own circular, which I have outlined, are simply going to breed the retention of the same kind of useless information—that is, useless for tax purposes—and burden your file system even more with the kinds of intrusions that we are inquiring into here today.

Mr. ALEXANDER. I would like to make three points.

No. 1: This manual supplement is not going to be engraved into stone and become one of the Ten Commandments. No way. Of course, it will be reviewed and, of course, we are uninterested in retaining the irrelevant, the crank letter, or the anonymous letter written because some cat yowled and the neighbor couldn't sleep, so the neighbor wanted to get even through the tax system. Of course, we are not interested in that sort of stuff.

No. 2: We are interested in doing our job efficiently as well as doing it right, and the very retention of paper that is unnecessary to and not a proper part of the tax system involves an expense for the American taxpayer, and we don't want to impose that expense.

Three, I have mentioned earlier why we have retained that which at first glance to someone not in the IRS would seem unnecessary to retain; because we get follow-ups. "Why haven't you done something with my communication?" And, in fact, I must say, I respond to a number of letters where some informants have written their Senators or otherwise are complaining about it.

Whether that particular benefit, which I must say is rather narrow, is worth the burden, is something that I am evaluating today because it was not until today that I found out that this was one of the reasons for retention of what would seem inadvisable to retain.

Now, Mr. Hayes—another reason for retention of what would seem inadvisable to retain—is based on a concern about inspection, wondering why there was no followup on a particular informant's communication. I think we can straighten that out.

You have raised an excellent point, and we are looking now into the question of early riddance of the irrelevant, given the constraints that are temporarily imposed by reason of the proper concerns of the investigative committee.

[The information-gathering guidelines referred to in the above colloquy are printed on pages 593 to 601 of the appendix.]

Chairman PIKE. Mr. Lehman.

Mr. LEHMAN. Thank you.

I just want to compliment Mr. Alexander because I think of the people who have been up here, involved in intelligence gathering, he appears to be the most concerned about the abuses and has done most about the abuses in this particular sector. And also, that in the money spent on intelligence gathering, on a cost-effective basis, you seem to

be doing by far a better job than, for instance, the FBI has done on a cost-effective basis in such activities as Patty Hearst, or CIA in many of its operations.

I want to ask you a couple questions. To pursue this question of confidentiality. Any information a person gives the census, can't be revealed for a hundred years. There is much information in the census material sometimes which could possibly be used for criminal prosecution. The same would be true of the tax return, and I am not sure whether the tax return shouldn't be accorded close to the same degree of confidentiality as the census response a person gives.

To get back to who gets these tax returns. Do you ever give it out unsolicited? As a matter of course, does the comptroller of the State of Florida get a routine annual list of the income taxpayers that comes out of the State of Florida?

Mr. ALEXANDER. There must be a specific request for a specific tax return on the part of most but not all who call on us for this information. States can get a general list, a actually, computer tapes.

Mr. LEHMAN. In other words, the comptroller of the State of Florida can say, "Give me a list of everybody who filed a tax return from the State of Florida. And you would give him that list if he requested it?"

Mr. ALEXANDER. No; we won't, because the request under present law would have to come through the Governor. It would also have to be for tax administration purposes.

Mr. LEHMAN. It seems to me that you may be sending out information that hasn't even been requested on a particular taxpayer and I think that, perhaps, could be a little better controlled.

Mr. ALEXANDER. We have exchange agreements with all but two States, and I think one of those two is now soliciting us for agreement.

When Mr. Kasten was inquiring into this very serious problem, I indicated we are materially tightening up these agreements. They should be tightened up. We hope that you people will give us some help by tightening up the law.

Mr. LEHMAN. You say State and municipalities. How far down in the governmental authority could you get—could the sheriff of Okaloosa County, for instance, get a copy of a tax return?

Mr. ALEXANDER. Not unless the sheriff has a tax law enforcement responsibility, as I understand it. Is that correct, Mr. Whitaker?

Mr. WHITAKER. That is correct.

Mr. LEHMAN. In regard to bribes, you say your philosophy is that people should pay taxes on bribes they receive from Federal agencies if, for instance, CIA or FBI issues such bribe?

Mr. ALEXANDER. We think bribes are taxable income. We think, however, that a taxpayer who gives a bribe should be denied a deduction. We think this is a one-way street in favor of the tax collector.

Mr. LEHMAN. Actually CIA is not very taxable anyhow.

Let us go to the confidentiality. If you didn't have absolute confidentiality, you could not expect a person who receives a bribe to pay tax on it because he wouldn't last very long.

Mr. ALEXANDER. He might report it under the category of other income or miscellaneous racetrack winnings.

Mr. LEHMAN. My last question is, How did south Florida get to be so lucky in regard to Operation Leprechaun? Now, I read in the paper not only do we have Operation Leprechaun but we have Opera-

tion Sunshine, and Operation Banana Boat, and Operation Harry the Hat—according to the testimony before the House Subcommittee on Government Operations. Would you like to give us information? I know you are against those. What have you done to close out the rest of them and has information from these operations been turned over to other governmental agencies such as the CIA?

Mr. ALEXANDER. Let me answer the first part of that and then ask Assistant Commissioner Bates to answer the last part of your question.

I am not sure how south Florida proved to be so lucky. Perhaps it was your weather. Perhaps it was a belief on the part of some in law enforcement that south Florida—attractive as it is to so many tourists—is also attractive to organized crime.

Whatever its attractiveness, you can be sure that Operation Leprechaun has been terminated and will not be repeated so long as I am Commissioner of Internal Revenue.

As to what we are doing about it and the status of our investigations, I would like to ask Mr. Bates to respond.

Mr. BATES. First, your question, Congressman Lehman. We haven't been able to determine from our investigation so far that any of the information has been turned over to the CIA. We are continuing our investigation. The internal audit side of it has been finished. We have identified management weaknesses, the problem that caused Operation Leprechaun to come into existence. We have numbered some 25 or 30 conduct investigations on individuals who participated in Operation Leprechaun and we are in the process of completing those investigations. We also are working with the U.S. attorney in the Miami area. We are working with an attorney from the Justice Department. We hope to call a grand jury to get some information that we feel we still need to complete this investigation. We hope to call a grand jury within the next 2 or 3 weeks.

Mr. LEHMAN. Could you respond to the rest of my questions on paper in regard to these other operations?

Mr. ALEXANDER. Yes.

[The information follows:]

Inspection's investigation of Operation Leprechaun has not uncovered any instances of information being turned over to any other government agencies. Results of Inspection's investigation have been furnished to the Department of Justice Special Prosecutor, the United States Attorney, Miami, Florida, and to several Congressional committees.

Inspection's investigation of Operation Sunshine has not uncovered any instances of information being turned over to any other government agencies as of September 30, 1975. This investigation is still pending.

Chairman PIKE. Mr. Field?

Mr. FIELD. Thank you, Mr. Chairman,

Commissioner Alexander, in the process of our hearings thus far we have seen that GAO does not audit CIA, and it does not extensively audit other intelligence agencies. We have seen that perhaps five people at OMB really pay attention to how a lot of, particularly the secret, money is handled. We have seen at CIA, for example, there are really only 12 certified public accountants and really only very few others that could handle audit chores within CIA.

One of the things that occurred to me is that over the years there have been probably billions of dollars that have gone out through some very secret channels. Payments to informers, bribes, that have not

been accounted for very strictly. There have also been many, many improprieties, hundreds—and if you get into less normal situations, you have literally thousands of funding situations.

If hundreds of thousands of employees are handling money that they knew was not very carefully accounted for, my question to you is how many people have been prosecuted for tax violations? You have had hundreds or thousands of people handling billions of dollars that they knew really couldn't be traced very well. How many tax violations have you prosecuted of all these people handling all that money?

Mr. ALEXANDER. I don't know and I am not sure we have readily available statistics. We will supply for the record, Mr. Field, what we can in response to your question.

The year before last, fiscal year 1974, there were about 1,250 people convicted of income tax evasion and 42 percent of those convicted got jail sentences. I don't have the number for fiscal 1975. Perhaps Mr. Wolfe does. I do know we made more prosecution recommendations, about 300 more last year than we did the year before. Do you have the number of convictions, Mr. Wolfe?

[The information follows:]

A review of our Management Information System reveals that none of our current record keeping methods make it possible to provide statistics on prosecutions for tax violations by informants of government agencies. This is because no category of employment separately identifies people who earn income as "informants."

Mr. WOLFE. Mr. Commissioner, I do not have the number of convictions for fiscal year 1975, yet. I do have the number of investigations we have completed which was an increase over the previous year.

Mr. FIELD. These are total investigations?

Mr. ALEXANDER. These are totals. These would include not only the segment of the population you describe but the rest of the tax evader population as well.

Mr. FIELD. My point is it is an unusual part of the population. In other words, my money is pretty well accounted for. If I don't pay my taxes, you will know immediately through your computers because it is reported from the House of Representatives.

Here we have cases where nobody reports back. If I am handing out a bribe, I get \$10,000 in cash and nobody at CIA keeps a record of this so there is no way it is ever reported as income to anybody. If I put that in my pocket or if I don't, there is no way anybody knows.

Now Mr. Colby told us that there must have been abuses of this. In any group of 100,000 people, you have some who will abuse the system. He said yes, there have been 25 or so instances where people have expropriated money illegally.

Were you ever told about those 25? Did you prosecute them for tax violations?

Mr. WOLFE. That information has never been submitted to us and we would like very much—as a tax collector I would like that information.

Mr. FIELD. If you ever prosecuted a CIA employee you would know. There was some agreement between CIA and Justice, so theoretically you would know if there was a prosecution of a CIA person.

Mr. ALEXANDER. We are interested in CIA employees paying taxes, surely. If they evade their tax responsibilities—

Mr. FIELD. You would know and to the best of your knowledge you know of no case where this occurred. My point is I don't think any CIA employee has ever been prosecuted.

Mr. ALEXANDER. I don't know of any. If a prosecution, of course, involves a trial—

Mr. FIELD. Let's forget prosecution. Do you know where a CIA proprietary was audited and there were no taxes?

Mr. ALEXANDER. We call upon them to pay their taxes.

Mr. FIELD. Do you know of a case where that happened?

Mr. WOLFE. Yes.

Mr. FIELD. About how frequently has that happened?

Mr. WOLFE. It is infrequent, Mr. Field, simply because those organizations are not that large. We only examine a relatively small percentage of the taxpayers who do file returns.

Occasionally they are hit as a result of their taxpayer compliance program which is a sample as you know of the returns filed. It is a random sample and they may get hit that way.

So the number we examine is relatively small. Some we examine, frankly, we don't know about because we do not get into an area the CIA would feel would involve any breaking of a cover.

Mr. FIELD. When the *Glomar Explorer* case came out, did IRS make any attempt to see whether or not proper taxes had been paid in that episode?

Mr. ALEXANDER. We are not in a position to discuss specific cases. There is a statutory prohibition that I mentioned which would be applicable to a discussion of specific cases at this time.

Mr. FIELD. Could you at some point search your files and tell us whether CIA employees have ever been prosecuted for violation of the tax laws, without mentioning names?

Mr. ALEXANDER. We will look into that, Mr. Field, as we get closer into matters of this kind. Not only do we have the statutory prohibition, the inhibitions on our discussion with you of specific cases, but also, we have the problem that Director Colby mentioned of possibly discussing something that is of great concern to the CIA and should be kept secret for reasons of which we would be completely unaware. We will do our best to supply the answer to the question.

[The information follows:]

In fiscal years 1974 and 1975, no persons known to us to be employees of CIA were prosecuted for violation of the tax laws. Without an expensive, time-consuming review of thousands of files maintained under our previous record keeping system, we cannot determine whether any CIA employees were prosecuted before FY 1974.

Chairman PIKE. Before we start a second round of questioning, I just want to announce to the members of the committee that Mr. Alexander's testimony has been completely open, his backup books are completely open; there is nothing classified that we have run into as yet. Hopefully we will not.

I see no reason for us either now or later to go into executive session. We will simply go through one more time and adjourn for the day.

Mr. Alexander, I am concerned about this figure which came out earlier of some 30,000 tax returns which were submitted to Federal agencies involving some 8,000 taxpayers. Can you tell us how many different Federal agencies got tax returns?

Mr. ALEXANDER. I will ask Mr. Wolfe to give you that detail, if he has a schedule that shows it. I do want to make it clear, Mr. Chairman, that by far the greatest number of that 30,000 went to the Department of Justice for purposes of their investigations and trials.

Mr. WOLFE. Mr. Chairman, If you will permit me, I would like to read the number of requests that we received and honored in calendar year 1974:

The Department of Agriculture we granted 3 requests involving 5 taxpayers and 12 returns.

The Bureau of Alcohol, Tobacco and Firearms, we had one request involving two taxpayers and two tax returns.

The Department of Commerce: We had one request involving five taxpayers and five tax returns.

U.S. Customs Service. We had 1 request involving 3 taxpayers and 12 returns.

The FDIC, 1 request involving 12 taxpayers and 12 tax returns.

The Federal Home Loan Bank Board, 5 requests involving 50 taxpayers and 178 returns.

The General Accounting Office, we had 1 request involving 342 taxpayers and 342 tax returns.

Interstate Commerce Commission, we had 2 requests involving 9 taxpayers and 45 tax returns.

The Department of Justice—this is other than United States Attorneys—384 requests involving 3,228 taxpayers and 10,446 returns.

The United States Attorneys, the number of requests, 1,594 involving 4,448 taxpayers and 18,062 returns.

The Department of Labor, one request involving two taxpayers and six returns.

Securities and Exchange Commission, we had 17 requests involving 93 taxpayers and 384 tax returns.

The Renegotiation Board, 1 request involving 1 taxpayer and 21 tax returns.

Chairman PIKE. Thank you very much. That is a very comprehensive answer, even though it used up most of my time.

Now, I am concerned about your computers. There are, as I understand it, not only techniques for getting access to computers, but there are also people both in the CIA and in the NSA, who are specialists in cracking computers, getting access to computers.

Do you try to run any kind of a check on whether anyone has access to your computers and the information contained therein, other than yourselves?

Mr. ALEXANDER. We certainly do. We had a meeting the other morning with GAO people who have been very helpful to us with respect to our computer security. We found that, just as you stated, computers are crackable. We surely hope ours haven't been cracked and we are doing our best to prevent them from being cracked.

One fairly simple way to try to avoid the cracking of a computer is to have a high and strong fence at some distance from the computer to keep others from being able to set up sophisticated equipment close enough to crack it.

Chairman PIKE. How about the computer terminals, Mr. Commissioner? Are all the terminals for the computer located within the facility in West Virginia?

Mr. ALEXANDER. No, not at all.

Chairman PIKE. So anyone who gets access to the terminals for the computer can really use the computer, can they not?

Mr. ALEXANDER. Not necessarily, because the terminals themselves don't have access in all cases to everything. We do have terminals in our IDRS system located in district offices—

Chairman PIKE. How many terminals are there to your computers?

Mr. ALEXANDER. We can supply for the record, Mr. Chairman, a listing of our terminals, the access the terminals have, and the number of terminals.

[The information was subsequently supplied for the record and is printed on pages 628 to 630 of the appendix.]

Chairman PIKE. The Department of Justice came to you with 364 requests involving 3,228 taxpayers and 10,446 returns. When they asked you for this, did you go beyond their simple request and make them show that they needed it or did you just give it to them?

Mr. ALEXANDER. In at least one instance I went beyond the simple request. I was concerned about the name on the request and the names of the taxpayers requested and I called upon the Department to prove that the request was appropriate.

Chairman PIKE. Have you ever turned down the Department of Justice or the United States Attorneys or any other agency of Government when they asked for returns?

Mr. ALEXANDER. Oh, yes. When they ask for them not in accordance with the regulations, yes. I have received requests for returns we have turned down.

For example, some States, with undoubtedly good reasons from their standpoint, but without the responsibility of enforcing or administering tax laws, asked us for a tax return so they can attempt to fulfill other responsibilities and we are not authorized to provide them those returns.

The question of Justice inspection of returns is covered very specifically by the regulations—Presidentially authorized regulations—which state what the Commissioner must provide, but which give little room for Internal Revenue discretion as to denial.

Chairman PIKE. In other words, if the application is made outright you give them the returns?

Mr. ALEXANDER. Yes, that is a fair statement.

Mr. McCLORY. You audit a lot of other people. Have you ever been audited by the GAO?

Mr. ALEXANDER. IRS?

Mr. McCLORY. Yes.

Mr. ALEXANDER. GAO is looking into almost every substantial activity of IRS, including, particularly, our problems with confidential informants and our expenditures for intelligence gathering on behalf of the joint committee.

Mr. McCLORY. That report should be forthcoming soon and will be made available to this committee too, I assume.

Mr. ALEXANDER. I hope so. The request was made of GAO March 25, 1975, by the Joint Committee on Internal Revenue Taxation for a GAO review of our intelligence gathering and our use of, and payments to, confidential informants.

Mr. McCLORY. Has there been an earlier GAO report which we might find useful?

Mr. ALEXANDER. In this particular area of intelligence gathering, Mr. McClory, I don't know of any. GAO has looked into our collection function. They are now looking into our audit functions, and our appellate functions, our taxpayer service functions.

Mr. McCLORY. In connection with sharing information with other agencies of Government, it would seem to me to be far preferable to share the information without identifying the taxpayer in a number of instances.

In other words, a great deal of the information is sought by other agencies for statistical purposes and it would be an improvement, would it not, for you to be at liberty to provide the information without identifying the taxpayer?

Mr. ALEXANDER. That is the way we see it.

Mr. McCLORY. That needs a change in the law then, don't you think?

Mr. ALEXANDER. I think we need to tighten up the law.

On the list Mr. Wolfe read, Mr. McClory, the largest user of tax information was missing. That is the Census Bureau.

If I understand correctly, the Census Bureau gets some tax return information on all of our taxpayers.

Mr. McCLORY. They don't need the names of the taxpayers actually, do they?

Mr. ALEXANDER. I don't see why they should need the names.

Mr. McCLORY. I am concerned about these wholesale attacks against the American corporation. That seems to be the current scapegoat, you know, and there are efforts being made to gather detailed information about corporate operations, and with some efforts to limit profits of certain items. The multinational especially is a principal target.

I would think that for instance—and this would be a particular protection to the rights of individuals, the corporate rights and the shareholders' rights of these corporations, if this change could be made where the statistical information was made available without identifying the particular corporation or individual.

Mr. ALEXANDER. We would like to make information available for statistical purposes without identifying taxpayers. We think that good statistics are necessary, but one can be buried in bad statistics, and good statistics don't require names.

Mr. McCLORY. There is another area in which I am particularly interested and that is the area of illegal aliens. We are about to enact a comprehensive law which would impose penalties against the employers of illegal aliens.

Is there any way in which the—maybe now what I want to do is invade some of the rights of privacy but is there any way in which Internal Revenue Service can be useful with its intelligence-gathering facilities, to help in this area?

Mr. ALEXANDER. It would involve the very problem you mentioned.

Mr. McCLORY. I didn't detect that there were any communications between the Internal Revenue Service and the Commissioner of Immigration and Naturalization. Are there some? There are none today.

Mr. ALEXANDER. Communication of tax returns? No. Other communications, yes. We see each other at the law enforcement officers' lunch and discuss our mutual problems. Their problems are great. We

would like to be helpful to them but we need to protect taxpayer privacy.

Mr. McCLODY. In connection with the strike force, do you work under the Department of Justice? Do you take the initiative? Exactly how does this operation work insofar as the intelligence community is concerned between the Department of Justice on the one hand and the IRS on the other?

My time is up, but you may answer the question.

Mr. ALEXANDER. We at IRS believe we are the largest component of the strike force. While the FBI works with the strike force in a number of areas, at least, one might question whether the FBI people are actually a component of the strike force. The Department of Justice has responsibility for leadership of the strike force. A strike force can be a very effective tool in an area where effectiveness is badly needed. It can, like other organizations, involve itself in tasks unrelated to its principal purpose, or let its zeal outrun its judgment.

Chairman PIKE. Mr. Giaimo.

Mr. GIAIMO. Mr. Alexander, going back to the list of requests for tax returns which Mr. Wolfe read, you named all the various executive branch agencies, but I didn't hear you mention the White House. Didn't the White House request any tax returns in 1974?

Mr. ALEXANDER. Not that I know of. They are not on our list. I think the answer is "no." As long as I have been Commissioner, the White House, to my knowledge, has requested no tax returns of taxpayers other than those involved in a particular audit of a particular—

Mr. GIAIMO. Now look, Mr. Alexander, you know it is a common belief among some of us up here in the Congress that Presidents in the White House—not just the last President prior to President Ford, but even before President Nixon—have had access to tax returns of American people.

Can you give us assurances that Presidents of the United States have not had access to tax returns in either a legal request or an official request, or let's say, quote, unquote, in an unofficial request. In fact, has not the IRS been the subject of criticism because of the fact that there have been strong allegations that Presidents have had access?

Mr. ALEXANDER. The IRS has been the subject of criticism by reason of these allegations and these allegations had some past substance to them, yes. I think there was some back door information given to the White House before I became Commissioner.

Mr. GIAIMO. How do we know you have closed that back door? I assume the list you gave us here is the front door, the official way of getting the information.

Mr. ALEXANDER. That is the official way. Perhaps this won't give you as much assurance as you would like. The way you know is by President Ford's Executive order, which makes it very clear that no tax returns are to go to the White House except by written request from President Ford, and there have been no such written requests.

The way you know is by what we have done in IRS. Last August we issued a new directive stating all such requests from the White House—or anyone connected with the White House—had to come through my office and the material would be transmitted only by me or by the Deputy Commissioner in my absence.

Now, those are procedures. Now, we get to the problem of people. We think at IRS that we have good people and honorable people and people that won't violate the rules. I can't give you negative assurances, however—and this is the final problem—give you the kind of assurance that you would need to make certain that there had been no violation of President Ford's Executive order, or of our directive. I have every reason to believe that the people in IRS are living up to these responsibilities and are not violating the Executive order.

Mr. GIAIMO. May I interrupt you right there because I want to believe what you are telling me and I know that you and the gentlemen and the lady at this table here are people of integrity. But can you say that you have every reason to believe that it is now better than it was? You know that evidence has come out that there was wrongdoing on the part of some individuals, but it didn't come out until they were exposed and until there were allegations made. That is one of the reasons why this very committee was put into existence. We in Congress sense, and the American people sense, there is a deterioration in their intelligence-gathering functions, and also in IRS.

How can you say now that you have every reason to believe that it is better when we just have found evidence in the last year or so that it was getting bad?

Mr. ALEXANDER. Because I don't believe, sir, that the people in IRS now, who are, in my judgment, people of great integrity, are about to violate the rules, or abandon that integrity, even if they were asked by the people in the White House. You have a different group in IRS and you have a different group in the White House.

Now, I can give you no assurance as to the future unless you gentlemen do something about the first ingredient. The first ingredient is a good law and we do not have the law that we should have in section 6103 of the Internal Revenue Code. It needs to be tightened up.

Mr. GIAIMO. We will accept your recommendations there and we hope that you will send them up to the Congress to do that. But you understand that you are faced with the same old problem. It isn't the question of someone trying to bribe one of your employees; it is the President of the United States, or a powerful Congressman or Senator or committee, or executive branch Secretary, or Assistant Secretary, asking for cooperation from one of your employees. It has on it the trappings of legality, or at the very least the employee wants to make the interpretation that it is legal for him to cooperate.

How do you solve this and give us assurances, because the assurances are needed right now?

Mr. ALEXANDER. The best assurance I can give you is that, to my knowledge and to the knowledge, I am convinced, of everyone at this table, what you fear is not happening and is not going to happen. If it happened it would be a violation of the Executive order of the President of the United States and President Ford is not about to permit that. It would be a violation of the directives that we have issued, but I can give you no assurances for the indefinite future and I cannot give you a complete negative assurance that back door tax information might not, in violation of the President's order, in violation of our rules, and in violation of the integrity of our employees, be transmitted beyond the Internal Revenue Service.

Mr. GIAIMO. I can appreciate what you are saying, Mr. Alexander, and I understand you can't give any negative assurances, but are

you taking greater steps to check the internal security of IRS employees and operations to see that it does not happen?

Mr. ALEXANDER. Yes.

Mr. GIAIMO. To any substantial degree?

Mr. ALEXANDER. Yes.

Mr. GIAIMO. Can we be assured that this will continue in the future years or do we have to have a pendulum action—for example, every 20 or 25 years when we have some major happening in our Nation and then, and only then, does Congress react? I believe that the Congress is at fault to a great degree in its failure to oversee CIA, IRS and other intelligence functions. We go along on assumptions of propriety more than you do. But if we don't watch the agencies, the people are going to suffer.

Can you give us assurance that you are going to take even greater steps?

Mr. ALEXANDER. I can give you assurances as to the present. I cannot give you assurances as to the future. I can give you a flat assurance that we will do our best to cooperate with you in securing the present and in producing a better law which will help secure the future.

Chairman PIKE. Mr. Dellums.

Mr. DELLUMS. Thank you, Mr. Chairman.

Mr. Alexander, in our last brief colloquy, I asked the question, has IRS ever been involved in a program of mail cover. Your response was yes.

I would like to ask several questions.

One, could you give me the justification for the mail cover program, what its purpose is, what is the authority of the mail cover program, how much money is devoted to that? The "B" part of that question is do you still have a mail cover program, and part three is, do you ever and have you ever had a mail-opening program of American citizens?

Mr. WOLFE. Mr. Congressman, we do have and have had a mail cover operation.

Mr. DELLUMS. Would you at the outset define "mail cover" for us?

Mr. WOLFE. May I read from our instruction, and I would be happy to furnish this for the record. It is from our manual so that the record will have it.

Chairman PIKE. First of all, yes, you may read it, and, second, you are still going to respond to Mr. Dellums' question, and I just warn Mr. Dellums it may use up all of his time if he reads the whole thing.

Mr. WOLFE. It goes one paragraph long and about eight lines at the most:

A mail cover is a process by which a record is made of any data appearing on the outside of any class of mail matter including checking the contents of any second, third, or fourth class mail matter as now sanctioned by law in order to obtain information in the interests of protecting the national security, locating a fugitive or obtaining evidence of commission or attempted commission of a crime.

Mr. DELLUMS. Now, my question is, what is the justification for the mail cover program on the part of the IRS? Do you still have a mail cover program and do you open mail of American citizens?

Mr. WOLFE. Let me answer your second question. We do not open mail of American citizens or anybody else.

Mr. ALEXANDER. Unless it is our mail.

Mr. WOLFE. We get an awful lot of that.

We do have mail covers—let me check on one thing—

Mr. ALEXANDER. Mr. Bates wants to respond, in part, to this, too. Mr. Wolfe, why don't we let Mr. Bates proceed?

Mr. BATES. The description Mr. Wolfe gave is exactly that that we use. There are refund schemes where some individual has filed multiple refunds, and we try to identify where those refunds are going. We do not open the mail. We ascertain that a refund check went to a specific house or went to a specific post office box. A bribery. If there is bribery of an IRS employee, we use mail covers to determine whether or not he may be receiving—or the accountant who bribed him may be receiving—mail so we can identify, perhaps, other kinds of bribery schemes that would be going on. It is used just for that purpose.

Mr. DELLUMS. At some point are you going to tell me where the justification is for the mail cover program, the authority?

Mr. WOLFE. One place we use it is to locate fugitives. For example, we have a conviction, and we need to locate this individual who has escaped from the law, and this is one means which we use to locate those.

Occasionally, we will have knowledge of a possible commission of a felony involving title 6 of the code, and then we will need, of course, to try to locate these individuals. Mostly, it is a means by which we can locate those who either have been convicted of a felony or those we have good reason to believe may have violated the Internal Revenue law.

Mr. DELLUMS. And on the latter part, what is your authority where you have reason to believe?

Mr. WHITAKER. If I may, Mr. Dellums, I would like to supply an opinion to the committee for the record. I do not believe we have any special or specific statute or authority. I think it is within our general authority to enforce the Internal Revenue Code. I would like my office to look into it and supply you with an opinion, If I may.

[The information follows:]

AUGUST 7, 1975.

PROCEDURES AND STATUTORY AUTHORITY FOR THE USE OF MAIL COVERS

PROCEDURE

Under the procedures prescribed for employing a mail cover, a special agent who wants to use a mail cover in a criminal investigation is required to make a written request to a designated official of the United States Postal Service. That request must specify the reasonable grounds that exist which demonstrate the mail cover either would aid in locating a fugitive or assist in obtaining information regarding the commission or attempted commission of a felony. The designated postal official, usually a Postal Inspector in charge of a district or his designee, will order the mail cover if the request meets the regulatory criteria established for employing the technique. A postal employee will then be assigned to examine mail addressed to the person under investigation, record the information on the outside of first-class mail or as sanctioned by law, the information on the outside or in the contents of second-, third- and fourth-class mail, and transmit a report of the information to the requesting agency. The regulation under which mail covers are conducted contains several safeguards including a specific prohibition on breaking the seal on first-class mail without a search warrant; reporting on matter mailed between the subject and his known attorney-at-law; a time limitation on the mail cover; and a requirement that mail cover data shall be made available under appropriate discovery motions in legal proceedings.

The procedures for obtaining authorization for, and conducting, a mail cover are set out in 39 C.F.R. Part 233. This regulation was published on March 12, 1975 at 40 Fed. Reg. 11579. The procedures set out in this regulation were formerly prescribed by the Postal Service Manual. The preamble to the republication of the regulation states the document was published "to make these regulations more accessible to the public, and to discourage confusion concerning the nature and uses of this important law enforcement tool."

AUTHORITY

Regulatory authority for federal and state law enforcement officers to request mail covers from the Postal Service and receive information obtained by employees of that organization who conduct such an operation is covered in 39 C.F.R. Part 233. Such regulation is "presumptively valid, and one who attacks it has the burden of showing its invalidity—[and] is ordinarily valid unless it is (a) unreasonable or inappropriate or (b) plainly inconsistent with the statute." *Rockville Reminder, Inc. v. United States Postal Service*, 480 F.2d 4 (2 Cir., 1973), and cases cited therein.

Part 233 of the Postal Regulations was issued under 39 U.S.C. 401, 404 and 410. These statutes give the Postal Service broad rule making authority to accomplish the objectives of Title 39 of the United States Code and to provide such other services incident thereto as it finds appropriate to its functions and in the public interest. Thus, the Postal Service has the authority to issue such a regulation.

A number of courts have held that the Fourth Amendment does not prevent postal inspectors from copying information contained on the outside of sealed envelopes (first-class mail) in the mail where no substantial delay in delivery is involved and such a practice does not violate any other constitutional provision. *Lustiger v. United States*, 386 F.2d 132 (9 Cir. 1967), *cert. den.* 390 U.S. 951 (1968); *Canaday v. United States*, 354 F.2d 849 (8th Cir., 1960); *United States v. Isaacs*, 347 F. Supp. 743 (D.C. N.D. Ill. 1972), *aff'd* 493 F.2d 1124 (7 Cir., 1974), *cert. den.* 417 U.S. 976 (1974), and cases cited therein. Nor does a mail cover violate postal laws. *United States v. Costello*, 255 F.2d 876 (2 Cir. 1958), *cert. den.* 357 U.S. 937 (1958). It should be noted that *Costello*, as well as *Canaday*, involved mail covers where the information gathered was requested by, and turned over to, the Internal Revenue Service.

Hence, 39 C.F.R. Part 233 sets forth a valid regulatory scheme for obtaining information by use of mail covers and has the force and effect of law. However, the use of mail covers in no way justifies the seizure and retention or opening and searching of first-class mail without a search warrant since the unreasonable search and seizure of one's papers or other effects, as proscribed by the Fourth Amendment, extends to their presence in the mails in sealed envelopes or packages. *Ex Parte Jackson*, 96 U.S. 727 (1877); *Lustiger v. United States*, *supra*. See also, *Weeks v. United States*, 232 U.S. 383 (1913).

The case law cited pertains to the examination and recording of information on the outside of first-class mail. Under mail cover procedures set out in the Postal regulations, "checking the contents of any second-, third-, or fourth-class mail as now sanctioned by law" is also permissible (39 C.F.R. 233.2(c)(1)). This follows a legal principle established many years ago by *Ex Parte Jackson*, *supra*. As to the limitation "now sanctioned by law" on examining the contents of these classes of mail, it would appear safe to assume the postal employees gathering information during a mail cover operation are familiar with, and will abide by, any statutory restrictions on examining the contents of this type of mail.

The remaining issue is whether the Intelligence Division of the Internal Revenue Service is a "law enforcement agency" authorized under 39 C.F.R. Part 233 to request the Postal Service to conduct a mail cover. In this regard, 39 C.F.R. 233.2(c)(4) defines "law enforcement agency" as:

... any authority of the Federal Government or any authority of a State or local government one of whose functions is to investigate the commission or attempted commission of acts constituting a crime.

Certain sections of the Internal Revenue Code of 1954 and delegations of authority down to the Intelligence Division and special agents clearly bring that organization within this definition.

Section 7601 of the Internal Revenue Code of 1954 (hereinafter referred to as the Code) directs the Commissioner "to cause officers or employees of the Treasury Department to proceed, from time to time, through each internal revenue district and inquire after and concerning all persons therein who may be liable to pay any internal revenue tax." This section imposes upon the Commissioner the power

and duty to investigate for violations of the internal revenue laws. *DeMasters v. Arend*, 313 F. 2d 79 (9 Cir., 1963), appeal dismissed 375 U.S. 936 (1963). Section 7803(a) of the Code authorized the Secretary or his delegate (the Commissioner) "to employ such number of persons as the Secretary or his delegate deems proper for the administration and enforcement of the internal revenue laws."

The criminal enforcement authority vested in the Commissioner has been delegated through appropriate National Office and Regional Office officials to the Intelligence Division and special agents in the districts. This was last done through the "Statement of Organization and Functions" published in the Federal Register, March 29, 1974 (39 F.R. 11572), at paragraphs 1118.6 and 1118.7. Under Policy Statement P-1-38 (Approved 6-2-59), the assignment of the functions set out in paragraphs 1118.6 and 1118.7 of the "Statement of Organization and Functions" constitutes a delegation of authority.

It is also significant that Congress has specifically recognized the law enforcement responsibilities of special agents and has granted them authority to perform certain specific police functions. Section 7608(b) of the Internal Revenue Code of 1954 gives these criminal investigators the authority to execute search and arrest warrants, as well as subpoenas and summonses, to make arrests without a warrant involving offenses relating to internal revenue laws and to seize property for forfeiture under the internal revenue laws.

The specific authority to execute arrest warrants, along with the general authority of special agents to investigate criminal violations of the internal revenue laws, justifies the participation of these officers in searching for a fugitive wanted in connection with an internal revenue violation. Since one of the bases for obtaining a mail cover from the Postal Service is that the subject be a fugitive, the use of this investigative tool by special agents in locating such people seems to be in order.

In conclusion, there seems to be no statutory or constitutional proscription on employing mail covers as an investigative technique in criminal *felony* investigations of internal revenue law violations or in locating fugitives wanted in connection with such violations and that special agents have the authority to use this tool within the procedures and guidelines set forth in 39 C.F.R. Part 233. Indeed, the courts have recognized and accepted the use of this technique by special agents on a number of occasions. See, e.g., *Canaday v. United States*, *supra*; *United States v. Costello*, *supra*.

Mr. DELLUMS. I would now call your attention to the question of proprietaries.

As you know, CIA operates various organizations known as proprietary corporations, businesses for normal profit, such as airlines, a charter airline and public relations firms.

First, what is IRS's position on the taxation and auditing of those so-called proprietaries, and have you ever audited proprietary corporations operated by CIA?

Mr. ALEXANDER. The answer to your first question is that we think these proprietary corporations are taxpayers just like other corporations in the same businesses. We don't see any statute or exception for them. So if they make a profit, we would like to recycle some of it.

In answer to your second question, discussed by Mr. Wolfe, a few minutes ago, he stated, sir, that we have made audit investigations with respect to CIA's activities having tax consequences.

Mr. DELLUMS. If you have audited, are your audits conducted in some special separate and apart, distinctly different from audits of any other American business?

Mr. WOLFE. The verification of the income and expenses is the same as any other type of examination. However, if we have to get into background information, as we do in some of the other examinations, it is handled differently in that we have to have a revenue agent who has a clearance. If it is a top secret matter, he has to have top secret clearance to get into this area.

We do not hesitate to get that clearance and permit him to get whatever information is necessary to make a proper determination of taxability.

Mr. DELLUMS. Does IRS employ former CIA agents as IRS auditors for the purposes of auditing a transaction between your organization and the CIA and any other intelligence community?

Mr. WOLFE. To the best of my knowledge we have never hired a former CIA agent and since I have been here I know that there have been none simply because we have had to get clearance for our people to do this.

Mr. DELLUMS. To your knowledge has any personnel of the intelligence community at large been given any different consideration by your organization than any other citizen? In other words, have any people in the general intelligence community been given any special consideration over what you would give to an ordinary citizen?

Mr. WOLFE. That is a difficult question. For example, I have 15,000 revenue agents examining tax returns, another 2,700 special agents and another 4,000 tax auditors.

Our procedures require that we only have one set of procedures which require that a certain method be followed in making their audit and this applies to everybody.

Mr. DELLUMS. May I ask a hypothetical question: Would it be possible for me as a member of the American intelligence community, say the CIA—would there be greater likelihood I could get away from paying my fair share of taxes than if I was a plain citizen?

Mr. WOLFE. I wouldn't say it is possible. Certainly it is possible to do this but the way we select returns, particularly individual returns is through the computer. We have what we call a discriminant function formula which identifies those returns most likely in need of audit and they give a score to the return. The higher the score the more likely the return is in error and these are the returns we select and we don't know who they are.

Chairman PIKE. The time of the gentleman has expired.

Mr. JOHNSON. Mr. Chairman, I ask unanimous consent to yield all but 1 minute of my time.

Chairman PIKE. Without objection it is so ordered.

Mr. DELLUMS. My final question in this particular area is, do IRS and CIA detail personnel as liaison to each other's organization on a routine and regular basis?

Mr. WOLFE. We do not from Internal Revenue Service, to my knowledge, to CIA, except as I told this committee earlier, that Mr. McGuffin of my staff is the contact with the CIA and there is an individual in CIA who is our contact there. There are two individuals that I know of and the only two.

Mr. DELLUMS. Can you give us assurances that when you audit the tax return of a CIA proprietary corporation that money does in fact go back to the Treasury, or do you have information or knowledge as to whether those profits or taxes go back to the CIA for the purpose of funding other projects?

Mr. WOLFE. Any audit that we make, and any deficiencies we collect go into the general fund of the Treasury of the United States and not back to CIA.

Mr. DELLUMS. Earlier this year disclosure was made of an IRS training program of stress seminars for undercover agencies involving at some periods of time the use of alcohol and women. My question is, to what extent if any does IRS agency training currently employ stress seminars or similar methods of training and if you have evaluated the worth of such stress seminars, what value do you place on these seminars and how much money have you spent on these programs?

Mr. ALEXANDER. We are talking about ancient history. These stress seminars go back to 1963. They were a part of a training program that did involve such innovative ideas and ideas that in the judgment of those of us in charge of Internal Revenue now are not appropriate elements in training people. This was part of an undercover school, so-called, and the last undercover school occurred in January 1973, before I became Commissioner, before Mr. Wolfe became Assistant Commissioner for Compliance. We do not have those schools now and are not about to.

Mr. DELLUMS. This is following in a general way the questions of the distinguished chairman: Is it possible for intelligence-gathering agencies other than IRS to have access to the information stored at Martinsburg?

Mr. ALEXANDER. For agencies other than IRS to have access to Martinsburg?

Mr. DELLUMS. You have a data bank there. My question is, can't other intelligence-gathering agencies have access to that information—other than you?

Mr. ALEXANDER. They might possibly have some sort of capability of getting into our computer without our knowledge and without our permission and without any semblance of law. I don't think they would do it, so the answer to your question is no.

Mr. DELLUMS. The information-gathering retrieval system was a data bank of information on numerous citizens set up as an intelligence-gathering operation from 1969 until you suspended it.

Under what authorization, and whose direction, was this program established and can you estimate the total cost of this program during the period it was used?

Mr. DELLUMS. If I, for example, wanted to find out how much money is spent—

Mr. ALEXANDER. I don't think we have figures as to how much money was spent on the IGRS system. We would have to supply you for the record our best guess about this, Mr. Dellums. The IGRS system, as I mentioned, was an outgrowth—we do have some information, here. "Cost of IGRS activity, fiscal year 1974." I don't know who prepared this.

Mr. BATES. It is a limited figure.

Mr. ALEXANDER. I don't know what the limited figure means. I have here a set of figures but I would like to check out this set of figures to make sure it is the right set of figures in response to your question. The initial figure looks like about \$2,800,000 for fiscal year 1974.

I would like to verify that, Mr. Dellums. What IGRS was, was a computerized system for the storage and retrieval of information developed in our intelligence activity. It was an outgrowth of several years of study. A Manual Supplement issued in 1973 and revised in

1974 providing details of this system. We will supply these Manual Supplements for the record.

[In response to Mr. Dellums request the following information was received for the record:]

The \$2.8 million IGRS in FY 1974 is a correct figure, but represents only the cost of direct operations. It does not include supporting management and administrative personnel costs, equipment costs, space rental or other similar support and overhead costs. In FY 1974 the total cost of IGRS would be \$6.5 million; this cost is comparable to the total FY 1975 cost of \$4.3 million for information gathering already included in the record.

Manual Transmittals dated May 4, 1973, and March 4, 1974, are provided for the record.

[The enclosures are in the committee files.]

Mr. ALEXANDER. We found this system was overshooting the mark, that it was not cost-effective and that certain information of a nontax related type was getting into the system. As I mentioned earlier, my name was one of the 465,442 names in the system and I wasn't sure under what category I was supposed to fit.

We terminated this system after the Deputy Commissioner took a careful look at it with a view toward producing the kind of guidelines we have furnished to this committee and we have discussed at the hearing this afternoon. These guidelines are not engraved in stone as I mentioned earlier.

We found this system had grown like Topsy, that names were being put in the system by clerks without the adequate supervision that one should expect. Mr. Bates and his Inspection Service reviewed this system carefully, and we stopped the system to substitute a new one we think is better designed to retain the information that we need and must have to enforce the tax laws properly, but only that information.

Chairman PIKE. The time of the gentleman has expired. Mr. Kasten.

Mr. KASTEN. Mr. Alexander, I wonder if we could ask Mr. Wolfe to supplement the data provided to the chairman in giving the figures of the requests received by IRS and the number of taxpayers involved from the requests that came from State and local governments during that same period of time.

If you do have the totals, that would be helpful. I would ask unanimous consent to have you submit for the record the totals by State for 1973 and 1974.

Do you have the totals to give us right now?

Mr. WOLFE. Mr. Kasten, I don't. We will be happy to furnish that information to the committee.

[The information can be found in the committee files.]

Mr. KASTEN. One group of people having access to your records that we haven't talked about before is the Census Bureau. Mr. Lehman talked briefly about the Census Bureau. It is my understanding hundreds of thousands of records are examined by the Census Bureau. I would assume there is some kind of method of keeping the names confidential.

What is the relationship? How do you operate with the Census Bureau? How many tax returns were given out to them recently?

Mr. ALEXANDER. Information on almost all our individual taxpayers. The figure we have that Mr. Wolfe showed me is 79 million individuals, and in addition a large number of other entities.

We need to provide for the record a supplement to the answer that I am giving you now and that I gave earlier. First, to show you what goes to Census, how much and in what form.

Miss ALPERN, would you care to add to that?

Miss ALPERN. A good deal of the information that goes to Census and other Government agencies—yes, and particularly a further embellishment of the question previously asked by Mr. McClory—is for their statistical surveys and studies. These are both compilations, giving summary totals based upon the million of different returns filed, or taxpayer identifying data generally limited to Social Security number, employer identification number, and name and address. There are also some arrangements where other data files are furnished.

Mr. KASTEN. When the information goes to what seems to be a very large number of government agencies—the information the chairman was speaking about—how can you be assured that that Government agency will be as concerned about the confidentiality of the information as you in fact are and should be?

Mr. ALEXANDER. We believe the Census Bureau—

Mr. KASTEN. I am not talking about the Census Bureau but about the various other agencies of the Government like the Federal Housing Administration, the Federal Communications Commission, the Civil Service Commission, that group of people. When you give the information to them, how are you assured they maintain the confidentiality?

Mr. ALEXANDER. First, the letters they submit to me requesting information contain an undertaking to hold the information that we supply confidential. Of course Census has an excellent record, just to complete my answer in that sense.

Second, we have considerable faith in the integrity of these agencies and the people who request this information, and considerable understanding on the basis of considerable experience, that they will maintain the confidentiality of tax returns.

Mr. KASTEN. I would ask the same question as to the confidentiality and the opinion you have of the information that goes to State and local governments.

Mr. ALEXANDER. First, one needs to remember that much more information goes to State governments and presumably local governments than to these agencies. You will recall that the great majority of these large numbers, this 30,000 figure that we have given you, the more than 8,200 taxpayers we mentioned, involved requests by the Department of Justice or by U.S. attorneys, so the numbers involved in the transmission of returns, or return information to other agencies, is quite small in comparison. Of course, the more hands into which information goes the more likely is a breach of integrity.

Mr. KASTEN. Therefore you would feel it is more likely there would be a breach of integrity with the information going to State and local governments? Is that your answer to my question?

Mr. ALEXANDER. We are quite concerned about breaches of integrity in the vast bulk of information that we supply to State and local governments. I am sure they share this concern with us.

Mr. KASTEN. There have been a number of indications of problems in this area. Have you or others in your department come to Congress with suggestions, legislative remedies to this problem? We are talking

about data. What is it, 1913 we started with the tax act, where it is supposed to be confidential? It obviously isn't.

Have you come to the Congress or have people in the Treasury Department come to Congress stating "We have got a problem here," or do we just float along with it? Having to do with the confidential information at State and local government levels?

Mr. ALEXANDER. I first came to Congress on this in August 1973. Yes, we have come to Congress.

Chairman PIKE. Mr. Murphy?

Mr. MURPHY. Thank you, Mr. Chairman.

Mr. Alexander, you earlier testified that in 1973 you spent \$11.8 million in your intelligence-gathering evaluations account. In 1974 it was \$6.5 million, a reduction of approximately \$5,100,000.

During 1975 thus far the former Assistant Commissioners for Compliance and Inspection and the Director of Intelligence Division have retired and have been replaced by the incumbents, Messrs. Bates, Wolfe, and Clancy.

You also talk about new integrity in the IRS. You also sent out a circular where you requested a reduction in overtime, especially in the Chicago area, of IRS special agents.

Do you consider thereby that a change in direction of intelligence policy is taking place with these facts I have just enumerated?

Mr. ALEXANDER. By mentioning new integrity I don't want to imply a lack of integrity in the past.

Mr. MURPHY. We all know there were wiretap specialists, Mr. Alexander. Do you anticipate a change in direction? Are you changing the direction of the IRS?

Mr. ALEXANDER. We are.

Mr. MURPHY. Could you supply to me the number of requests from the strike force in the Chicago area for income tax returns since 1969?

Mr. ALEXANDER. Yes.

[The information follows:]

CHICAGO STRIKE FORCE REQUESTS FOR INCOME TAX RETURNS

Calendar year	Number of requests	Number of taxpayers ¹	Number of returns
1969.....	5	237	711
1970.....	8	657	1,971
1971.....	2	194	582
1972.....	3	107	321
1973.....	7	419	1,257
1974.....	7	298	1,233
1975 (to Aug. 22).....	5	119	585
Total.....	37	2,031	6,660

¹ Prior to Nov. 12, 1974, strike force requests did not cite specific tax periods. Field experience showed that, on the average, 3 years' returns were disclosed for each listed taxpayer. Therefore, for requests prior to the above date, 3 years was used as a multiplier to estimate the number of returns requested. Requests after that date have cited specific tax periods and the number of such periods have been used to determine the number of returns requested.

Mr. MURPHY. Could you also give me what the usual component of IRS agents is in that area and what increase if any there has been, from 1969 until the present. Also will you give me the jump in overtime hours worked by those special agents in that particular area, since 1969?

Mr. ALEXANDER. We will do our best to supply all that for you, Mr. Murphy.

Mr. MURPHY. I will appreciate it.
[The information follows:]

The Chicago, Milwaukee and Indianapolis Districts participate in the Chicago Strike Force. The following table shows total Revenue Agent and Special Agent positions in these Districts and the number assigned to the Chicago Strike Force during the period July 1, 1969 thru June 30, 1975:

	Revenue agents		Special agents	
	Total	Assigned Chicago strike force	Total	Assigned Chicago strike force
Fiscal year:				
1970.....	1,129	29	189	18
1971.....	1,153	37	199	16
1972.....	1,180	47	223	36
1973.....	1,121	49	233	22
1974.....	1,210	49	257	45
1975.....	1,269	56	255	44

Revenue Agent's overtime for Strike Force activities was negligible—5½ days. Overtime figures for Special Agents working on the Chicago Strike Force are not available separate from the larger number of non Strike Force Special Agents. The following table shows the total staff-days applied to premium pay, overtime and compensatory time by all special agents in the Chicago, Milwaukee and Indianapolis Districts for the period July 1, 1969 through June 30, 1975:

Fiscal year:	Number of staff-days expended
1970.....	3,188
1971.....	4,666
1972.....	5,848
1973.....	8,313
1974.....	9,191
1975.....	6,649

Chairman PIKE. Mr. Hayes?

Mr. HAYES. Thank you, Mr. Chairman. Mr. Alexander, the programs that you described as being the joint compliance program and returns compliance program and I assume also coordinate compliance—are three different kinds of lower-level information-gathering descriptions within IRS—is that correct? Usually at the district level?

Mr. ALEXANDER. Yes, that is correct. I wasn't sure how to interpret "lower level". We think they are pretty high level programs. We are talking about geography. The joint compliance program is a district program.

Mr. HAYES. Generally not supervised by the Intelligence Division?

Mr. ALEXANDER. The Intelligence Division participates in the program. The district director exercises supervision over the program.

Mr. HAYES. I wonder if you could, for the record, supply to us some indications, perhaps ideas, as to how you intend to carry out section 9 of the new circular provision, subparagraph .06. Specifically, how you intend to carry out those program changes which hopefully would exercise the proper care that it is directly tax-related information that is being sought at those levels.

Mr. ALEXANDER. We will be glad to amplify that.

Mr. HAYES. In addition I would be particularly interested in your recommendation on limiting nontax-related information growth, perhaps relating back to our prior dialog, the prior question that I

had in regard to your circular on what to do with—what you purported to do with nontax-related, noncriminal-statute violating information. And perhaps if you could submit or make reference to some of the suggestions that may already be extant in that area I think it would be helpful to the committee and particularly to me. If you would provide those I would appreciate it.

Mr. ALEXANDER. We will.

[The information follows:]

We believe that Section 9.06 of the Information Gathering Guidelines can best be carried out by strict adherence to other sections of the guidelines. For example, section 7 of the guidelines provides that the authorization for a project must be in writing and must state the purpose and define the scope of the project. Only information meeting the requirements of Section 4 (Definition of "directly tax related information") may be sought or obtained from outside sources for the project.

Further, Section 6 sets our responsibilities for specific managers to review the activity and for all employees to ensure that information other than that necessary for the enforcement or administration of the tax laws is not solicited, indexed or associated with the name or other identifying symbol of a taxpayer. District Directors must provide for quarterly reviews of all information gathering activities on projects and specific taxpayers, to ensure compliance with Service policy and these guidelines. Regional Commissioners must provide for a review of each district's information gathering activities in their semi-annual visitations to the districts. Assistant Commissioners are required to provide for an annual review of each region's information gathering activities as a part of the National Office Review Program.

Our guidelines to the field require that top management at all levels (National, Regional and District) become involved in projects requiring information gathering so that such officials can assure that only directly tax related information, as defined in Section 4, is sought. Before such projects are authorized, the Assistant Commissioner at the National level, the Regional Commissioner at the Regional level, or the District Director at the District level, must evaluate the purpose, scope, and specific type of information to be solicited. It is the authorizing official's responsibility, through his subordinate managers, to ascertain that only directly tax related information is sought and that non-tax related material is disposed of. We feel these responsibilities will not only prevent the growth of non-tax related material, but eliminate inventories of any such material presently maintained. National and Regional offices, through regular program visits will insure that all IR Manual restrictions on information gathering are adhered to.

[The information-gathering guidelines referred to above are printed on pages 593 to 601 of the appendix.]

Mr. HAYES. I might indicate, too, that I, as others have stated, very much appreciate your frankness, your wit and resiliency here today. I think it is only that we are very concerned about the application of the kinds of regulations that are submitted by the IRS. There is no other oversight except that which you supply, and which you issue pursuant to what I consider to be a kind of unique tax collector ethic that I find in the IRS, and always have found it. You have even outlined some of it in the final phases of this circular, which is a rather strange thing to find in an IRS information bulletin, where one would find some statements of philosophy. Particularly the three paragraphs about the mission of the Service, how to fulfill it, and compliance with Internal Revenue laws—the three paragraphs over your signature on the last page. I think that is extremely helpful and has to be extremely helpful to the size of the bureaucracy you have responsibility for and I commend you for that.

Perhaps if we could have some statement about that, it might help us understand how to better devise the proper statutory controls that we are going to have to have if we are going to curb abuses that

occurred before you and which might occur after you, because I have a great deal of confidence they are not going to happen while you are exercising your responsibility.

Mr. ALEXANDER. Thank you very much for your statement. It applies to all of us here, not just to me.

The mission of the Service as described in the top paragraph of the three you mentioned is exactly what we believe it to be.

Mr. HAYES. Thank you very much, Mr. Commissioner.

I yield the balance of my time to Mr. Murphy.

Mr. MURPHY. I too would like to thank you for your frankness and candidness. I find it most refreshing, especially in contrast with this morning's hearings and other sessions we have had with other agencies. I appreciate it very much.

Mr. ALEXANDER. Thank you.

Chairman PIKE. Mr. Lehman?

Mr. LEHMAN. Mr. Alexander, I just want to bring up one little subject. You said that Florida was lucky perhaps because of the climate, or perhaps because of organized crime. I can't help being a little defensive on that. Organized crime as compared to what? Nevada, Baltimore, Chicago, or what?

I really don't think we deserve that kind of attention for that kind of a reason. I hope you will perhaps qualify or retract a little bit of that.

Mr. ALEXANDER. I want to say I love, admire, and respect the State of Florida; that we do have an obligation to enforce the tax laws and that Florida has so many attractive attributes about it that it attracts not only the fine, outstanding citizens who live there but some criminal elements that would like to reside there.

Mr. LEHMAN. You are getting worse. You are getting into more trouble.

I won't pursue it.

For the record, I think that Florida is perhaps no better but certainly no worse than hundreds of other parts of the country in regard to the activities of organized crime or any other type of criminal activity.

Come down and find out but don't necessarily bring Operation Harry the Hat or Operation Sunshine, or Operation Banana Boat or for that matter Operation Leprechaun.

I would like to take whatever time is available, if you can inform me more openly—I am familiar with Operation Leprechaun, but there has been very little discussion on the other types of operations. If you would like to give this committee any additional information in regard to that, it will certainly be very interesting and perhaps helpful.

Mr. ALEXANDER. Mr. Bates, do you have any further data on some of these other operations?

Mr. BATES. You are speaking of Harry the Hat, Banana Boat, and Sunshine.

Mr. LEHMAN. I just know the names and know nothing about what they are doing down there or have been doing.

Mr. BATES. Let me briefly describe it. By the way, our investigation, Congressman, is still going on as to what happened down there those years. But apparently there was one undercover inspection agent working for the Internal Revenue Service who was sent into

the Miami area. From the best we can determine today—because the people responsible for this operation are no longer with the Internal Revenue Service—he was down there to check on the integrity of the Internal Revenue employees.

Now I hate to mention the next subject because it is something that is dear to your heart. He was down there because the people who initiated the operation were concerned that if there was corruption in Miami perhaps they were corrupting Internal Revenue Service employees. So, basically, the operation was to determine whether that was going on.

The first part of the operation was called "Harry the Hat." The man who went down there was down there for about 2 months. They changed the operation. They expanded what he was going to do. They changed it to "Operation Sunshine" and that ran along for several months. Then they wound it up and they called it "Operation Banana Boat," so it was a continuing of one operation, where somebody decided to put three labels on it.

Mr. LEHMAN. Are the Internal Revenue agents in south Florida more susceptible to corruption than Internal Revenue agents elsewhere? Didn't you have to initiate these kinds of operations in other places?

Mr. BATES. Let me make you happy. The report indicates that there was no corruption on the part of the Internal Revenue agents as a result of this investigation, so they found absolutely nothing. Maybe that proves something positive, that everything looked all right as far as Internal Revenue Service employees were concerned in south Florida, at that time, as a result of the information we gathered in that operation.

Mr. LEHMAN. And this has all been stopped at the present time?

Mr. BATES. There is no such thing going on in Florida at this time.

Mr. LEHMAN. Just to pursue the confidentiality, and then whatever time I have left, I would like to give back to Mr. Kasten. For employees. So, basically, the operation was to determine whether instance, can the State's attorney in a county in Florida request the governor to request the tax return for any particular citizen of his State?

Mr. ALEXANDER. He can make the request but will find that he won't get the return.

We are authorized and directed to give tax returns and tax return information to the governors on their request only for the administration and enforcement of tax laws, so if the State's attorney would just like to get a tax return because of curiosity or because somebody ran three red lights, he is not going to get it unless my counsel overrules me.

The statute, itself, is very specific on this. It simply says that income tax returns shall be open to inspection by any official body or commission lawfully charged with administration of any State tax law. The statute restricts it to tax laws and restricts it therefore to those State officials charged with the administration of tax laws.

Chairman PIKE. The time of the gentleman has expired.

Mr. Johnson is recognized for 1 minute.

Mr. JOHNSON. I need to get this information on the record about the special services staff and the information-gathering retrieval system.

Did the IRS refer those matters to the Congress or report them to the Congress, and, if so, to which committee?

Mr. ALEXANDER. The Joint Committee on Internal Revenue Taxation looked into the special service staff and issued a preliminary report as part of its "friends and enemies" report on December 20, 1973. It looked into the special services staff further and issued a much more detailed report on June 5, 1975.

As to the IGRS, the joint committee has called on GAO to review almost all major activities of any kind—I don't know whether GAO is looking particularly into this at this time or not, but I do know that I have reported to congressional committees with respect to IGRS, and I expect to report further. The committee that has shown a particular interest in IGRS is Chairman Rosenthal's subcommittee of the Government Operations Committee.

Chairman PIKE. Mr. Field.

Mr. FIELD. Thank you, Mr. Chairman.

Mr. Alexander, you made a statement that the IRS's generalized investigation cost was \$4.3 million in the 1975 budget. Is this the first time IRS has made a public breakdown of the strictly intelligence-gathering costs?

Mr. ALEXANDER. As far as I know; yes.

Mr. FIELD. I understood that was done at the request of this committee, and again we thank you for doing that and for the previous figures. I think they are very helpful.

There is \$100 million spent on the intelligence division. I would like to understand why you distinguished the \$4.3 million. I understand it is sort of generalized intelligence-gathering. Probably the remaining balances are directed at individual violations. Nevertheless, were we to recommend oversight to a joint committee or some other body, it would strike me that perhaps the balance of that \$100 million may involve intelligence-gathering—paid informers, that kind of thing—and probably should come under oversight.

I would be interested to hear what was the distinction and get your response on whether the whole \$100 million shouldn't come under oversight.

I have two specific questions. Answer the others for the record.

Why the reduction from \$11.8 million a couple of years ago to \$4.3 million last year? This is apparently following up on tips and so forth. Has the number of tips gone down by two-thirds? Has the cost of evaluating the tips gone down by two-thirds, or is the fact a few years ago you were actually doing more than just evaluating the tips coming in?

Mr. ALEXANDER. I think a few years ago we did place emphasis, and rather strong emphasis, upon intelligence-gathering, information gathering, per se. That troubled me, because I was wondering whether it was an efficient and effective use of our limited resources. We don't have enough special agents; we haven't enough money in our intelligence budget to do our job properly, and we wondered whether we were piling up information we couldn't utilize because we didn't have the people to, as we say, "work the cases."

So from the standpoint of efficient use of resources, as well as from the standpoint of not gathering the irrelevant, or concerning ourselves about matters—social and economic views irrelevant to taxation, or something interesting only to the curious—

Mr. FIELD. It would seem to me IRS began to come under criticism and scrutiny, really, a few years ago, or at least a year and a half or so ago. The intelligence community in general came in only recently. This seemed to be some indication of what may happen elsewhere if more attention is paid to what is being collected and how valuable it is and whether or not it is proper. Perhaps your experience may be a harbinger of what may come elsewhere. It seemed to be that kind of thing.

Mr. ALEXANDER. We would be glad to share our experience with the other intelligence-gathering agencies.

Mr. FIELD. Is it true that the cost of paid informers has gone from \$122,000 in 1970 to \$586,000 in 1974?

Mr. ALEXANDER. That aggregate includes more than payments to informants. The payments to informants are the largest single element in the aggregate, but the aggregate includes same amount for the purpose of paying banks and the like for records that we require from them.

Mr. Wolfe, would you supply detail on that?

Mr. WOLFE. Yes; that is right. We didn't segregate the payments to the informants, and the amounts that we spent, where we had to reimburse banks and others to reproduce information for us.

Mr. FIELD. Could I interrupt for a second?

Since that is true, if you could at some time submit for the record the reason for that increase, I would like to have it for our records.

Mr. ALEXANDER. We will be glad to and will also submit for the record why the decrease from that figure.

Mr. FIELD. I appreciate that very much.

[The following information was subsequently supplied for the record:]

The 4.3 million dollar expenditure for information gathering and retrieval in FY 1975 represents the cost of gathering, evaluating, cross indexing and retrieving—on a district and national basis—information to be used by Service personnel as background material prior to the assignment of a case for collection, examination, or investigation. Except for this 4.3 million dollars for information gathering activities, the 100 million dollars spent in Intelligence Division programs in FY 1975 represents the cost of specific tax fraud case investigations.

Tax fraud investigations are the responsibility of the Intelligence Division in Internal Revenue district offices and local posts of duty, under the functional direction of the District Director, the Assistant Regional Commissioners (Intelligence) and the National Office Intelligence Division, under the Assistant Commissioner (Compliance).

The objective of this activity is to encourage the highest degree of voluntary compliance with Internal Revenue laws pertaining to income, estate, gift, employment and certain excise taxes by enforcing the criminal provisions of such laws. Our special agents investigate incidents of apparent tax fraud. When the facts developed by the investigation warrant, prosecution is recommended for criminal tax violation.

Any congressional oversight of intelligence activities should cover the entire amount spent in Intelligence Division programs. At present, the House and Senate Appropriation Committees, the Joint Committee on Internal Revenue Taxation, the Senate and House Government Operations Committees, and the oversight subcommittees of the Senate Finance and House Ways and Means Committees, have an oversight responsibility for IRS programs.

Payments to secure evidence are shown in the chart below. Included in these charges are payments to informants, payments to banks for copies of documents and other miscellaneous expenses to secure evidence.

INTELLIGENCE DIVISION PAYMENTS TO SECURE EVIDENCE

[In thousands]

	Fiscal year—				
	1971	1972	1973	1974	1975
Payments to informants.....	(0)	(0)	\$276	\$400	\$183
Payments to banks and other miscellaneous charges ²	(0)	(0)	113	165	143
Total payments to secure evidence.....	122	169	389	565	326

¹ Segregated data not available for fiscal years 1971 and 1972.

² Includes funds spent for relocating witnesses; paying fees to returns preparers when IRS employees posed as taxpayers; travel, food, and lodging; telephone calls; photocopying by banks, and other such costs.

The increase in the aggregate amount between 1971 and 1974 was due primarily to the Service's increased efforts in the Strike Force and Narcotics Traffickers Programs. Our field officials utilized informants to develop information in these two areas due to a lack of information from more conventional sources.

Our expenditures during FY 1975 decreased substantially due to the following factors:

1. Generalized information gathering by Service employees was suspended on January 22, 1975 pending high-level review of the practices and procedures in this area.

2. Authorization for field approval of confidential expenditures was withdrawn on March 17, 1975. The only officials currently authorized to approve confidential expenditures to or on behalf of informants are the Assistant Commissioners (Compliance) or (Inspection).

In summary, the decrease in the amounts paid to informants during FY 1975 was due to the tightening of management controls.

Chairman PIKE. Mr. Kasten, do you need additional time?

Mr. KASTEN. I would like to ask one additional question, if I may, just a followup on the question about State and local government.

In the series of questions immediately prior to this one you had, Mr. Lehman asked you about the sheriff in one county asking for information. You said you would not send it because the sheriff is not in the revenue business.

If in fact, from that same county, a county clerk or someone else would—who could be thought to be in the tax or revenue business—request either on his own or through the Governor of his State a printout of everyone in that county for whatever reason he might deem, isn't it possible that you would give that person that information? Not the sheriff, but someone in the tax collecting business?

Mr. ALEXANDER. It would have to be requested through the Governor in the first place, so the person couldn't ask for it himself or herself, and obtain it. The request would have to show on its face that it was for a proper purpose—I speak about a specific request now for tax information—and I get quite a few from Governors of States, and I read those letters pretty carefully to make sure—as sure as you can be when you simply read what is put before you, and do not investigate it thoroughly—that the request is an appropriate one from an appropriate person and that it meets the standards of the statute. That is as far as I can go.

I mentioned one case where the name was such as to elicit my curiosity as to whether the need was proper and the need was there.

I followed that case up with the Department of Justice.

Chairman PIKE. The time of the gentleman has expired. All time has expired.

Miss ALPERN. Mr. Chairman, may I add a comment? In implementing a Federal-State agreement, the Governor of the State involved must submit a list of names of people employed in the State and their official title who will be authorized to receive this information. That is a part of the Federal-State agreement.

Further in the body of the Federal-State agreement the Governor must assure that dissemination of such information below the State level to officials in counties or municipalities is also in accordance with the provisions and controls specified for the State in the agreement. Now, all that is under the current agreement and these are being strengthened.

Mr. KASTEN. It is being strengthened?

Miss ALPERN. Yes, it is.

Mr. ALEXANDER. We are reviewing these agreements. We have tightened up on them materially. They are being reviewed further by Mr. Whitaker with a view toward tightening them up more.

Chairman PIKE. Thank you very much.

Mr. Alexander, I think you have judged from the comments of all of the members of the committee that we really do appreciate your candor, and lack of secrecy; and I think, as much as anything, the fact that while you are doing your level best to meet the same problems that we are, you do not attempt to overstate your case, as far as what laws and regulations can accomplish. You are still pretty much in the hands of human beings. You recognize that and we recognize that too.

The committee will stand in recess until 10 o'clock tomorrow morning, when we will have the Director of the National Security Agency here in open session.

[Whereupon, at 4:40 p.m., the committee was recessed, to reconvene at 10 a.m., the following day, Friday, August 8, 1975.]

U.S. INTELLIGENCE AGENCIES AND ACTIVITIES

Part 1: Intelligence Costs and Fiscal Procedures

FRIDAY, AUGUST 8, 1975

**HOUSE OF REPRESENTATIVES,
SELECT COMMITTEE ON INTELLIGENCE,
*Washington, D.C.***

The committee met, pursuant to recess, at 10:05 a.m., in room 2118, Rayburn House Office Building, the Honorable Otis G. Pike [chairman], presiding.

Present: Representatives Pike, Dellums, Murphy, Aspin, Hayes, Lehman, McClory, Johnson, and Kasten.

Also present: A. Searle Field, staff director; Aaron B. Donner, general counsel; John L. Boos, counsel; Jeffrey R. Whieldon, counsel; Roger Carroll, Fred K. Kirschstein, and Charles Mattox, investigators.

Chairman PIKE. The committee will come to order.

I want the members of the committee to know that prior to the meeting this morning I was contacted by representatives of the White House who advised me that the area which we are now addressing involves extremely sensitive information. It is quite possible that we will have to go into executive session fairly early in the meeting.

I am a little hard to convince on this item. I have done my level best to keep our sessions as open as possible as long as possible. We will start in open session. We will go in open session as long as anything useful can be accomplished thereby.

Our witness today is Gen. Lew Allen, the director of the National Security Agency. We are delighted to have you here, General Allen. You can introduce the people who are with you, General Allen, and then you may proceed any way you want.

STATEMENT OF LT. GEN. LEW ALLEN, JR., DIRECTOR, NATIONAL SECURITY AGENCY, ACCOMPANIED BY BENSON BUFFHAM, DEPUTY DIRECTOR; LEONARD MONGEON, DEPUTY CHIEF PROGRAM BUDGET OFFICE; ROBERT ANDREWS, SR., ADVISER TO THE GENERAL COUNSEL, OSD, AND ROY BANNER, GENERAL COUNSEL, NATIONAL SECURITY AGENCY

General ALLEN. First, the people on my right, Mr. Benson Buffham, Deputy Director of the National Security Agency, a professional cryptologist who has been in the field since his service with the Army in World War II.

On my left is Mr. Andrews, who is OSD General Counsel.

On his left is Mr. Banner, who is the National Security Agency General Counsel, and on my far right is Mr. Len Mongeon, who is the budget officer of the National Security Agency, and is, of course, here with details and backup information for your particular interest in matters of the budget.

Chairman PIKE. In fairness to you, before we start, I think it is clear to you—I hope it is clear to you—and I know it is clear to the members of the committee that while we started by pursuing the budget route, we find ourselves this morning not going after the CIA the way most of the people in America are going, but being rather interested in the NSA not because of their budget, but because of allegations which have been made to the effect that the NSA is intercepting the telephone calls of American citizens. That is precisely why we wanted you to be here this morning, General Allen.

Do not spend much time talking about your budget, please, but do tell us what you can tell us in that regard.

Mr. McCLODY. Would the chairman yield?

Chairman PIKE. Of course I yield.

Mr. McCLODY. I just want to add this, Mr. Chairman: That is, while we are interested in the subject matter that you have referred to, the size of the operation, the number of personnel, the amount of money that is expended for these activities, and in what ways, manpower and technological equipment and so on, I think these are all things of interest to us.

Chairman PIKE. Of course they are. It is by following that route that we got to where we are.

Mr. McCLODY. Right.

General ALLEN. Yes, sir. I understand your concern, and, of course, I have not been unaware of some of the concerns that you expressed over the past several days. On the other hand, I did come primarily in response to your letter, which asked me to particularly emphasize those matters of budget polls and procedures as well as proposed and approved budgets themselves, and so it is, of course, in that area, in response to your request, that I am primarily appearing.

Chairman PIKE. Why don't you go right ahead then in open session? Maybe we can get a lot of things in open session.

General ALLEN. All right, sir, fine. I would like to say I have prepared a statement which has been distributed, which is unclassified, and appropriate for open session. However, I would like to point out that as far as I can tell from searching the records, no director of the National Security Agency has ever before been required by Congress to testify in open session.

I will describe some of the statutory bases and concerns which Congress has expressed in the past that has apparently caused them to take those views up until now.

As you anticipate, it is going to be difficult for me to fully respond to many of those matters about which you have concern in open session. I feel it would be a disservice to both you and the American people if I attempted to give inaccurate or incomplete replies which would be inhibited by the statutory provisions on security.

Therefore, on many of these matters it will be necessary, I would prefer that the entire questioning be done in closed session, but knowing your strong feelings about open session, we will certainly do what

we can in open session, but it is true we will be severely inhibited in responding.

Chairman PIKE. I feel very strongly, General Allen, that if the telephone communications of American citizens are being intercepted by your agency, the American citizens have a right to know how and why, and the American citizens have a right to make the judgment as to whether they want to spend their money for that purpose. That gets us, by a rather roundabout route, back to the budget. Why don't you go ahead with your statement?

General ALLEN. All right, sir.

Mr. Chairman, members of the committee I appreciate this opportunity to set forth for you the missions and operations of the National Security Agency (NSA). I am here to assist the committee in any way I can, and I shall be forthright and candid in providing whatever information is required.

I shall review the missions of the National Security Agency, the authorities under which it operates, its relationships to other agencies and departments of government and its budget process. Certain aspects of our operations involve the most sensitive intelligence matters. Consequently, I will be forced to defer discussion of these matters until the committee convenes in closed session. To do otherwise would risk compromise of and possible irreparable damage to cryptologic sources and methods.

MISSION

NSA has two missions. One is that of protecting U.S. communications from foreign intelligence exploitation—this is our communications security (COMSEC) mission. Our other mission is to exploit foreign communications in order to provide information to our own Government—this is called our signals intelligence (SIGINT) mission.

Our Comsec mission—that is, the enhancement of the security of our own communications—is a complex undertaking in our modern electronic world. It requires that we know and understand the threats to the security of our communications against which we are trying to protect ourselves. Thus, our two missions—Comsec and Sigint—are mutually enhancing, opposite sides of the same coin, so to speak.

The Secretary of Defense is the executive agent of the Government for communications security. His responsibility in insuring the security of our communications is carried out by the Director, NSA, as the program manager for the national communications security program. This effort includes research and development on modern techniques of encipherment and of communicating the development of prototype equipments and the printing of all of our code material which is used by both the civilian elements of our Government such as embassies and consulates, and by our military forces all over the world.

The Secretary of Defense is the executive agent of the Government for signal intelligence. We respond essentially to information needs expressed by military and civilian authorities of the Government and approved by the U.S. Intelligence Board. Many of our resources are keyed to tasks that support combatant forces.

Information needs are derived from two basic sources. First, there are the very broad intelligence objectives and priorities which are identified as a result of work by bodies like U.S. Intelligence

Board, National Security Council, and the President's Foreign Intelligence Advisory Board. These come to us through the U.S. Intelligence Board, in the form of policies which guide our overall resource application. One such objective, for example, is to provide the Nation advance warning of military attack, and we endeavor to collect information which will contribute to an assessment of that possibility. Second, there are specific information needs which are identified directly to us by other governmental or military authorities, and which are satisfied without any reallocation of resources, and within the policy and approval of the USIB. An example might be to contribute to intelligence support to a military exercise or action.

When a need for information is approved, NSA accepts it as a "requirement." A requirement might best be defined as a statement of information need from an authorized source which we believe we are capable of satisfying within the constraints of our authorities and resources, and which we have, therefore, accepted as a task.

When we receive such a statement of information need, we examine our ongoing operation, our authorities, and our data base, and then perform such processing or reporting as may be necessary to satisfy that need. If a requirement or statement of need cannot be satisfied without some major adjustment in the collection or processing system, then we would seek DOD or USIB consideration or both before undertaking such an adjustment.

LEGAL BASIS FOR NSA AND CRYPTOLOGIC ACTIVITIES

Let me now turn our attention to the legal authorities relating to the National Security Agency.

Our original authority is based on the President's constitutional authority to engage in foreign intelligence gathering operations which he believes necessary to the exercise of his inherent powers as Commander in Chief and as a principal organ of the Nation in the field of foreign affairs.

Prior to and during World War II, signals intelligence was conducted by the military services. In 1951, President Truman commissioned a group of distinguished Americans under the chairmanship of Mr. George Brownell to study the issues involved in conducting the national signals intelligence effort and to make recommendations regarding how this effort should be managed. Pursuant to recommendations contained in the Brownell report, President Truman unified those military efforts under a single program manager; that management concept evolved into our present day National Security Agency. By Presidential memorandum, he designated the Secretary of Defense as the executive agent of the Government for communications intelligence and communications security matters and directed him to establish the National Security Agency.

The Secretary's authority to create the National Security Agency is found in section 133(d) of title 10, United States Code. This law provides that the Secretary may exercise any of his duties through persons or organizations of the Department of Defense. The NSA is the means by which the Secretary discharges his executive agent responsibilities. In 1962, a Special Subcommittee on Defense Agencies

of the House Armed Services Committee concluded, after examining the circumstances leading to the creation of defense agencies, that the Secretary of Defense had the legal authority to establish the National Security Agency.

While the legal basis for the gathering of foreign intelligence information is derived from the Constitution itself, the Congress has acted on its own initiative to enable and facilitate the President to acquire foreign intelligence through signals intelligence activities. The Congress has passed a complex of statutes which recognize the legality of signals intelligence activities and provide for the conduct and safeguarding of these activities.

As far back as 1933, the Congress recognized the right of the President to intercept the communications of foreign governments by prohibiting the divulging of the contents of diplomatic messages of foreign countries which have been successfully decoded (18 U.S.C. 952).

The keystone statute is 18 U.S.C. 798, enacted in 1950, which prohibits the unauthorized disclosure or prejudicial use of classified information of the Government concerning communications intelligence activities, cryptologic activities, or the results thereof. This law specifically authorizes the President (1) to designate agencies to engage in communications intelligence activities for the United States, (2) to classify cryptologic documents and information, and (3) to determine those persons who shall be given access to sensitive cryptologic documents and information. Further, this law defines the term "communication intelligence" to mean all procedures and methods used in the interception of communications and the obtaining of information from such communications by other than the intended recipients.

Public Law 86-36, enacted in 1959, provides authority to enable the National Security Agency, as the principal agency of the Government responsible for signals intelligence activities, to function without the disclosure of information which would endanger the accomplishment of its functions.

[P.L. 86-36 is printed on pages 425 to 426 of the appendix.]

Public Law 88-290, enacted in 1964, establishes a personnel security system and procedures governing persons employed by the National Security Agency or granted access to its sensitive cryptologic information. Public Law 88-290 also delegates authority to the Secretary of Defense to apply these personnel security procedures to employees and persons granted access to NAS's sensitive information. This law underscores the concern of the Congress regarding the extreme importance of our signals intelligence enterprise. Most personnel security programs of the Government, as you know, are based upon an Executive order and some upon a delegation of authority by the Congress to the head of the Agency. In Public Law 88-290, however, the Congress mandated that the Secretary of Defense, and the Director, National Security Agency, take measures to achieve security for the activities of the National Security Agency.

In 18 U.S.C. 2511 (3) the Congress recognized the constitutional authority of the President to obtain by whatever means, including the interception of oral or wire communications, foreign intelligence information deemed essential to the security of the United States. In this same statute the Congress also recognized the constitutional

authority of the President to protect classified information of the United States against foreign intelligence (including foreign communications intelligence) activities. Thus, the Congress acted in title 18, U.S.C. section 2511 (3) to recognize that the President's constitutional powers to conduct signals intelligence and communications security activities were not limited by the statutes prohibiting electronic surveillance.

Finally, for the past 22 years, Congress has annually appropriated funds for the operation of NSA. Following hearings before the Armed Services and Appropriations Committee of both Houses of Congress in which extensive briefings of NSA's signals intelligence mission have been conducted the Congress has provided the funds to permit the National Security Agency to perform this mission. As previously noted, it has also clearly expressed its intent in legislation to ensure maximum protection against unauthorized disclosures of NSA's activities.

The President's constitutional and statutory authorities to obtain foreign intelligence through signals intelligence are implemented through National Security Council and Director of Central Intelligence Directives which govern the conduct of signals intelligence activities by the executive branch of the Government.

I understand that you have been provided a copy of the National Security Council Intelligence Directive (NSCID) No. 6. It describes NSA's authority within the executive branch to conduct the Nation's Signals Intelligence operations, and, as you can see, that authority clearly is limited to foreign intelligence operations.

I might also note that the concern of the Congress regarding NSA's activities has not been limited merely to protecting its mission. As you know, the National Security Agency keeps the Congress informed of its activities through the Subcommittees of the House and Senate Appropriations and Armed Services Committees. We appear before both the House and the Senate Defense Appropriations Subcommittees to discuss and report on the U.S. signals intelligence and communications security programs, and to justify the budgetary requirements associated with these programs. This testimony includes the activities and dollar requirements of both the National Security Agency itself and of the Services cryptologic components working with us on these missions. We do this in formal executive session, in which we forthrightly discuss activities of the most sensitive nature. In considering the fiscal year 1976 total cryptologic budget now before Congress, I appeared before the Defense Subcommittee of the House Appropriations Committee on two separate occasions for approximately seven hours. In addition, I provided follow-up responses to over one hundred questions of the subcommittee members and staff. We also appeared before Armed Services Subcommittees concerned with authorizing research, development, test and evaluation (R.D.T. & E.), construction and housing programs and also before the Appropriations Subcommittees on construction and housing.

In addition to this testimony, congressional oversight is accomplished in other ways. Staff members of these subcommittees have periodically visited the agency for detailed briefings on specific aspects of our operations. Recently we have also had members of the investigations staff of the House Appropriations Committee at the

agency for more than a year. The results of this investigation have been provided to that committee in a detailed report.

Another feature of congressional review has been that since 1955, representatives of the General Accounting Office have been assigned at the agency on a permanent basis to perform on-site audits. These resident auditors have generally done administrative compliance audits and report to the Comptroller General. These audits are distinguished from management type reviews which are done on the National Security Agency by resident auditors from the Office of the Assistant Secretary of Defense (Comptroller). In our official regulations governing the General Accounting Office, we have emphasized that the sensitivity of a particular activity should not be an obstacle to properly cleared auditors in their review of any activity affecting their assessment of the agency's efficiency. While two General Accounting Office personnel are generally in residence, a number of other General Accounting Office individuals have been given clearances in preparation for undertaking substantive reviews in selected areas. I understand that Comptroller General Staats has recently commented favorably on our cooperation with his office.

Since 1960, the Congress has conducted no less than 11 different major inquiries into various aspects of NSA activities or into activities in which NSA was a participant. These have included:

1. Security Practices in the National Security Agency—Defection of Bernon F. Mitchell and William H. Martin. House Committee on Un-American Activities. June 1960.
2. Defection of Bernon F. Mitchell and William H. Martin. House Committee on Armed Services. June 1960.
3. Security Practices in the NSA. House Committee on Un-American Activities. July 1961–June 1962.
4. Investigation of Defense Agencies by Special Subcommittee on Defense Agencies of the House Armed Services Committee. July–August 1962.
5. Investigation of the Administration of Internal Security Act and Other Internal Security Laws by the Senate Committee on the Judiciary. November 1963.
6. Use of Polygraphs as Lie Detectors by the Federal Government. House Subcommittee on Foreign Operations and Government Information. August 1964.
7. Gulf of Tonkin—the 1964 Incident. Senate Committee on Foreign Relations. February 1968.
8. Special House Armed Services Subcommittee on National Security Implications Arising from the Loss of the U.S.S. *Pueblo* and the Navy EC 121 Aircraft. July–August 1969.
9. Senate Foreign Relations Subcommittee on U.S. Security Agreements and Commitments Abroad. 1970–71.
10. House Armed Services Special Subcommittee on Defense Communications. September 1970–1971.
11. House Appropriations Committee Investigation Team. March 1975.

As you know, there are also a number of congressional reviews ongoing at this time.

The executive branch also maintains close supervision over the activities of the National Security Agency. Five major investigations

of signals intelligence have been conducted by the executive branch. These include:

1. George A. Brownell Committee 1951-52. Recommended organization of the National Security Agency.
2. Hoover Commission Task Force on Intelligence Activities—1955. Survey of Central Intelligence Agency and other foreign intelligence activities.
3. Defense Ad Hoc Committee to inquire into the Use of the Polygraph in the Selection of Military Personnel for Conversion to Civilian Positions at the National Security Agency—1963.
4. Special Study Group on the U.S. Signals Intelligence (Sigint) Effort, 1967—Eaton Committee—Executive Committee.
5. Blue Ribbon Defense Panel—July 1, 1970. Study of the organization, structure and operations of the Department of Defense, and, of course, there are recent investigations.

The Secretary of Defense is the executive agent for the Government for all NSA activities. As an agency functioning within the framework of the Department of Defense, we are fully responsive to applicable directives of that Department, work with the Assistant Secretary of Defense (Intelligence) in developing our programs, and submit our programs and budgets for departmental review. As a member of the Intelligence Community, we adhere to the intelligence policies and priorities established by the Director, Central Intelligence, are responsive to his direction, participate in the activities of the United States Intelligence Board and provide our program recommendations for his consideration and inclusion in his National Foreign Intelligence program.

Other organizations of the executive branch concerned with the review of the National Security Agency programs and the provision of direction or guidance to me as program manager for signals intelligence and communications security include:

President's Foreign Intelligence Advisory Board.

The DCI Intelligence Resources Advisory Committee.

The U.S. Communications Security Board.

The Office of Management and Budget.

The Assistant Secretary of Defense (Intelligence) testimony on Tuesday covered the basic program and budget procedure used in the Department of Defense, and the respective roles of the Office of Management and Budget and Intelligence Community staff of the Director, Central Intelligence in this process. He indicated that as Director, National Security Agency, I am the program manager for the signals intelligence (SIGINT) and communications security (COMSEC) efforts of the U.S. Government. In this capacity, I am responsible for developing a consolidated program involving my agency and other Defense components engaged in both missions. These program plans are developed and reviewed during the spring of the year based on objectives and priorities set forth by the Director of Central Intelligence and the Secretary of Defense and within fiscal constraints established by the latter. The recommended program for signals intelligence is then reviewed for the Secretary of Defense by the Assistant Secretary of Defense (Intelligence) in the early summer. My recommended communications security program

is reviewed by the Defense Director of Telecommunications and Control and Command Systems.

This program, when approved by the Secretary of Defense, is the basis against which detailed budget estimates are developed and submitted in the fall to the Assistant Secretary of Defense (Comptroller) and the Office of Management and Budget. NSA and each military department include the funds required for its part of the program in their own request for appropriations. The budget for the National Security Agency is carried in the appropriations of the Defense agencies. The pay for the military personnel assigned to the National Security Agency are budgeted by the parent department.

These budget requests are reviewed in detail by the Assistant Secretary of Defense (Comptroller) and the Office of Management and Budget. Mr. Colby's Intelligence Community Staff and the staff of the Assistant Secretary of Defense (Intelligence) participate in the review of Intelligence budget estimates. The Staff of the Director of Telecommunications and Command and Control Systems is included in the review of the Communications Security budget. Based on these reviews, the approved budget requests for signals intelligence and communications security are included within the Department and Agency budgets for submission to Congress as part of the President's overall Federal Budget.

Thus, our activities now and throughout our existence have had the most thorough and detailed scrutiny of the DCI, the DOD, and the Congress. The participation of both the legislative and executive branches of the Government in the activities of NSA has been most active and most vigorous.

In the closed session I will address the intelligence requirements which are levied on NSA, and which generally are answerable without in any way adjusting out collection activities. I will attempt to explain NSA's role with respect to international communications, describe how the operation is conducted, the manner in which NSA responds to a requirement, and the disposition of requests made by other Government agencies for information that might be generated by those operations.

I hope this statement has been helpful to this committee in understanding the nature of NSA's operations. I would like to emphasize that the signals intelligence and communications security activities of our Government are uniquely vulnerable to compromise, and that the effects of unauthorized or unwise revelations concerning those operations are often very far reaching and prejudicial to our national interests. In May 1974, Mr. McGeorge Bundy in his testimony before the Senate Subcommittee on Government Operations identified the intercept of electronic transmissions as one of six activities which he believed constituted "real secrets." I agree with that assessment. Even small compromises in our interrelated protective and intelligence mechanisms make it possible for foreign governments to institute countermeasures that can dramatically reduce our effectiveness. Such countermeasures could bring to naught our communication security efforts, or deny access to information sorely needed for national security purposes. Indeed, this already has happened in several cases when unfortunate and unauthorized disclosures have been made with damaging effect.

That concludes my prepared statement. I would be pleased to try to answer any questions the committee may wish to put to me.

Chairman PIKE. Thank you very much, General Allen. I think one of the problems that the intelligence agencies have is when you say that your operation is one of six real secrets. I would incline to agree with you, if it were not for the fact that so much of what is happening in America is classified as Top Secret. We just drown in things labeled National Security and Top Secret.

How many different agencies of the Government are authorized sources for requiring the use of your system?

General ALLEN. Our requirements do need to come through the United States Intelligence Board, and the Director of Central Intelligence, as the chairman of that board, has several other agencies of government as advisory to him.

Chairman PIKE. How many different agencies of government can use your collection system?

General ALLEN. I don't know the answer in terms of numbers, but it's essentially all agencies of government who have an established need and who have established appropriate security procedures to receive it.

Chairman PIKE. Does your system intercept the telephone calls of American citizens?

General ALLEN. I would believe that I can give a satisfactory answer to that question which will relieve the committee's concern on that matter in closed session.

Mr. McCLODY. Will the chairman yield?

Chairman PIKE. Yes, I yield.

Mr. McCLODY. Mr. Chairman, here you have asked about three or four questions now. We get into the area where it seems that we are going to get the information only in closed session. I have several questions. I am sure that the General will be unable to answer them.

I think it would be much more productive to our hearing, we would get much more information if we could proceed in a more direct way, if we resolve ourselves now into executive session, and I so move.

Chairman PIKE. I would like to be heard a little bit on the motion before we vote on it. Are you telling us, General Allen, that you can't even tell us in open session yes or no, whether the National Security Agency intercepts the telephone conversations of American citizens in America?

General ALLEN. Sir, I believe that a discussion of our operations is properly held in closed session, and that in closed session I can describe to you the methods of operation and the protection of the fundamental rights of American citizens which are afforded, and that to give you a "yes" or "no" answer or to attempt to describe that in open session would be a disservice to the—

Chairman PIKE. General Allen, recently—in fact two months ago, June of this year—there was a decision by the U.S. Court of Appeals for the District of Columbia Circuit which said that even for national security purposes wiretaps would not be permitted without a court order. Do you feel your operation to be somehow exempt from that decision?

[The case referred to is *Zweibon v. Mitchell*, 363 F. Supp. 936 (1975).]

General ALLEN. Mr. Banner, my General Counsel.

Mr. BANNER. Are you referring to what decision, sir?

Chairman PIKE. Sweibon versus Mitchell.

Mr. BANNER. That case holds in essence that before the United States can conduct an interception—

Chairman PIKE. I know what the case holds. I have it here.

Mr. BANNER. The answer to your question, sir, is that we believe that holding does not have any effect upon the conduct of our operations solely for foreign intelligence purposes.

Chairman PIKE. But does it have any bearing on American citizens making phone calls from America?

Mr. BANNER. Yes, the case does where the call, communication, is a domestic communication.

Chairman PIKE. Where it is a domestic communication?

Mr. BANNER. Yes.

Chairman PIKE. Would it affect an American citizen making a phone call overseas?

Mr. BANNER. No, sir, it would not in my judgment.

Chairman PIKE. In other words, you think that although wiretaps are prohibited by that law, intercepting telephone calls by American citizens heading overseas is not prohibited by that decision?

Mr. BANNER. That's correct, sir.

Chairman PIKE. Did the President of the United States say to the Justice Department that they would abide by that decision?

Mr. BANNER. Yes, sir.

Chairman PIKE. And are you telling us that the President of the United States somehow advised the NSA that it need not abide by that decision?

Mr. BANNER. Our view is, Mr. Chairman, that that decision does not affect the communications intelligence operations which are exclusively for foreign intelligence purposes, of foreign communications.

Chairman PIKE. The President as far as was reported in the newspaper said that even if foreign affairs or national security matters are involved, the Department of Justice was to abide by that Federal Court ruling. You are saying that although the Department of Justice must do that, the National Security Agency need not. Is that your position?

Mr. BANNER. No, that is not, Mr. Chairman. I am saying that the decision relates solely to the internal communications inside the United States, and the holding of the case is that before the United States can intercept the communications, internal communications, that it must establish a connection with a foreign power. The activities of the National Security Agency are to obtain foreign intelligence information only, and they are involved with foreign communications only, not internal communications.

Chairman PIKE. Is the committee ready to vote on Mr. McClory's motion?

The clerk will call the roll.

The CLERK. Mr. Dellums.

Mr. DELLUMS. No.

The CLERK. Mr. Murphy.

Mr. MURPHY. Aye.

The CLERK. Mr. Aspin.

Mr. ASPIN. Aye.

The CLERK. Mr. Hayes.

Mr. HAYES. Aye.

The CLERK. Mr. Lehman.

Mr. LEHMAN. No.

The CLERK. Mr. McClory.

Mr. McCLORY. Aye.

The CLERK. Mr. Kasten.

Mr. KASTEN. Aye.

The CLERK. Mr. Johnson.

Mr. JOHNSON. No.

The CLERK. Mr. Pike.

Chairman PIKE. Aye.

By a vote of 6 to 3, the committee will resolve itself into executive. The room will be cleared and swept and whatever else is necessary to satisfy the witnesses.

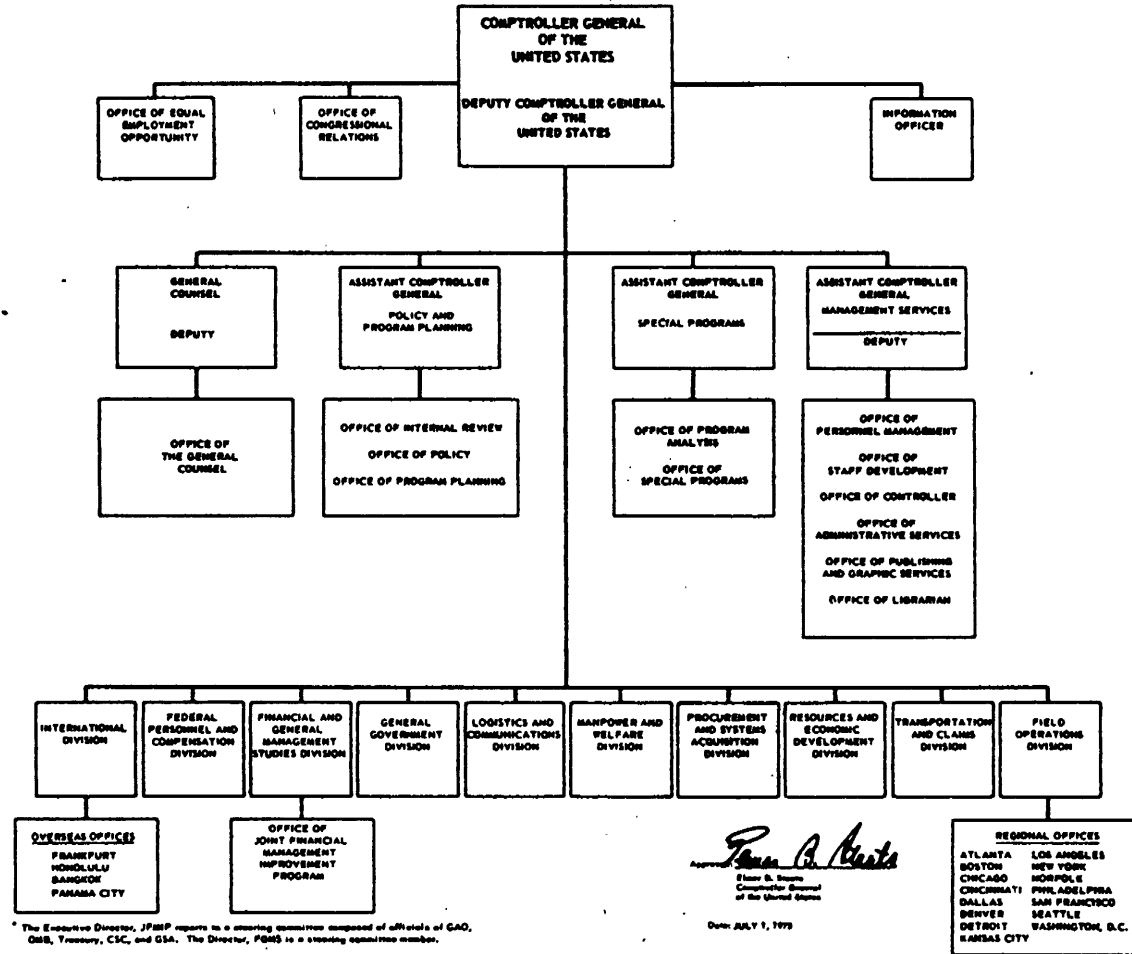
[Whereupon, at 10:45 a.m., the committee proceeded into executive session.]

APPENDIXES

7

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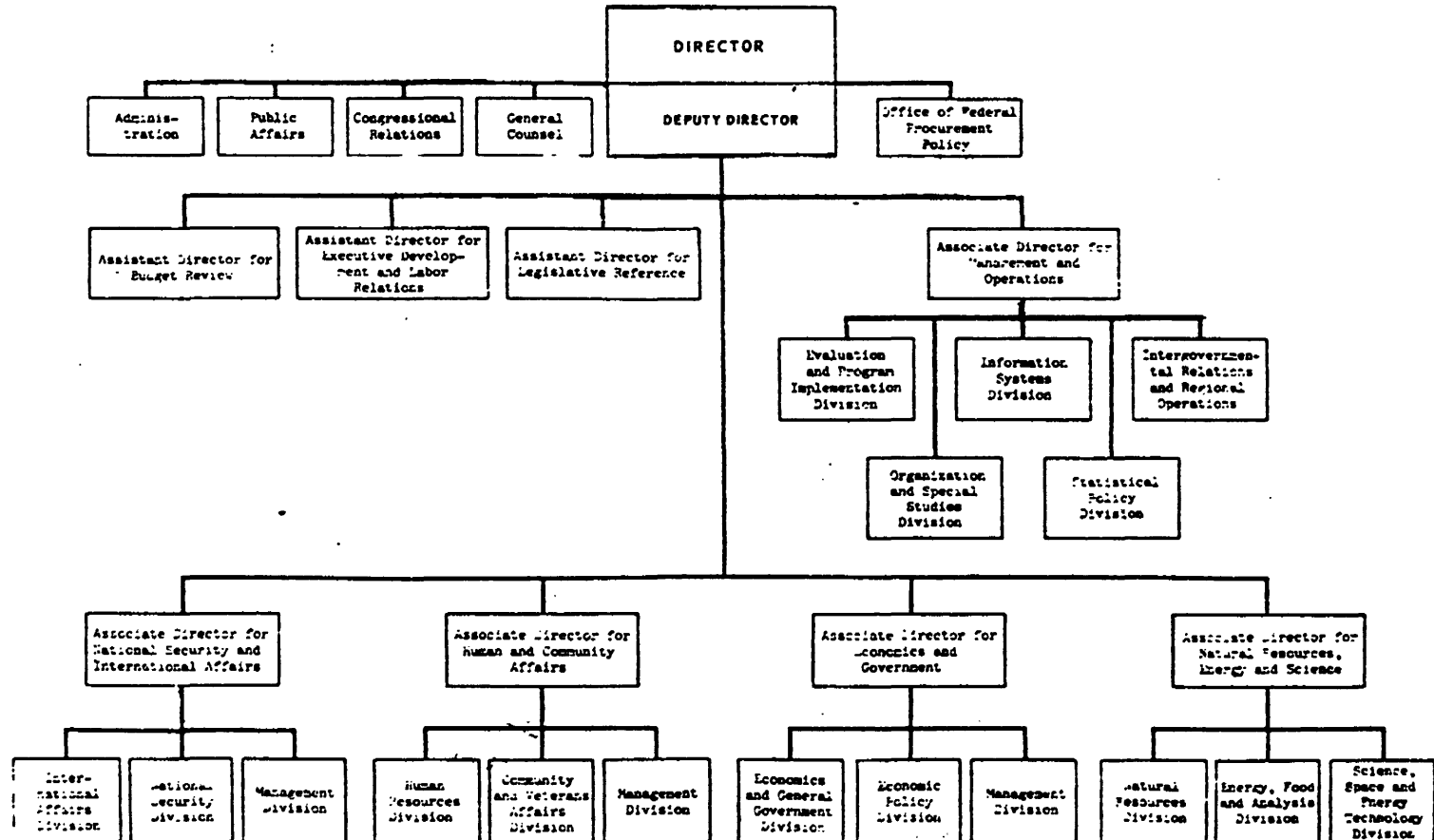
UNITED STATES GENERAL ACCOUNTING OFFICE



* The Executive Director, JFMP reports to a steering committee composed of officials of GAO, OMB, Treasury, CSC, and GSA. The Director, FMS is a steering committee member.

Appendix I.—Organizational charts.

EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET



CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

28 OCT 1975

Mr. A. Searle Field
Staff Director
Select Committee on Intelligence
United States House of Representatives
Washington, D. C. 20515

Dear Mr. Field:

Enclosed are a number of unclassified charts and diagrams responding to the request Congressman Milford made to Mr. Colby for additional materials concerning the U. S. foreign intelligence community for his use as a member of the House Select Committee on Intelligence.

The enclosure includes:

TAB A. National Intelligence, a chart showing the organizations involved in decisions concerning policy, programs and resources.

TAB B. National Intelligence Community Structure, a chart indicating the organizations involved, with indication as to those over which the Director of Central Intelligence has directive authority and those to which he provides recommendations, guidance and advice.

TAB C. National Foreign Intelligence Community Structure, a chart which includes indication as to the composition of the United States Intelligence Board and the Intelligence Resources Advisory Committee.

TAB D. Foreign Intelligence Community Structure, a chart which indicates the elements involved with policy, evaluation, requirements and estimates, resources, and implementation.



TAB E. National Intelligence Officers.

TAB F. Intelligence Community Staff Organization.

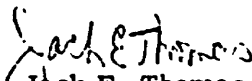
TAB G. Intelligence Community Staff Functions.

TAB H. Central Intelligence Agency.

TAB I. CIA Functions.

TAB J. Defense Intelligence Community.

Sincerely,


Jack E. Thomas
Major General, USAF (Ret.)
Chief, Coordination Staff, ICS

Enclosures:
As stated

NATIONAL INTELLIGENCE

POLICY

THE PRESIDENT

- President's Foreign Intelligence Advisory Board

NATIONAL SECURITY COUNCIL

- NSC Intelligence Committee
- NSC Committees

THE CONGRESS

- Armed Services
- Foreign Affairs

PROGRAMS

UNITED STATES INTELLIGENCE BOARD

- CIA
- State
- Treasury
- ERDA
- FBI
- DIA
- Army
- Navy
- Air Force
- NSA

NATIONAL INTELLIGENCE OFFICERS

INTELLIGENCE COMMUNITY STAFF

USIB COMMITTEES

RESOURCES

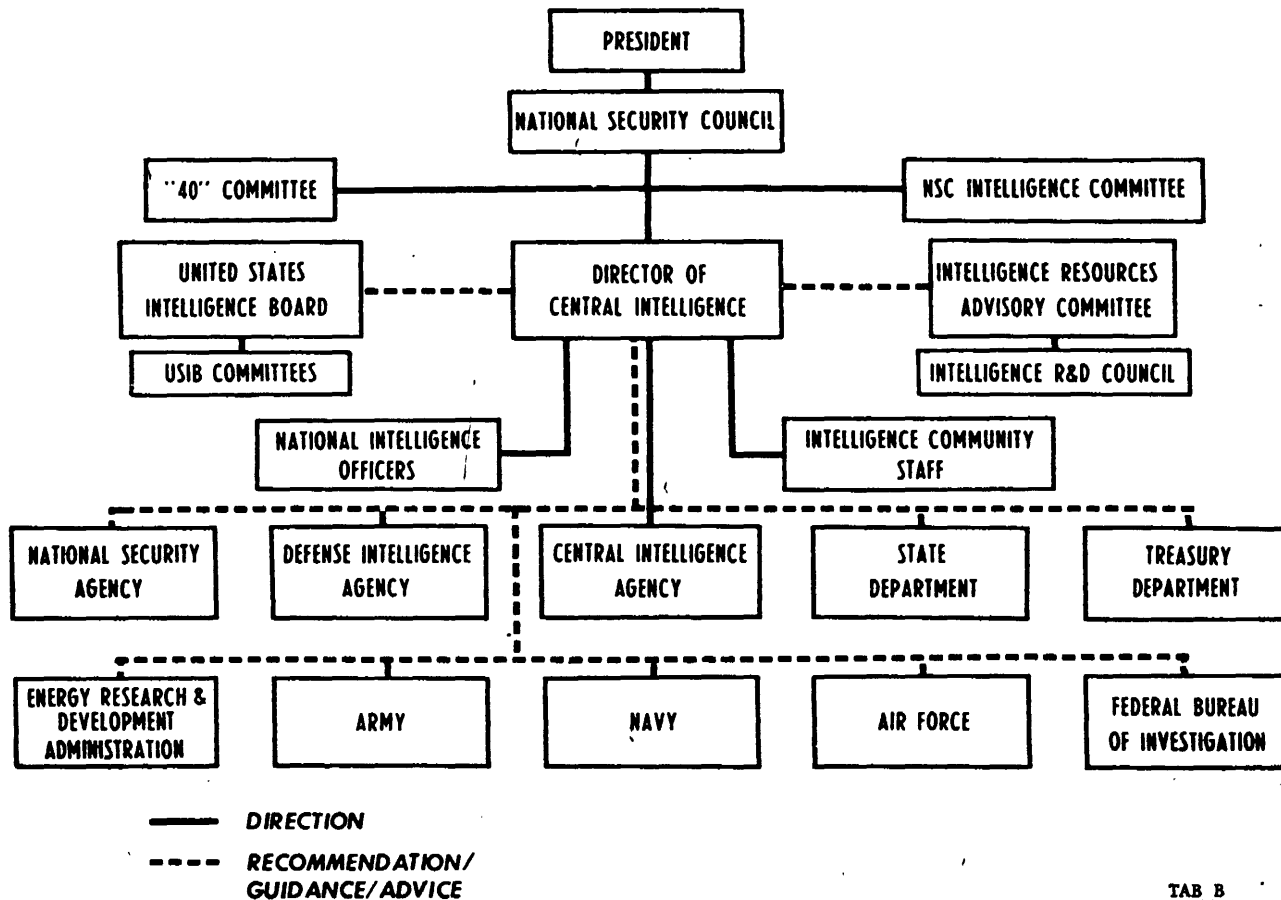
INTELLIGENCE RESOURCES ADVISORY COMMITTEE

- CIA
- DOD
- State
- OMB

THE CONGRESS

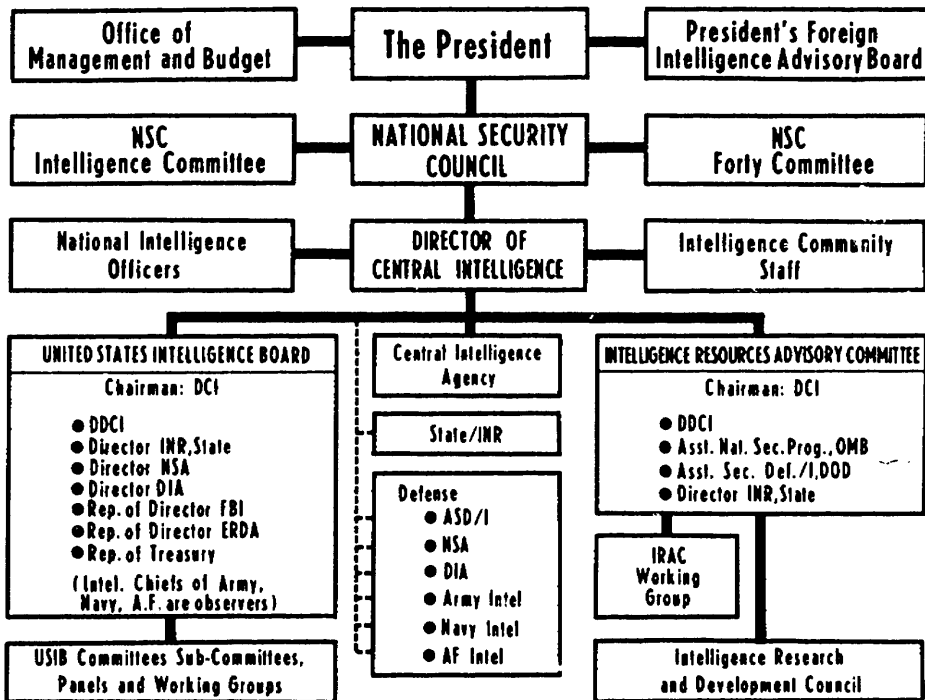
- Appropriations Committees

NATIONAL INTELLIGENCE COMMUNITY STRUCTURE

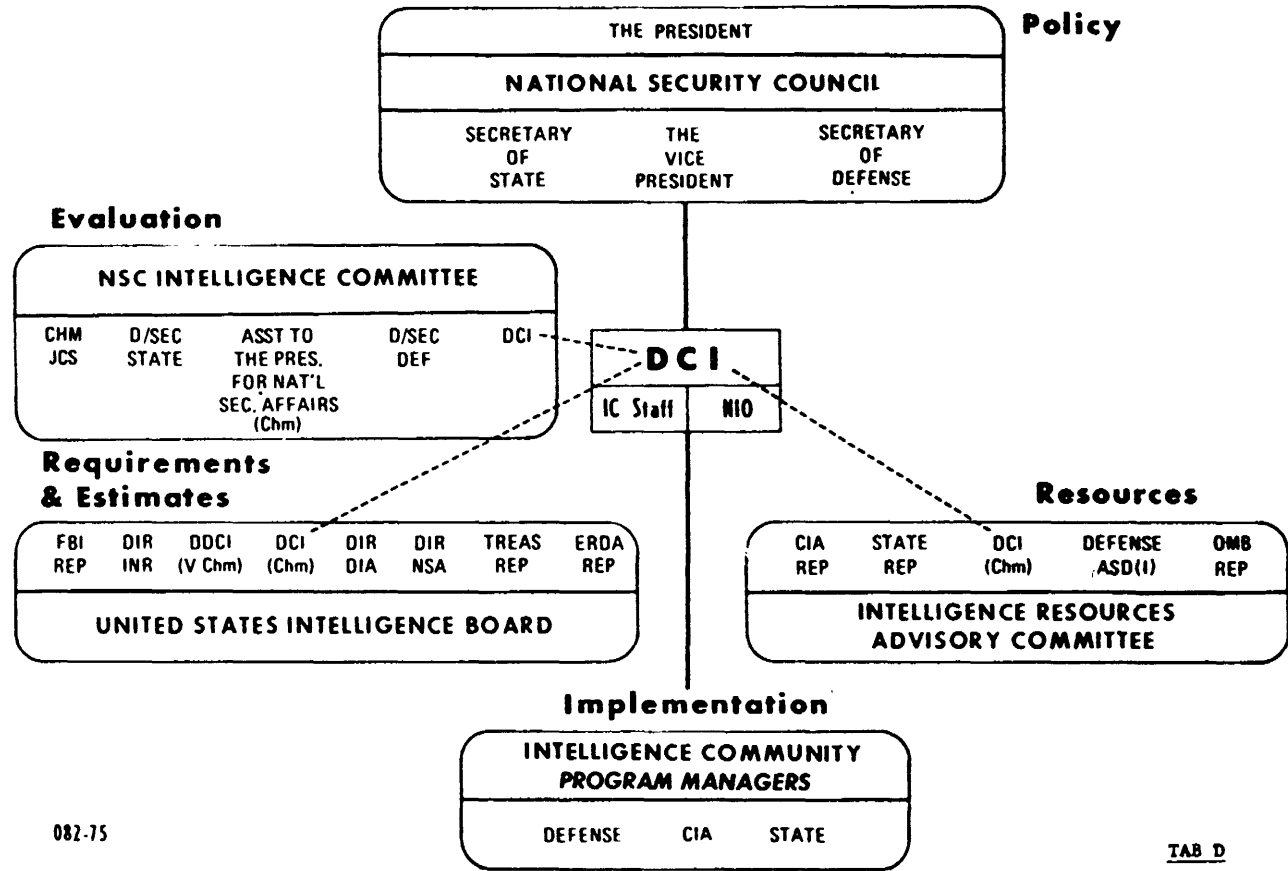


TAB C

National Foreign Intelligence Community Structure



FOREIGN INTELLIGENCE COMMUNITY STRUCTURE



082-75

TAB D

TAB E

NATIONAL INTELLIGENCE OFFICERS

George A. Carver Jr

Deputy to the DCI for National Intelligence Officers

GEOGRAPHIC OFFICERS:

Soviet Union and Eastern Europe

South and Southeast Asia

Western Europe

Middle East

China

Latin America

Japan and the Pacific Area

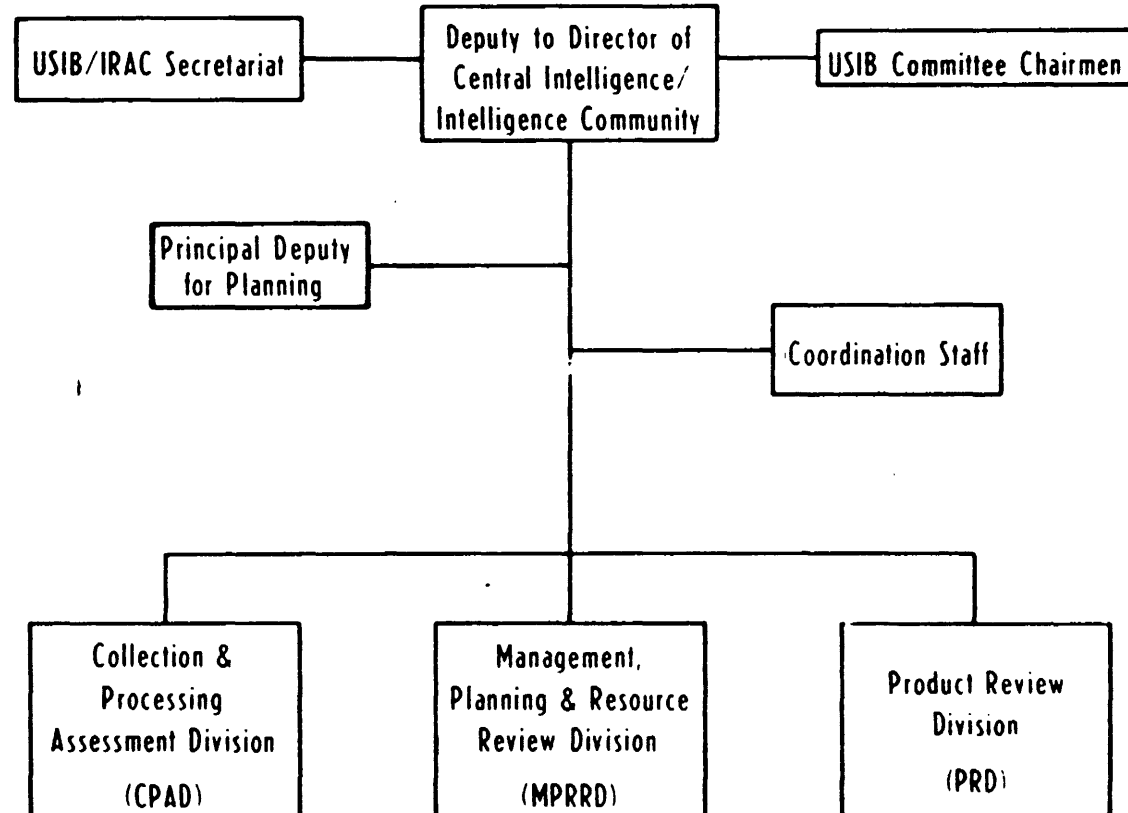
TOPICAL OFFICERS

Strategic Programs

Coventional Forces

Economics and Energy

Intelligence Community Staff Organization



TAB F

Intelligence Community Staff Functions

1. COMMUNITY ORGANIZATIONS

(chair, staff, interface)

2. COMMUNITY PLANNING

(organize, control, orchestrate)

3. COMMUNITY LEADERSHIP

(direct, coordinate, procedures)

4. COMMUNITY RESOURCES

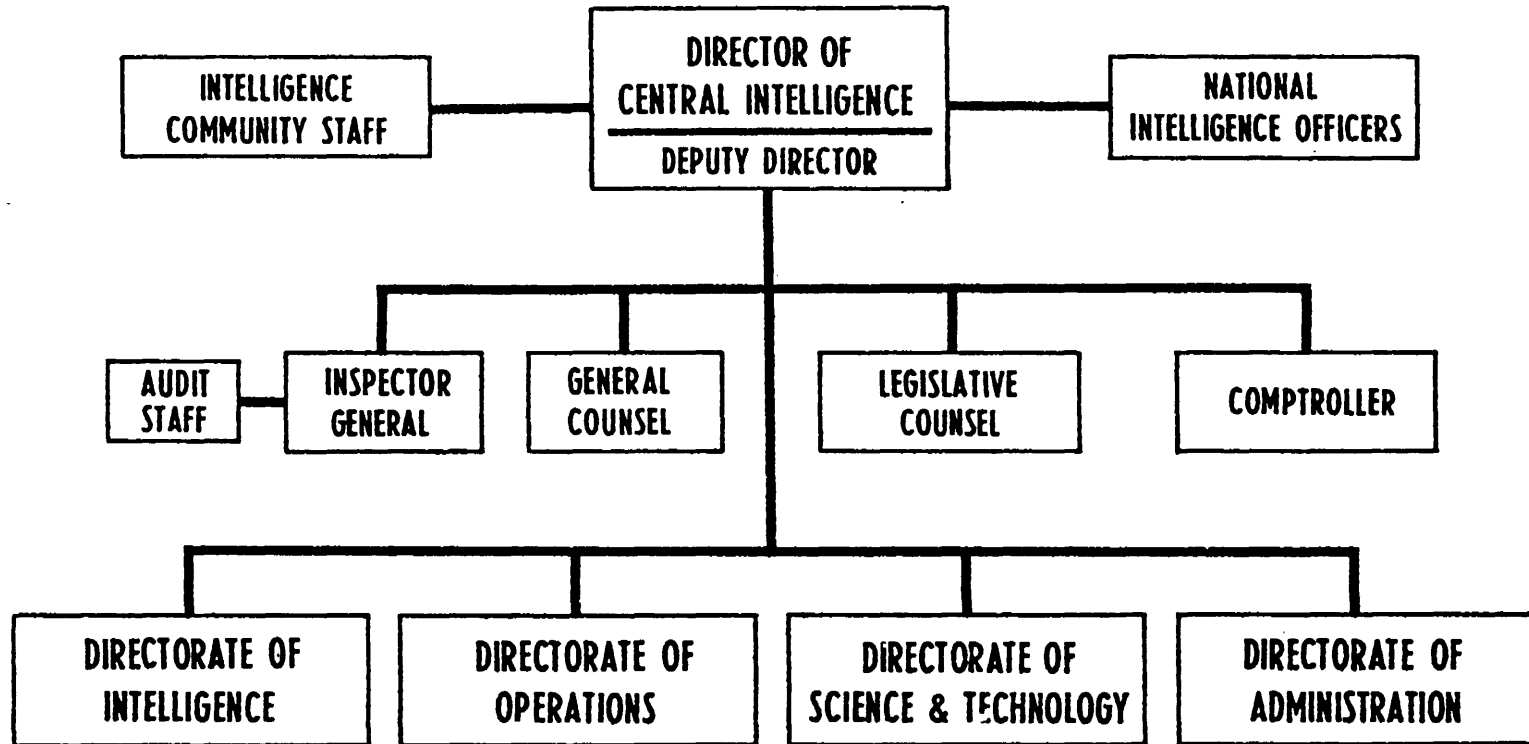
(allocate, manage)

5. COMMUNITY PERFORMANCE

(evaluate, review, improve)

TAB C

The Central Intelligence Agency



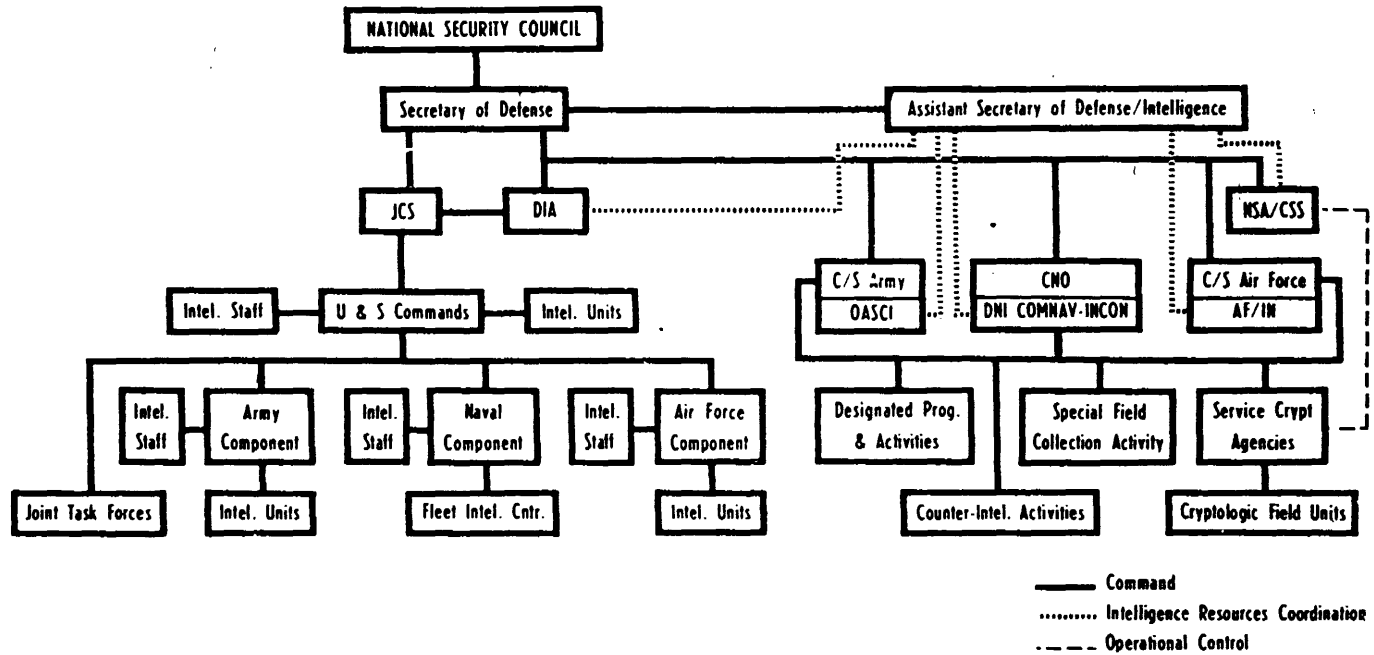
TAB H

TAB I

CIA FUNCTIONS

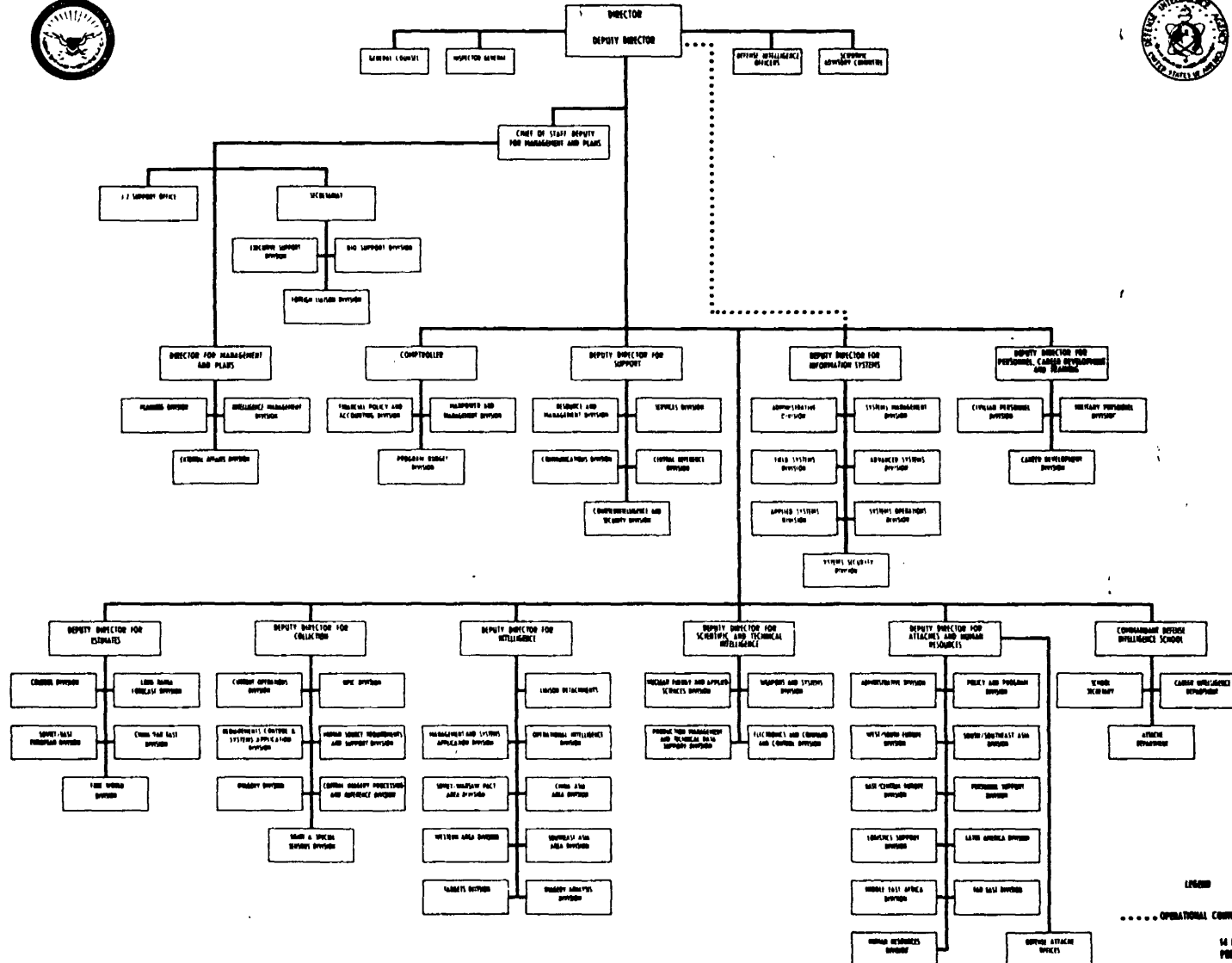
INTELLIGENCE	SUPPORT
<p data-bbox="198 524 448 565">COLLECTION</p> <ul data-bbox="247 576 597 733" style="list-style-type: none">● Overt● Technical● Clandestine● Counter Intelligence <p data-bbox="198 747 455 789">PROCESSING</p> <ul data-bbox="247 799 492 957" style="list-style-type: none">● Photographic● Electronic● Data Storage● Analysis <p data-bbox="198 971 468 1013">PRODUCTION</p> <ul data-bbox="247 1023 448 1222" style="list-style-type: none">● Political● Economic● Military● Scientific● Biographic	<p data-bbox="708 555 1118 704">MANAGEMENT SERVICES COMMUNICATIONS</p> <p data-bbox="715 839 1110 886">COVERT ACTION</p> <p data-bbox="761 1006 1064 1114">POLITICAL PARAMILITARY</p>

DEFENSE INTELLIGENCE COMMUNITY

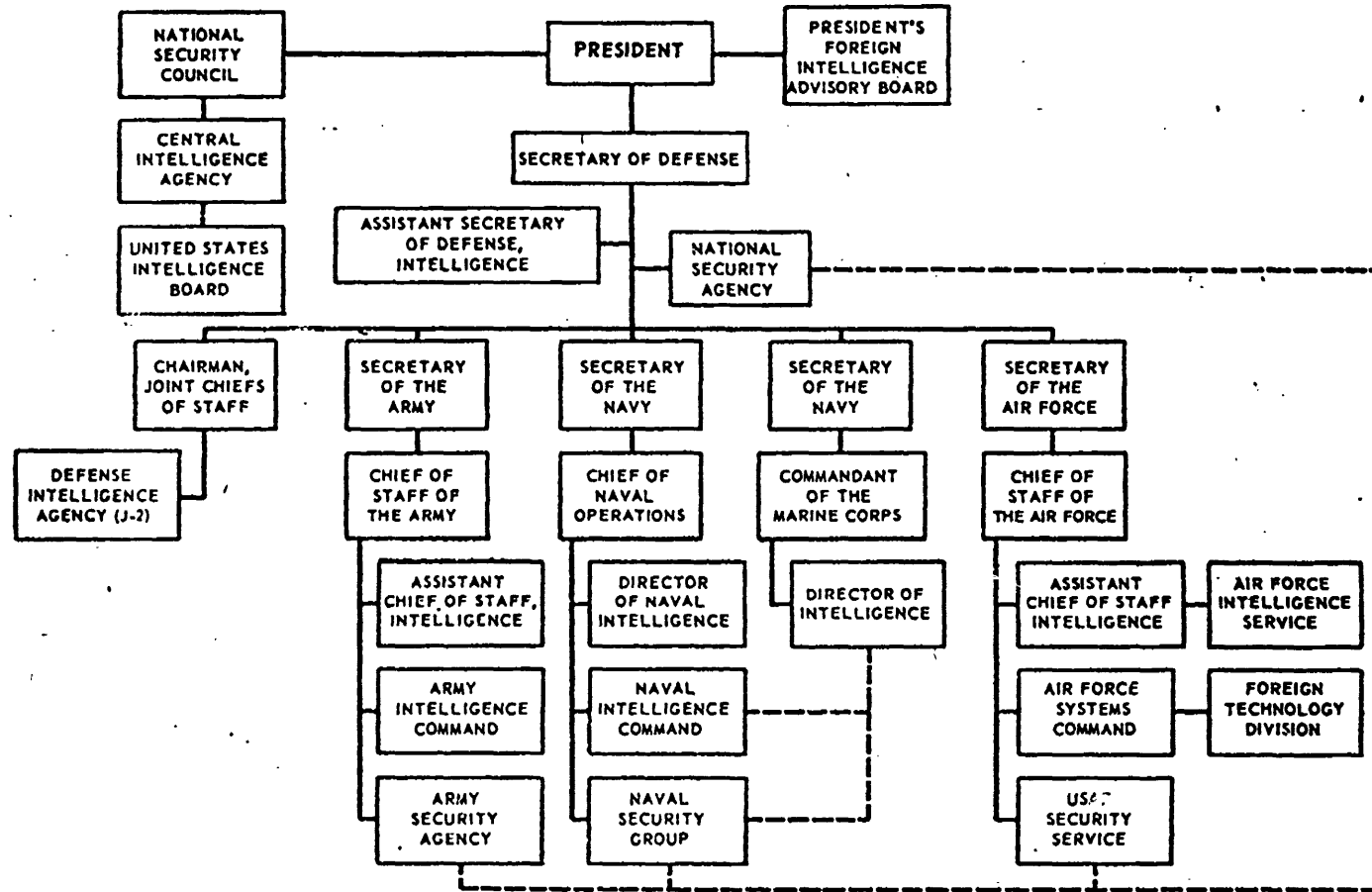


TAB J

DEFENSE INTELLIGENCE AGENCY



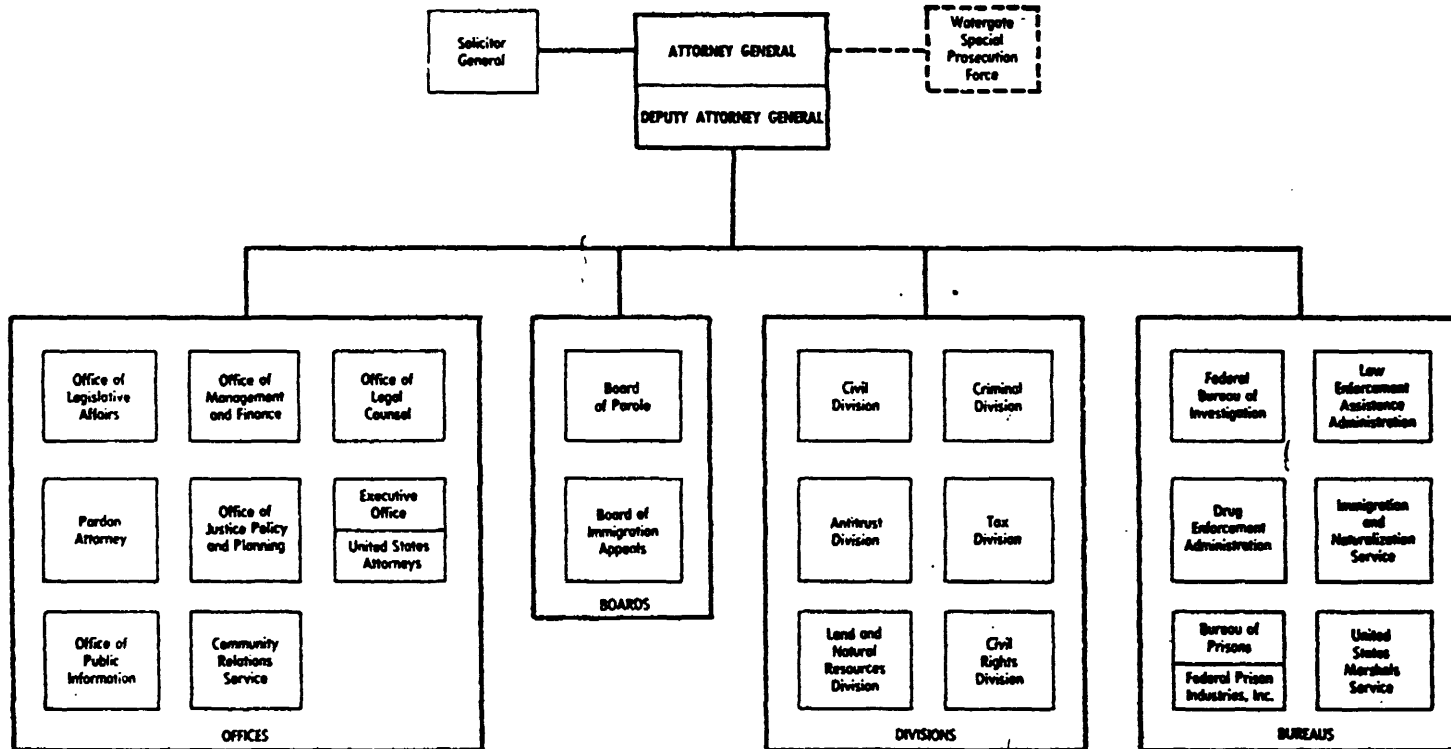
MILITARY INTELLIGENCE COMMUNITY



**OVERSIZE FOLDOUT(S) FOUND HERE IN
THE PRINTED EDITION OF THIS VOLUME
ARE FOUND FOLLOWING THE LAST PAGE
OF TEXT IN THIS MICROFICHE EDITION.**

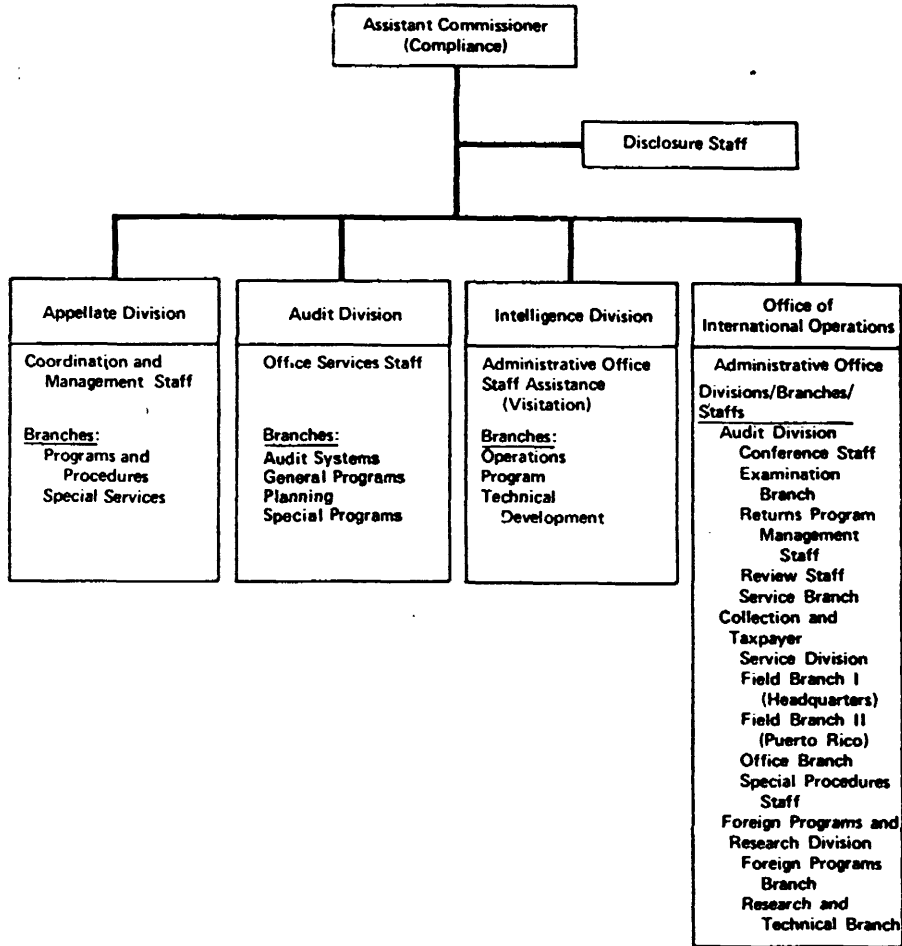
SEE FOLDOUT NO 1

DEPARTMENT OF JUSTICE



Organization and Functions of the
Internal Revenue Service
Exhibit 1113-4

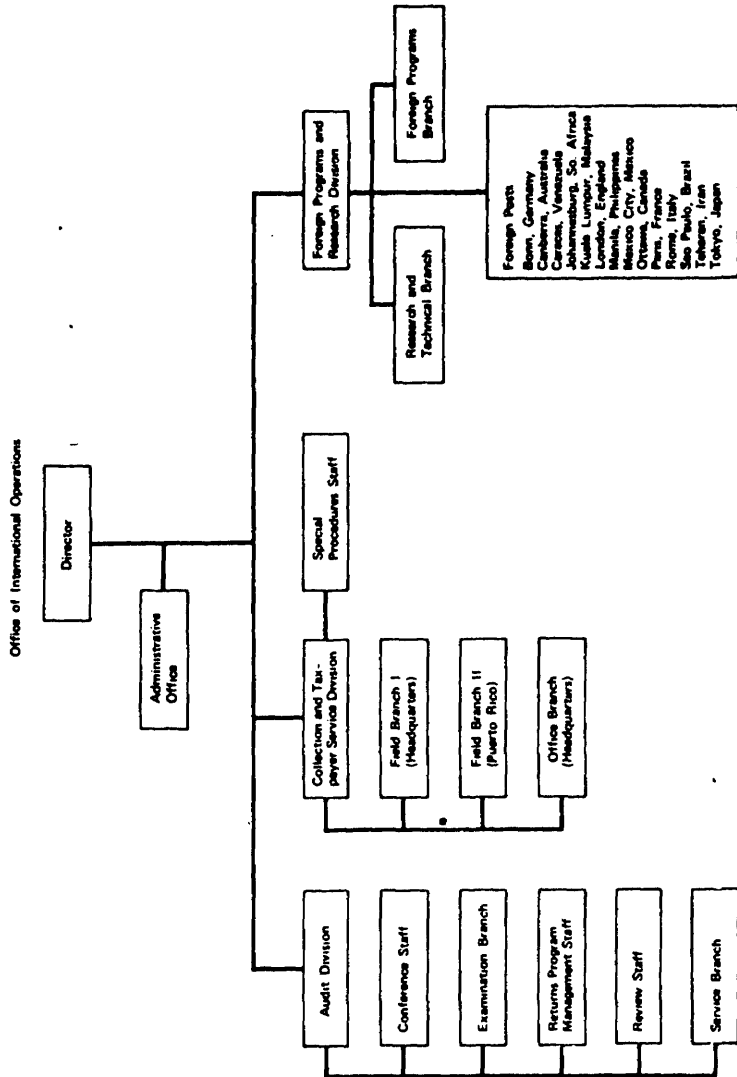
Organization of the Office of Assistant Commissioner
(Compliance)



Organization and Functions of the
Internal Revenue Service

Exhibit 1113-4—Cont.

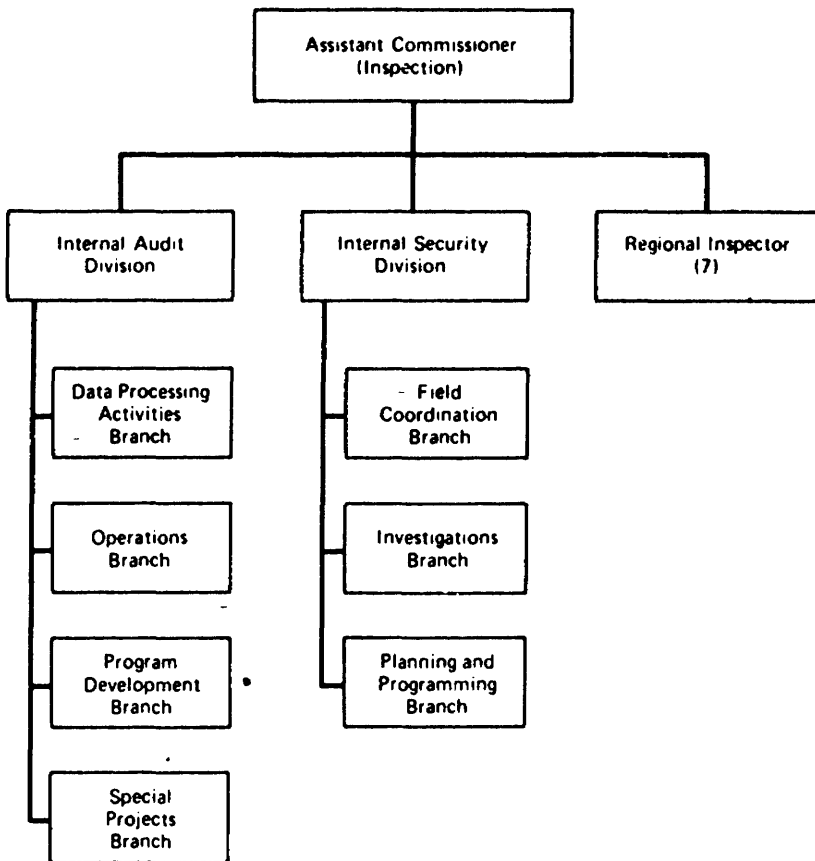
Organization of the Office of Assistant Commissioner
(Compliance)



Organization and Functions of the Internal Revenue Service

Exhibit 1113-6

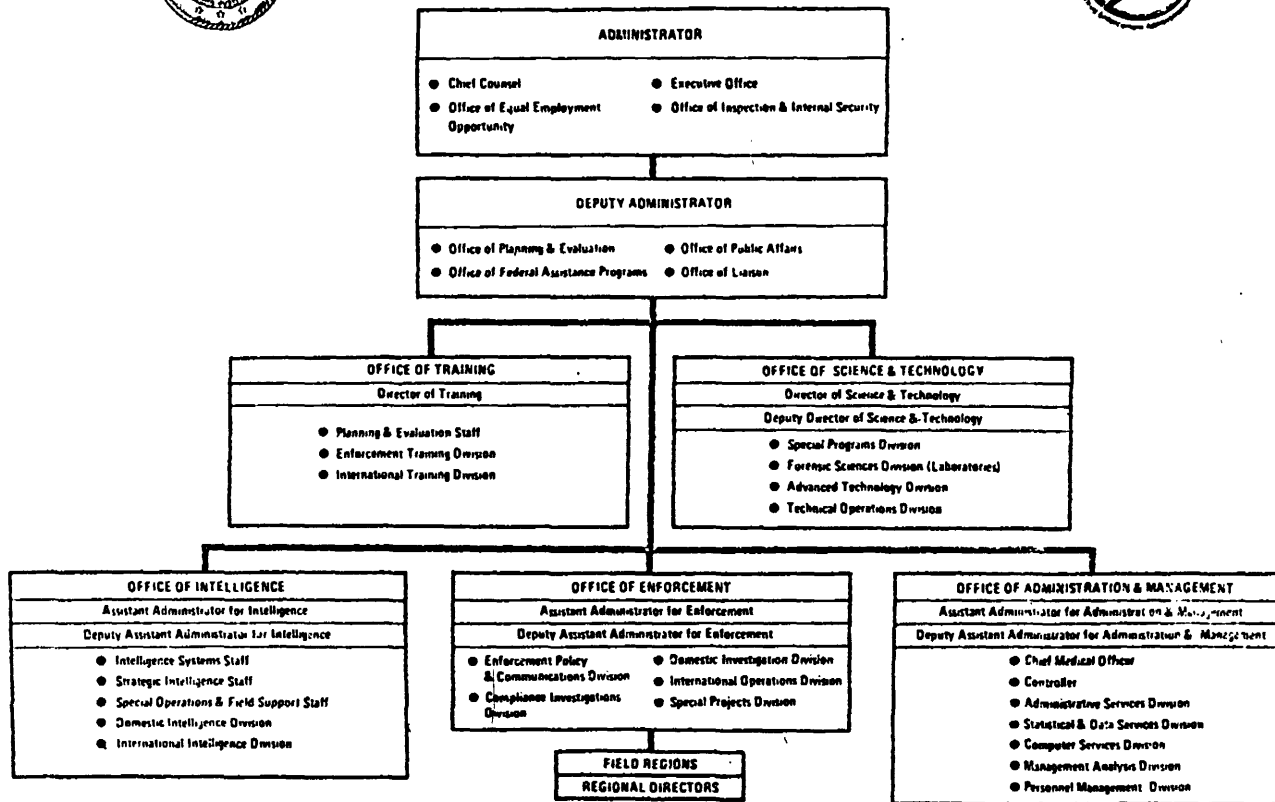
Organization of the Office of Assistant Commissioner (Inspection)





U.S. DEPARTMENT OF JUSTICE DRUG ENFORCEMENT ADMINISTRATION

HEADQUARTERS ORGANIZATION CHART



[illegible]

402

Appendix II.—Relevant statutes and related materials.

Part A.—National Security Act of 1947, as amended.

NATIONAL SECURITY ACT OF 1947, as amended

(61 Stat. 495, P.L. 80-253, July 26, 1947;¹
 63 Stat. 578, P.L. 81-216, August 10, 1949;
 65 Stat. 373, P.L. 82-165, October 10, 1951;
 67 Stat. 19, P.L. 83-15, April 4, 1953;
 68 Stat. 1226, P.L. 83-779, September 3, 1954;
 70A Stat. 679, P.L. 84-1028, August 10, 1956;
 78 Stat. 484, P.L. 88-448, August 10, 1964)

TITLE I—COORDINATION FOR NATIONAL SECURITY

NATIONAL SECURITY COUNCIL

SECTION 101. (a) There is established a council to be known as the National Security Council² (hereinafter in this section referred to as the "Council").

⁵⁰
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402(a)

The President of the United States shall preside over meetings of the Council: *Provided*, That in his absence he may designate a member of the Council to preside in his place.

The function of the Council shall be to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security so as to enable the military services and the other departments and agencies of the Government to cooperate more effectively in matters involving the national security.

The Council shall be composed of—³

- (1) the President;
- (2) the Vice President;⁴
- (3) the Secretary of State;
- (4) the Secretary of Defense;
- (5) the Director for Mutual Security [now abolished];⁵
- (6) the Chairman of the National Security Resources Board [now the Director of the Office of Emergency Preparedness];⁶ and
- (7) the Secretaries and Under Secretaries of other executive departments and of the military departments,⁷ the chairman of the Munitions Board [now abolished];⁸ and the

Chairman of the Research and Development Board [now abolished],⁹ when appointed by the President by and with the advice and consent of the Senate, to serve at his pleasure.¹⁰

CENTRAL INTELLIGENCE AGENCY

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SEC. 102. (a) There is established under the National Security Council a Central Intelligence Agency with a Director of Central Intelligence¹¹ who shall be the head thereof, and with a Deputy Director of Central Intelligence¹² who shall act for, and exercise the powers of, the Director during his absence or disability. The Director¹³ and the Deputy Director¹⁴ shall be appointed by the President, by and with the advice and consent of the Senate, from among the commissioned officers of the armed services, whether in an active or retired status, or from among individuals in civilian life: *Provided, however,* That at no time shall the two positions of the Director and Deputy Director be occupied simultaneously by commissioned officers of the armed services, whether in an active or retired status.¹⁵

(b)(1) If a commissioned officer of the armed services is appointed as Director, or Deputy Director, then—

(A) in the performance of his duties as Director, or Deputy Director, he shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were a civilian in no way connected with the Department of the Army, the Department of the Navy, the Department of the Air Force, or the armed services or any component thereof; and

(B) he shall not possess or exercise any supervision, control, powers, or functions (other than such as he possesses, or is authorized or directed to exercise, as Director, or Deputy Director) with respect to the armed services or any component thereof, the Department of the Army, the Department of the Navy, or the Department of the Air Force, or any branch, bureau, unit, or division thereof, or with respect to any of the personnel (military or civilian) of any of the foregoing.

(2) Except as provided in paragraph (1) of this subsection, the appointment to the office of Director, or Deputy Director, of a

commissioned officer of the armed services, and his acceptance of and service in such office, shall in no way affect any status, office, rank, or grade he may occupy or hold in the armed services, or any emolument, perquisite, right, privilege, or benefit incident to or arising out of any such status, office, rank, or grade. Any such commissioned officer shall, while serving in the office of Director, or Deputy Director, continue to hold rank and grade not lower than that in which serving at the time of his appointment and to receive the military pay and allowances (active or retired, as the case may be, including personal money allowance) payable to a commissioned officer of his grade and length of service for which the appropriate department shall be reimbursed from any funds available to defray the expenses of the Central Intelligence Agency. He also shall be paid by the Central Intelligence Agency from such funds an annual compensation at a rate equal to the amount by which the compensation established for such position exceeds the amount of his annual military pay and allowances.¹⁶

(3) The rank or grade of any such commissioned officer shall, during the period in which such commissioned officer occupies the office of Director of Central Intelligence, or Deputy Director of Central Intelligence, be in addition to the numbers and percentages otherwise authorized and appropriated for the armed service of which he is a member.¹⁷

(c) Notwithstanding the provisions of section 652 [now 7501] of Title 5,¹⁸ or the provisions of any other law, the Director of Central Intelligence may, in his discretion, terminate the employment of any officer or employee of the Agency whenever he shall deem such termination necessary or advisable in the interests of the United States,¹⁹ but such termination shall not affect the right of such officer or employee to seek or accept employment in any other department or agency of the Government if declared eligible for such employment by the United States Civil Service Commission.

(d) For the purpose of coordinating the intelligence activities of the several Government departments and agencies in the interest of national security, it shall be the duty of the Agency, under the direction of the National Security Council—²⁰

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

(2) to make recommendations to the National Security Council for the coordination of such intelligence activities of the departments and agencies of the Government as relate to the national security;

(3) to correlate and evaluate intelligence relating to the national security, and provide for the appropriate dissemination of such intelligence within the Government using where appropriate existing agencies and facilities: *Provided*, That the Agency shall have no police, subpoena, law-enforcement powers, or internal-security functions: *Provided further*, That the departments and other agencies of the Government shall continue to collect, evaluate, correlate, and disseminate departmental intelligence: *And provided further*, That the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure;²¹

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

(5) to perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct.

(e) To the extent recommended by the National Security Council and approved by the President, such intelligence of the departments and agencies of the Government, except as hereinafter provided, relating to the national security shall be open to the inspection of the Director of Central Intelligence, and such intelligence as relates to the national security and is possessed by such departments and other agencies of the Government, except as hereinafter provided, shall be made available to the Director of Central Intelligence for correlation, evaluation, and dissemination: *Provided, however*, That upon the written request of the Director of Central Intelligence, the Director of the Federal Bureau of Investigation shall make available to the Director of Central

Intelligence such information for correlation, evaluation, and dissemination as may be essential to the national security.

(f) Effective when the Director first appointed under subsection (a) of this section has taken office—

(1) the National Intelligence Authority (11 Fed. Reg. 1337, 1339, February 5, 1946)²² shall cease to exist; and

(2) the personnel, property, and records of the Central Intelligence Group are transferred to the Central Intelligence Agency, and such Group shall cease to exist.^{22A} Any unexpended balances of appropriations, allocations, or other funds available or authorized to be made available for such Group shall be available and shall be authorized to be made available in like manner for expenditure by the Agency.²³

TITLE III—MISCELLANEOUS

ADVISORY COMMITTEES AND PERSONNEL

SEC. 303. (a) The Secretary of Defense,²⁴ the Director of the Office of Defense Mobilization [now abolished],²⁵ the Director of Central Intelligence, and the National Security Council, acting through its Executive Secretary,²⁶ are authorized to appoint such advisory committees and to employ, consistent with other provisions of sections 171-171n, 172-172j, 181-1, 182-1, 411a, 411b, and 626-626d of Title 5,²⁷ and sections 401-403, 404, and 405 of this title,²⁸ such part-time advisory personnel²⁹ as they may deem necessary in carrying out their respective functions and the functions of agencies under their control. Persons holding other offices or positions under the United States for which they receive compensation, while serving as members of such committees, shall receive no additional compensation for such service. Other members of such committees and other part-time advisory personnel so employed may serve without compensation or may receive compensation at a rate not to exceed \$50³⁰ for each day of service, as determined by the appointing authority.

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U.S.C.
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(b) Service of an individual as a member of any such advisory committee, or in any other part-time capacity for a department or agency hereunder, shall not be considered as service bringing such individual within the provisions of sections 281 [now 203],

July 1971

283 [now 205], or 284 [now 207] of Title 18,³¹ unless the act of such individual, which by such section is made unlawful when performed by an individual referred to in such section, is with respect to any particular matter which directly involves a department or agency which such person is advising or in which such department or agency is directly interested.

EFFECTIVE DATE

SEC. 310. (a) The first sentence of section 202(a) and sections 1, 2, 307, 308, 309, and 310 shall take effect immediately upon the enactment of this Act.

(b) Except as provided in subsection (a), the provisions of this Act shall take effect on whichever of the following days is the earlier: The day after the day upon which the Secretary of Defense first appointed takes office, or the sixtieth day after the date of the enactment of this Act.³²

Part B.—Central Intelligence Act of 1949, as amended.

**CENTRAL INTELLIGENCE AGENCY ACT OF 1949,
as amended**

(63 Stat. 208, P.L. 81-110, June 20, 1949;¹
64 Stat. 450, P.L. 81-697, August 16, 1950;
65 Stat. 89, P.L. 82-53, June 26, 1951;
68 Stat. 1105, P.L. 83-763, September 1, 1954;
72 Stat. 327, P.L. 85-507, July 7, 1958;
74 Stat. 792, P.L. 86-707, September 6, 1960;
78 Stat. 484, P.L. 88-448, August 19, 1964)

AN ACT

To provide for the administration of the Central Intelligence Agency, established pursuant to section 102, National Security Act of 1947, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DEFINITIONS

SECTION 1. When used in sections 403b-403j of this title,² the term—

- (a) "Agency" means the Central Intelligence Agency;
- (b) "Director" means the Director of Central Intelligence;
- (c) "Government agency" means any executive department, commission, council, independent establishment, corporation wholly or partly owned by the United States which is an instrumentality of the United States, board, bureau, division, service, office, officer, authority, administration, or other establishment, in the executive branch of the Government.³

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U.S.C.A.
403a.

SEAL OF OFFICE

SEC. 2. The Director of Central Intelligence shall cause a seal of office to be made for the Central Intelligence Agency, of such design as the President shall approve,⁴ and judicial notice shall be taken thereof.

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U.S.C.A.
403b.

PROCUREMENT AUTHORITIES

SEC. 3. (a) In the performance of its functions the Central Intelligence Agency is authorized to exercise the authorities contained in sections [2(c)(1), (2), (3), (4), (5), (6), (10), (12), (15), (17),⁵ and sections 3, 4, 5, 6, and 10⁶ of the Armed Services

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U.S.C.A.
403c.

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Procurement Act of 1947 (Public Law 413, Eightieth Congress, second session)].⁷

(b) In the exercise of the authorities granted in subsection (a) of this section, the term "Agency head" shall mean the Director, the Deputy Director, or the Executive of the Agency.⁸

(c) The determinations and decisions provided in subsection (a) of this section to be made by the Agency head may be made with respect to individual purchases and contracts or with respect to classes of purchases or contracts, and shall be final. Except as provided in subsection (d) of this section, the Agency head is authorized to delegate his powers provided in this section, including the making of such determinations and decisions, in his discretion and subject to his direction, to any other officer or officers or officials of the Agency.⁹

(d) The power of the Agency head to make the determinations or decisions specified in [paragraphs (12) and (15) of section 2 (c) and section 5 (a) of the Armed Services Procurement Act of 1947]¹⁰ shall not be delegable. Each determination or decision required by [paragraphs (12) and (15) of section 2 (c), by section 4 or by section 5 (a) of the Armed Services Procurement Act of 1947],¹¹ shall be based upon written findings made by the official making such determinations, which findings shall be final and shall be available within the Agency for a period of at least six years following the date of the determination.

TRAVEL, ALLOWANCES, AND RELATED EXPENSES

⁵⁰
U.S.C.A.
403e. SEC. 4.¹² Under such regulations as the Director may prescribe, the Agency, with respect to its officers and employees assigned to duty stations¹³ outside the several states of the United States of America, excluding Alaska and Hawaii, but including the District of Columbia,¹⁴ shall—

(1) (A) pay the travel¹⁵ expenses of officers and employees of the Agency, including expenses incurred while traveling pursuant to authorized¹⁶ home leave;

(B) pay the travel expenses of members of the family of an officer or employee of the Agency when proceeding to or returning from his post of duty; accompanying him on authorized home leave; or otherwise traveling in accordance with authority granted pursuant to the terms of sections 403a-403j¹⁷ of this title or any other Act;

(C) pay the cost of transporting the furniture and household and personal effects of an officer or employee of the Agency to his successive posts of duty and, on the termination of his services, to his

residence at time of appointment or to a point not more distant, or, upon retirement, to the place where he will reside;

(D) pay the cost of packing and unpacking, transporting to and from a place of storage, and storing the furniture and household and personal effects¹⁹ of an officer or employee of the Agency, when he is absent from his post of assignment under orders, or when he is assigned to a post to which he cannot take or at which he is unable to use such furniture and household and personal effects, or when it is in the public interest or more economical to authorize storage; but in no instance shall the weight or volume of the effects stored together with the weight or volume of the effects transported exceed the maximum limitations fixed by regulations,¹⁹ when not otherwise fixed by law;²⁰

(E) pay the cost of packing and unpacking, transporting to and from a place of storage, and storing the furniture and household and personal effects of an officer or employee of the Agency in connection with assignment or transfer to a new post, from the date of his departure from his last post or from the date of his departure from his place of residence in the case of a new officer or employee and for not to exceed three months after arrival at the new post, or until the establishment of residence quarters, whichever shall be shorter; and in connection with separation of an officer or employee of the Agency, the cost of packing and unpacking, transporting to and from a place of storage, and storing for a period not to exceed three months, his furniture and household and personal effects; but in no instance shall the weight or volume of the effects stored together with the weight or volume of the effects transported exceed the maximum limitations fixed by regulations,²¹ when not otherwise fixed by law;²²

(F) pay the travel expenses and transportation costs incident to the removal of the members of the family of an officer or employee of the Agency and his furniture and household and personal effects, including automobiles, from a post at which, because of the prevalence of disturbed conditions, there is imminent danger to life and property, and the return of such persons, furniture, and effects to such post upon the cessation of such conditions; or to such other post as may in the meantime have become the post to which such officer or employee has been assigned.

(2) Charge expenses in connection with travel of personnel, their dependents, and transportation of their household goods and personal effects, involving a change of permanent station, to the ap-

September 1970

appropriation for the fiscal year current when any part of either the travel or transportation pertaining to the transfer begins pursuant to previously issued travel and transfer orders, notwithstanding the fact that such travel or transportation may not all be effected during such fiscal year, or the travel and transfer orders may have been issued during the prior fiscal year.

(3) (A) Order to any of the several States of the United States of America (including the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States) on leave of absence each officer or employee of the Agency who was a resident of the United States (as described above) at time of employment, upon completion of two years' continuous service abroad, or as soon as possible thereafter.²³

(B) While in the United States (as described in paragraph (3) (A) of this section) on leave, the service of any officer or employee shall be available for work or duties in the Agency or elsewhere as the Director may prescribe; and the time of such work or duty shall not be counted as leave.²⁴

(C) Where an officer or employee on leave returns to the United States (as described in paragraph (3) (A) of this section), leave of absence granted shall be exclusive of the time actually and necessarily occupied in going to and from the United States (as so described) and such time as may be necessarily occupied in awaiting transportation.²⁵

(4) Notwithstanding the provisions of any other law, transport for or on behalf of an officer or employee of the Agency, a privately owned motor vehicle in any case in which it shall be determined that water, rail, or air transportation of the motor vehicle is necessary or expedient for all or any part of the distance between points of origin and destination, and pay the costs of such transportation. Not more than one motor vehicle of any officer or employee of the Agency may be transported under authority of this paragraph during any four-year period, except that, as a replacement for such motor vehicle, one additional motor vehicle of any such officer or employee may be so transported during such period upon approval, in advance, by the Director and upon a determination, in advance, by the Director that such replacement is necessary for reasons beyond the control of the officer or employee and is in the interest of the Government. After the expiration of a period of four years following the date of transportation under authority of this paragraph of a privately owned motor vehicle of any officer or employee

who has remained in continuous service outside the several States of the United States of America, excluding Alaska and Hawaii, but including the District of Columbia, during such period, the transportation of a replacement for such motor vehicle for such officer or employee may be authorized by the Director in accordance with this paragraph.²⁶

(5) (A) In the event of illness or injury requiring the hospitalization of an officer or full time employee of the Agency, not the result of vicious habits, intemperance, or misconduct on his part, incurred while on assignment abroad, in a locality where there does not exist a suitable hospital or clinic, pay the travel expenses of such officer or employee by whatever means he shall deem appropriate and without regard to the Standardized Government Travel Regulations and section 73b [now section 5731 (a)] of Title 5,²⁷ to the nearest locality where a suitable hospital or clinic exists and on his recovery pay for the travel expenses of his return to his post of duty. If the officer or employee is too ill to travel unattended, the Director may also pay the travel expenses of an attendant;

(B) Establish a first-aid station and provide for the services of a nurse at a post at which, in his opinion, sufficient personnel is employed to warrant such a station: *Provided*, That, in his opinion, it is not feasible to utilize an existing facility;

(C) In the event of illness or injury requiring hospitalization of an officer or full time employee of the Agency, not the result of vicious habits, intemperance, or misconduct on his part, incurred in the line of duty while such person is assigned abroad, pay for the cost of the treatment of such illness or injury at a suitable hospital or clinic;

(D) Provide for the periodic physical examination of officers and employees of the Agency and for the cost of administering inoculations or vaccinations to such officers or employees.

(6) Pay the costs of preparing and transporting the remains of an officer or employee of the Agency or a member of his family who may die while in travel status or abroad, to his home or official station, or to such other place as the Director may determine to be the appropriate place of interment, provided that in no case shall the expense payable be greater than the amount which would have been payable had the destination been the home or official station.

(7) Pay the costs of travel of new appointees and their dependents, and the transportation of their household goods and personal effects, from places of actual residence in foreign countries at time

of appointment to places of employment and return to their actual residences at the time of appointment or a point not more distant: *Provided*, That such appointees agree in writing to remain with the United States Government for a period of not less than twelve months from the time of appointment.

Violation of such agreement for personal convenience of an employee or because of separation for misconduct will bar such return payments and, if determined by the Director or his designee to be in the best interests of the United States, any money expended by the United States on account of such travel and transportation shall be considered as a debt due by the individual concerned to the United States.²⁸

GENERAL AUTHORITIES

SEC. 5. In the performance of its functions, the Central Intelligence Agency is authorized to ²⁹—

(a) Transfer to and receive from other Government agencies such sums as may be approved by the Bureau of the Budget,³⁰ for the performance of any of the functions or activities authorized under sections 403 and 405 of this title,³¹ and any other Government agency is authorized to transfer to or receive from the Agency such sums without regard to any provisions of law limiting or prohibiting transfers between appropriations. Sums transferred to the Agency in accordance with this paragraph may be expended for the purposes and under the authority of sections 403a-403j of this title³² without regard to limitations of appropriations from which transferred;

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U.S.C.A.
403f.

(b) Exchange funds without regard to section 543 of Title 31;³³

(c) Reimburse other Government agencies for services of personnel assigned to the Agency, and such other Government agencies are authorized, without regard to provisions of law to the contrary, so to assign or detail any officer or employee for duty with the Agency;

(d) Authorize couriers and guards designated by the Director to carry firearms when engaged in transportation of confidential documents and materials affecting the national defense and security;

(e) Make alterations, improvements, and repairs on premises rented by the Agency, and pay rent therefor without regard to limitations on expenditures contained in the Act of June 30, 1932, as amended;³⁴ *Provided*, That in each case the Director shall certify that exception from such limitations is necessary to the successful

performance of the Agency's functions or to the security of its activities.³⁵

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U.S.C.A.
403g.

SEC. 6. In the interests of the security of the foreign intelligence activities of the United States and in order further to implement the proviso of section 403(d)(3) of this title³⁶ that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure, the Agency shall be exempted from the provisions of section 654 of Title 5,³⁷ and the provisions of any other law which require the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency: *Provided*, That in furtherance of this section, the Director of the Bureau of the Budget shall make no reports to the Congress in connection with the Agency under section 947(b) of Title 5.³⁸

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U.S.C.A.
403h.

SEC. 7. Whenever the Director, the Attorney General, and the Commissioner of Immigration shall determine that the entry of a particular alien into the United States for permanent residence is in the interest of national security or essential to the furtherance of the national intelligence mission, such alien and his immediate family shall be given entry into the United States for permanent residence without regard to their inadmissibility under the immigration or any other laws and regulations,³⁹ or to the failure to comply with such laws and regulations pertaining to admissibility: *Provided*, That the number of aliens and members of their immediate families entering the United States under the authority of this section shall in no case exceed one hundred persons in any one fiscal year.⁴⁰

APPROPRIATIONS

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U.S.C.A.
403j.

SEC. 8. (a) Notwithstanding any other provisions of law, sums made available to the Agency by appropriation or otherwise may be expended for purposes necessary to carry out its functions,⁴¹ including—

(1) personal services, including personal services without regard to limitations on types of persons to be employed, and rent at the seat of government and elsewhere; health-service programs as authorized by section 150 [now section 7901] of Title 5;⁴² rental of news-reporting services; purchase or rental and operation of photographic, reproduction, cryptographic, duplication and printing machines, equipment and devices, and radio-receiving and radio-send-

ing equipment and devices, including telegraph and teletype equipment; purchase, maintenance, operation, repair, and hire of passenger motor vehicles, and aircraft, and vessels of all kinds; subject to policies established by the Director, transportation of officers and employees of the Agency in Government-owned automotive equipment between their domiciles and places of employment, where such personnel are engaged in work which makes such transportation necessary, and transportation in such equipment, to and from school, of children of Agency personnel who have quarters for themselves and their families at isolated stations outside the continental United States where adequate public or private transportation is not available; printing and binding; purchase, maintenance, and cleaning of firearms, including purchase, storage, and maintenance of ammunition; subject to policies established by the Director, expenses of travel in connection with, and expenses incident to attendance at meetings of professional, technical, scientific, and other similar organizations when such attendance would be a benefit in the conduct of the work of the Agency; association and library dues; payment of premiums or costs of surety bonds for officers or employees without regard to the provisions of section 14 of Title 6;⁴³ payment of claims pursuant to Title 28; acquisition of necessary land and the clearing of such land; construction of buildings and facilities without regard to sections 259 and 267 of Title 40;⁴⁴ repair, rental, operation, and maintenance of buildings, utilities, facilities, and appurtenances; and

(2) supplies, equipment, and personnel and contractual services otherwise authorized by law and regulations, when approved by the Director.⁴⁵

(b) The sums made available to the Agency may be expended without regard to the provisions of law and regulations relating to the expenditure of Government funds;⁴⁶ and for objects of a confidential, extraordinary, or emergency nature, such expenditures to be accounted for solely on the certificate of the Director⁴⁷ and every such certificate shall be deemed a sufficient voucher for the amount therein certified.⁴⁸

SEPARABILITY OF PROVISIONS

SEC. 9.⁴⁹ If any provision of this Act, or the application of such provision to any person or circumstances, is held invalid, the

remainder of this Act or the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

SHORT TITLE

SEC. 10. This Act may be cited as the "Central Intelligence Agency Act of 1949."

Approved June 20, 1949.

Part B(i)

CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

4 November 1975

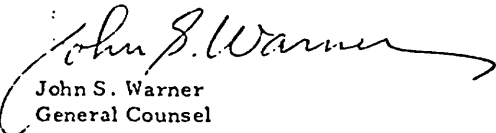
Mr. A. Searle Field
Staff Director
Select Committee on Intelligence
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Field:

In response to your request of 26 August 1975 for the opinion of this Agency as to whether Section 6 of the Central Intelligence Agency Act of 1949 provides a statutory basis for denying access to some CIA records and materials to members of Congress or officials of the Government Accounting Office (GAO), I am transmitting herewith the opinion of this Agency. In the study attached hereto entitled Legal Effect of Section 6 of the Central Intelligence Agency Act of 1949, as Amended, we conclude that under certain conditions that section does provide a statutory basis for such denial.

If I can provide further information regarding this subject, please advise.

Sincerely,


John S. Warner
General Counsel

Enclosure



28 October 1975

MEMORANDUM OF LAW

SUBJECT: Legal Effect of Section 6 of the Central Intelligence Agency Act of 1949, as Amended

1. The question has been asked whether Section 6 of the Central Intelligence Agency Act of 1949, as amended, (50 U.S.C. 403g) "in and of itself and without regard to any other provision of law, provides a statutory basis for denying access to some CIA records and materials to members of Congress or officials of the G.A.O." For the reasons outlined below, it is the opinion of the Central Intelligence Agency that under certain conditions that section does provide a statutory basis for such denial.

2. While it was specifically excluded from this memorandum because of the narrow scope of the question being asked, it should be recognized that other provisions of the National Security Act of 1947, as amended, and the Central Intelligence Agency Act of 1949, as amended, may provide a statutory basis for denying access to certain CIA records. For example, records relating to certain appropriations and expenditures may be denied based on the authorities found in Section 8 of the Central Intelligence Act of 1949.

3. Section 6 states:

In the interests of the security of the foreign intelligence activities of the United States and in order further to implement the proviso of section 403(d)(3) of this title that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure, the Agency shall be exempted from the provisions of section 654 of Title 5, and the provisions of any other law which require the publication or disclosure of the organization, functions, names, official

titles, salaries, or numbers of personnel employed by the Agency: Provided, That in furtherance of this section, the Director of the Bureau of the Budget shall make no reports to the Congress in connection with the Agency under section 947(b) of Title 5.

4. The section has a significant historical background. As indicated in the section itself, its purpose is two-fold; first, it is "in the interests of the security of the foreign intelligence activities of the United States," and second, it is "in order further to implement the proviso of section 403(d)(3) of this title [Title 50 of the United States Code]." An examination of the background of the third proviso of Section 102(d)(3) of the National Security Act of 1947, as amended, (50 U.S.C. 403(d)(3)) is helpful in a complete analysis of 50 U.S.C. 403g.

5. The third proviso of section 102(d)(3) of the National Security Act of 1947, as amended, provides "That the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure." This language derived from the Presidential Directive of 22 January 1946 which established the Central Intelligence Group and which provided in section 10 of that Directive, "In the conduct of their activities the National Intelligence Authority and the Director of Central Intelligence shall be responsible for fully protecting intelligence sources and methods."

6. The history of section 10 turns primarily on the opposition of the military intelligence services to central coordination of intelligence activities by a civilian agency and in particular to section 5 of the Presidential Directive, which read, "Such intelligence received by the National Intelligence Authority shall be freely available to the Director of Central Intelligence for correlation, evaluation or dissemination. To the extent approved by the National Intelligence Authority, the operations of said intelligence agencies shall be open to inspection by the Director of Central Intelligence in connection with planning functions." The military intelligence services were much concerned that their clandestine activities and sensitive sources would be compromised if revealed to what they considered an organization not experienced in security matters. They thereupon proposed the wording of section 10 for the purpose of assuring that the Director of Central Intelligence would have a responsibility for protecting their intelligence sources and methods. Initially, therefore, the responsibility was a limited one and would have been properly construed to mean that the Director must institute such security standards and procedures as would adequately protect the information coming from the other agencies. This he would be clearly authorized to do.

7. At the time the National Security Act was being considered, numerous drafts were prepared, all of which contained some language on the responsibility to protect sources and methods. But, the concept was still limited, as for instance in the draft of 9 April 1947 of which section 3(6) read, "be responsible for taking measures to protect sources and methods used in the collection and dissemination of foreign intelligence information received by the Agency." The legal problems involved in any such statement of responsibility were recognized in a memorandum of 10 February 1947 which suggested changing the words to some such phrase as "be responsible for taking measures to protect" sources and methods. Further, in recognition of the legal problems, legislation was proposed designed to give additional protection to classified information, but these proposals were discarded during the consideration of the legislation.

8. During the 79th Congress the House Committee on Military Affairs issued a report which recognized the need for strong national intelligence and made a number of specific recommendations, among which was one that certain of the sections, including section 10, of the Presidential Directive of 22 January 1946 be enacted into law. There is no indication in the report that they knew the background of section 10, and as the legislation progressed it was rephrased until it came out as the third proviso to section 102(d)(3) quoted above. There is little or no legislative history on this proviso except that members of the committees thought that such a responsibility was a good idea and important enough to justify such detail in an otherwise rather general legislative authorization. Historically the Directors of Central Intelligence have considered that the proviso does not prohibit the Agency from taking necessary action in connection with the security of its internal information and its own personnel.

9. As is immediately evident from the historical analysis above, there is an important and key distinction between the statutory responsibility given the Director of Central Intelligence in 50 U.S.C. 403(d)(3) and the means by which he fulfills such responsibility. As indicated in Senate Report No. 106 (10 March 1949), the purpose of the Central Intelligence Agency Act of 1949 was to grant to the Agency the authorities necessary for the proper administration of the Agency which had been previously established in 1947. The Report notes that the Act provides authority for the protection of the confidential nature of the Agency's functions. Thus it seems clear that the Congress intended the Director of Central Intelligence to have certain specific authorities in addition to those of other Executive branch departments and agencies such as the claim through the President of executive privilege.

10. This authority, of course, is not absolute, however. It has been noted by Raoul Berger in his book, Executive Privilege: A Constitutional Myth, that the legislation implementing the Agency "neither requires nor prohibits the supply of intelligence to Congress...." It should be noted here, however, that Congress, in implementing certain agencies, has specifically required the furnishing of certain information to Congress. For example, with respect to certain atomic energy information, 42 U.S.C. 2252 provides:

The Joint Committee shall make continuing studies of the activities of the Atomic Energy Commission and of problems relating to the development, use, and control of atomic energy. During the first ninety days of each session of the Congress, the Joint Committee may conduct hearings in either open or executive session for the purpose of receiving information concerning the development, growth, and state of the atomic energy industry. The Commission shall keep the Joint Committee fully and currently informed with respect to all of the Commission's activities. The Department of Defense shall keep the Joint Committee fully and currently informed with respect to all matters within the Department of Defense relating to the development, utilization, or application of atomic energy. Any Government agency shall furnish any information requested by the Joint Committee with respect to the activities or responsibilities of that agency in the field of atomic energy. All bills, resolutions, and other matters in the Senate or the House of Representatives relating primarily to the Commission or to the development, use, or control of atomic energy shall be referred to the Joint Committee. The members of the Joint Committee who are Members of the Senate shall from time to time report to the Senate, and the members of the Joint Committee who are Members of the House of Representatives shall from time to time report to the House, by bill or otherwise, their recommendations with respect to matters within the jurisdiction of their respective Houses which are referred to the Joint Committee or otherwise within the jurisdiction of the Joint Committee.

As for the Agency, the Congress took a somewhat different position. In order to provide the Director one means by which he can fulfill his statutory responsibility of 50 U.S.C. 403(d)(3), the Congress chose to exempt the Agency from several provisions of law which otherwise would require the disclosure of sources and methods of the Central Intelligence Agency.

11. Section 6 of the Central Intelligence Agency Act of 1949, as amended, (50 U.S.C. 403g) exempts the Agency from the provisions of 5 U.S.C. 654, which required the Civil Service Commission to publish annually a list of all persons occupying administrative and supervisory positions in the Government, including the official title and compensation of each person listed. 50 U.S.C. 403g exempts the Agency from the "provisions of any other law which require the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency." On several occasions the Comptroller General has been called upon to interpret similar provisions of several other statutes. While the Comptroller General has held that the words "notwithstanding the provisions of any other law" do not confer unlimited discretion on those who administer such a statute, he has held that the intent of such wording is to permit the administrator to disregard those laws whose provisions otherwise might prohibit or unduly interfere with the carrying out of the purpose of the statute containing such a phrase. B-5210 (12 August 1939), 22 Comp. Gen. 400 (1941) and B-36980 (23 September 1943). Accordingly, it seems that any law requiring the disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency that might disclose intelligence sources and methods to unauthorized parties can be properly disregarded by the Agency. This assumes, of course, that any such other laws, in particular those passed subsequent to the Central Intelligence Act of 1949, do not contain a "notwithstanding any other law" provision, specifically repeal Section 6, or by specific statutory language overrule it.

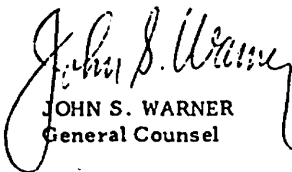
12. Section 6 also provides that the Director of what is now the Office of Management and Budget shall make no reports to Congress in connection with the Agency under 5 U.S.C. 947(b), which required a quarterly determination of the number of full-time employees required by each department and agency for the proper and efficient performances of the authorized functions of that department or agency. Excess personnel were to be released. The determinations and the numbers of employees paid in violation of the determinations were to be reported to Congress quarterly.

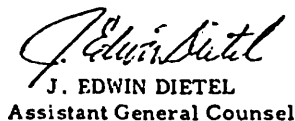
13. Critical to the understanding of the Director's responsibility to protect intelligence sources and methods is an examination of the qualification of protecting them from unauthorized disclosure. The examination leads to the conclusion that the Director does not have an absolute authority to deny congressional access to CIA records and materials but a qualified or conditional one. 50 U.S.C. 403g and the statutory provision which it implements, 50 U.S.C. 403(d)(3), relate only to the unauthorized disclosure of sources and methods information. It seems evident that, if procedures can be established to the satisfaction of the Director in which he can share information with Congress, yet fulfill his statutory responsibilities and authorities of assuring that such sharing will not lead to the disclosure of that information to unauthorized parties,

then it becomes clear that the Director can share the information yet fulfill the statutory mandate. On the other hand, however, if he is not satisfied that the procedures will protect the information that is requested by Congress or that is proposed to be given to Congress from unauthorized disclosure, then the statutory mandate requires that he not pass such information. Examples of such procedures are those established between the House Select Committee on Intelligence and the Agency as outlined in the Director's letter of 30 September 1975 to the Chairman of that Committee. Thus, it seems clear that Congress, in passing implementing legislation for the Agency, recognized that the Director of Central Intelligence must have the responsibility and authority to make the final decision in this regard, for if it is otherwise and the judgment is in error the interests of the security of the foreign intelligence activities of this country will clearly suffer.

14. The Comptroller General, in his letter to the Director, Bureau of the Budget (B-74185, 12 March 1948), seems to clearly recognize the importance of Section 6. In that letter the Comptroller stated:

In an atomic age, where the act of an unfriendly power might, in a few short hours, destroy, or seriously damage the security, if not the existence of the nation itself, it becomes of vital importance to secure, in every practicable way, intelligence affecting its security. The necessity for secrecy in such matters is apparent and the Congress apparently recognized this fully in that it provided in section 102(d) 3 of Public Law 253, that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure.


JOHN S. WARNER
General Counsel


J. EDWIN DIEMEL
Assistant General Counsel

Part C.—Public Law 86-36.

Public Law 86-36
86th Congress, H. R. 4599
May 29, 1959

AN ACT

To provide certain administrative authorities for the National Security Agency, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 202 of the Classification Act of 1949, as amended (5 U.S.C. 1082), is amended by changing the period at the end thereof to a semicolon and adding the following new paragraph:

"(32) the National Security Agency."

SEC. 2. The Secretary of Defense (or his designee for the purpose) is authorized to establish such positions, and to appoint thereto such officers and employees, in the National Security Agency, as may be necessary to carry out the functions of such agency. The rates of basic compensation for such positions shall be fixed by the Secretary of Defense (or his designee for the purpose) in relation to the rates of basic compensation contained in the General Schedule of the Classification Act of 1949, as amended, for positions subject to such Act which have corresponding levels of duties and responsibilities. Except as provided in section 4 of this Act, no officer or employee of the National Security Agency shall be paid basic compensation at a rate in excess of the highest rate of basic compensation contained in such General Schedule. Not more than fifty such officers and employees shall be paid basic compensation at rates equal to rates of basic compensation contained in grades 16, 17, and 18 of such General Schedule.

SEC. 3. Section 1581(a) of title 10, United States Code, as modified by section 12(n) of the Federal Employees Salary Increase Act of 1958 (72 Stat. 213), is amended by striking out "and not more than fifty civilian positions in the National Security Agency," and the words "and the National Security Agency, respectively,".

SEC. 4. The Secretary of Defense (or his designee for the purpose) is authorized to establish in the National Security Agency not more than fifty civilian positions involving research and development functions, which require the services of specially qualified scientific or professional personnel, and fix the rates of basic compensation for such positions at rates not in excess of the maximum rate of compensation authorized by section 1581(b) of title 10, United States Code, as amended by paragraph (34)(B) of the first section of the Act of September 2, 1958 (72 Stat. 1456; Public Law 85-861).

SEC. 5. Officers and employees of the National Security Agency who are citizens or nationals of the United States may be granted additional compensation, in accordance with regulations which shall be prescribed by the Secretary of Defense, not in excess of additional compensation authorized by section 207 of the Independent Offices Appropriation Act, 1940, as amended (5 U.S.C. 118h), for employees whose rates of basic compensation are fixed by statute.

SEC. 6. (a) Except as provided in subsection (b) of this section, nothing in this Act or any other law (including, but not limited to, the first section and section 2 of the Act of August 28, 1935 (5 U.S.C. 654)) shall be construed to require the disclosure of the organization or any function of the National Security Agency, of any information with respect to the activities thereof, or of the names, titles, salaries, or number of the persons employed by such agency.

(b) The reporting requirements of section 1582 of title 10, United States Code, shall apply to positions established in the National Security Agency in the manner provided by section 4 of this Act.

National
Security
Agency.
Classification
Act, exemption.
63 Stat. 954.
Positions
and rates.

5 USC 1071
note.

Supergrades.

70A Stat. 118.
Professional
and scientific
positions.

Research and
development
positions.

70A Stat. 118.

Employment
outside U.S.

73 Stat. 63.
73 Stat. 64.
62 Stat. 194.

Reporting
requirements.

49 Stat. 956.

Pub. Law 86-36
73 Stat. 64.

-2-

May 29, 1959

Supergrades.

72 Stat. 213A.

SEC. 7. The total number of positions authorized by section 505(b) of the Classification Act of 1949, as amended (5 U.S.C. 1105(b)), to be placed in grades 16, 17, and 18 of the General Schedule of such Act at any time shall be deemed to have been reduced by the number of positions in such grades allocated to the National Security Agency immediately prior to the effective date of this section.

Effective date.

SEC. 8. The foregoing provisions of this Act shall take effect on the first day of the first pay period which begins later than the thirtieth day following the date of enactment of this Act.

Approved May 29, 1959.

Part C(i)



NATIONAL SECURITY AGENCY
CENTRAL SECURITY SERVICE
FORT GEORGE G. MEADE, MARYLAND 20755

Serial: D6-86/75
23 September 1975

Mr. A. Searle Field
Staff Director
Select Committee on Intelligence
U. S. House of Representatives
Washington, DC 20515

Dear Mr. Field:

This is in response to your letter to General Allen requesting an interpretation of section 6 of Public Law 86-36.

Section 6 establishes the Congressional policy against disclosure of information concerning the intelligence and communications security missions of NSA. These vitally important functions cannot be conducted if foreign powers are aware of our sources and methods. The intent of the law, therefore, is to deny such information to other governments by limiting what appears in the public domain in the United States.

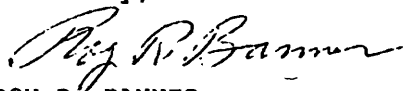
This Agency does not regard section 6 as authority to withhold information from Members of the Congress who require such information to discharge their official responsibilities. As General Allen indicated to Chairman Pike during his testimony, however, the Congress has always agreed to receive information concerning the mission and functions of this Agency in executive session.

With respect to the General Accounting Office (GAO), the Comptroller General and the Director, NSA, agreed in 1955 that a cleared GAO staff member would be assigned to NSA on a permanent basis. For 20 years, this arrangement has enabled one or more resident auditors to have access to data required to conduct compliance type audits while providing necessary security protection for NSA documents and records. Additional GAO personnel have been cleared since 1973 to permit GAO to conduct management reviews at NSA. Throughout this long-standing and excellent working relationship, the GAO has cooperated fully to protect NSA's

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sensitive information. The understanding between the two agencies has been that section 6 does not prohibit GAO's access to NSA information on a confidential basis, but rather that it restricts GAO's disclosure of its findings to the public at large.

Sincerely,

A handwritten signature in cursive script, appearing to read "Roy R. Banner", written in dark ink.

ROY R. BANNER
General Counsel

Part D.—Section 32 of Public Law 93-559 (the Foreign Assistance Act Amendments of 1974).

Foreign Assistance Act of 1974

Public Law 93-559, sec. 32

(The Hughes-Ryan Amendment)

INTELLIGENCE ACTIVITIES AND EXCHANGES OF MATERIALS

SEC. 32. The Foreign Assistance Act of 1961 is amended by adding at the end of part III the following new sections:

22 USC 2422.

"SEC. 662. Limitation on Intelligence Activities.—(a) No funds appropriated under the authority of this or any other Act may be expended by or on behalf of the Central Intelligence Agency for operations in foreign countries, other than activities intended solely for obtaining necessary intelligence, unless and until the President finds that each such operation is important to the national security of the United States and reports, in a timely fashion, a description and scope of such operation to the appropriate committees of the Congress, including the Committee on Foreign Relations of the United States Senate and the Committee on Foreign Affairs of the United States House of Representatives.

**Presidential
report to
Congress.**

"(b) The provisions of subsection (a) of this section shall not apply during military operations initiated by the United States under a declaration of war approved by the Congress or an exercise of powers by the President under the War Powers Resolution.

50 USC 1541
note.

Appendix III.—Executive Order 11652 of March 10, 1972.

federal register

FRIDAY, MARCH 10, 1972
WASHINGTON, D.C.

Volume 37 ■ Number 48

PART II



THE PRESIDENT EXECUTIVE ORDER 11652

■
**Classification and Declassification of
National Security Information
and Material**

Title 3—The President

EXECUTIVE ORDER 11652

Classification and Declassification of National Security Information and Material

The interests of the United States and its citizens are best served by making information regarding the affairs of Government readily available to the public. This concept of an informed citizenry is reflected in the Freedom of Information Act and in the current public information policies of the executive branch.

Within the Federal Government there is some official information and material which, because it bears directly on the effectiveness of our national defense and the conduct of our foreign relations, must be subject to some constraints for the security of our Nation and the safety of our people and our allies. To protect against actions hostile to the United States, of both an overt and covert nature, it is essential that such official information and material be given only limited dissemination.

This official information or material, referred to as classified information or material in this order, is expressly exempted from public disclosure by Section 552(b)(1) of Title 5, United States Code. Wrongful disclosure of such information or material is recognized in the Federal Criminal Code as providing a basis for prosecution.

To ensure that such information and material is protected, but only to the extent and for such period as is necessary, this order identifies the information to be protected, prescribes classification, downgrading, declassification and safeguarding procedures to be followed, and establishes a monitoring system to ensure its effectiveness.

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, it is hereby ordered:

SECTION 1. *Security Classification Categories.* Official information or material which requires protection against unauthorized disclosure in the interest of the national defense or foreign relations of the United States (hereinafter collectively termed "national security") shall be classified in one of three categories, namely "Top Secret," "Secret," or "Confidential," depending upon the degree of its significance to national security. No other categories shall be used to identify official information or material as requiring protection in the interest of national security, except as otherwise expressly provided by statute. These classification categories are defined as follows:

(A) "*Top Secret.*" "Top Secret" refers to that national security information or material which requires the highest degree of protection. The test for assigning "Top Secret" classification shall be whether its unauthorized disclosure could reasonably be expected to cause exceptionally grave damage to the national security. Examples of "exceptionally grave damage" include armed hostilities against the United States or its allies; disruption of foreign relations vitally affecting the

national security; the compromise of vital national defense plans or complex cryptologic and communications intelligence systems; the revelation of sensitive intelligence operations; and the disclosure of scientific or technological developments vital to national security. This classification shall be used with the utmost restraint.

(B) "*Secret*." "Secret" refers to that national security information or material which requires a substantial degree of protection. The test for assigning "Secret" classification shall be whether its unauthorized disclosure could reasonably be expected to cause serious damage to the national security. Examples of "serious damage" include disruption of foreign relations significantly affecting the national security; significant impairment of a program or policy directly related to the national security; revelation of significant military plans or intelligence operations; and compromise of significant scientific or technological developments relating to national security. The classification "Secret" shall be sparingly used.

(C) "*Confidential*." "Confidential" refers to that national security information or material which requires protection. The test for assigning "Confidential" classification shall be whether its unauthorized disclosure could reasonably be expected to cause damage to the national security.

SEC. 2. *Authority to Classify*. The authority to originally classify information or material under this order shall be restricted solely to those offices within the executive branch which are concerned with matters of national security, and shall be limited to the minimum number absolutely required for efficient administration. Except as the context may otherwise indicate, the term "Department" as used in this order shall include agency or other governmental unit.

(A) The authority to originally classify information or material under this order as "Top Secret" shall be exercised only by such officials as the President may designate in writing and by:

- (1) The heads of the Departments listed below;
- (2) Such of their senior principal deputies and assistants as the heads of such Departments may designate in writing; and
- (3) Such heads and senior principal deputies and assistants of major elements of such Departments, as the heads of such Departments may designate in writing.

Such offices in the Executive Office of the President as the President may designate in writing

Central Intelligence Agency
Atomic Energy Commission
Department of State
Department of the Treasury
Department of Defense
Department of the Army
Department of the Navy
Department of the Air Force
United States Arms Control and Disarmament Agency

THE PRESIDENT

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Department of Justice
National Aeronautics and Space Administration
Agency for International Development

(B) The authority to originally classify information or material under this order as "Secret" shall be exercised only by:

- (1) Officials who have "Top Secret" classification authority;
- (2) Such subordinates as officials with "Top Secret" classification authority under (A) (1) and (2) above may designate in writing; and
- (3) The heads of the following named Departments and such senior principal deputies or assistants as they may designate in writing.

Department of Transportation
Federal Communications Commission
Export-Import Bank of the United States
Department of Commerce
United States Civil Service Commission
United States Information Agency
General Services Administration
Department of Health, Education, and Welfare
Civil Aeronautics Board
Federal Maritime Commission
Federal Power Commission
National Science Foundation
Overseas Private Investment Corporation

(C) The authority to originally classify information or material under this order as "Confidential" may be exercised by officials who have "Top Secret" or "Secret" classification authority and such officials as they may designate in writing.

(D) Any Department not referred to herein and any Department or unit established hereafter shall not have authority to originally classify information or material under this order, unless specifically authorized hereafter by an Executive order.

SEC. 3. Authority to Downgrade and Declassify. The authority to downgrade and declassify national security information or material shall be exercised as follows:

(A) Information or material may be downgraded or declassified by the official authorizing the original classification, by a successor in capacity or by a supervisory official of either.

(B) Downgrading and declassification authority may also be exercised by an official specifically authorized under regulations issued by the head of the Department listed in Sections 2(A) or (B) hereof.

(C) In the case of classified information or material officially transferred by or pursuant to statute or Executive order in conjunction with a transfer of function and not merely for storage purposes, the receiving Department shall be deemed to be the originating Department for all purposes under this order including downgrading and declassification.

(D) In the case of classified information or material not officially transferred within (C) above, but originated in a Department which has since ceased to exist, each Department in possession shall be deemed to be the originating Department for all purposes under this order. Such information or material may be downgraded and declassified by the Department in possession after consulting with any other Departments having an interest in the subject matter.

(E) Classified information or material transferred to the General Services Administration for accession into the Archives of the United States shall be downgraded and declassified by the Archivist of the United States in accordance with this order, directives of the President issued through the National Security Council and pertinent regulations of the Departments.

(F) Classified information or material with special markings, as described in Section 8, shall be downgraded and declassified as required by law and governing regulations.

SEC. 4. Classification. Each person possessing classifying authority shall be held accountable for the propriety of the classifications attributed to him. Both unnecessary classification and over-classification shall be avoided. Classification shall be solely on the basis of national security considerations. In no case shall information be classified in order to conceal inefficiency or administrative error, to prevent embarrassment to a person or Department, to restrain competition or independent initiative, or to prevent for any other reason the release of information which does not require protection in the interest of national security. The following rules shall apply to classification of information under this order:

(A) *Documents in General.* Each classified document shall show on its face its classification and whether it is subject to or exempt from the General Declassification Schedule. It shall also show the office of origin, the date of preparation and classification and, to the extent practicable, be so marked as to indicate which portions are classified, at what level, and which portions are not classified in order to facilitate excerpting and other use. Material containing references to classified materials, which references do not reveal classified information, shall not be classified.

(B) *Identification of Classifying Authority.* Unless the Department involved shall have provided some other method of identifying the individual at the highest level that authorized classification in each case, material classified under this order shall indicate on its face the identity of the highest authority authorizing the classification. Where the individual who signs or otherwise authenticates a document or item has also authorized the classification, no further annotation as to his identity is required.

(C) *Information or Material Furnished by a Foreign Government or International Organization.* Classified information or material furnished to the United States by a foreign government or international organization shall either retain its original classification or be assigned a United States classification. In either case, the classification shall assure a degree of protection equivalent to that required by the government or international organization which furnished the information or material.

(D) *Classification Responsibilities.* A holder of classified information or material shall observe and respect the classification assigned by the originator. If a holder believes that there is unnecessary classification, that the assigned classification is improper, or that the document is subject to declassification under this order, he shall so inform the originator who shall thereupon re-examine the classification.

Sec. 5. Declassification and Downgrading. Classified information and material, unless declassified earlier by the original classifying authority, shall be declassified and downgraded in accordance with the following rules:

(A) *General Declassification Schedule.* (1) "Top Secret." Information or material originally classified "Top Secret" shall become automatically downgraded to "Secret" at the end of the second full calendar year following the year in which it was originated, downgraded to "Confidential" at the end of the fourth full calendar year following the year in which it was originated, and declassified at the end of the tenth full calendar year following the year in which it was originated.

(2) "Secret." Information and material originally classified "Secret" shall become automatically downgraded to "Confidential" at the end of the second full calendar year following the year in which it was originated, and declassified at the end of the eighth full calendar year following the year in which it was originated.

(3) "Confidential." Information and material originally classified "Confidential" shall become automatically declassified at the end of the sixth full calendar year following the year in which it was originated.

(B) *Exemptions from General Declassification Schedule.* Certain classified information or material may warrant some degree of protection for a period exceeding that provided in the General Declassification Schedule. An official authorized to originally classify information or material "Top Secret" may exempt from the General Declassification Schedule any level of classified information or material originated by him or under his supervision if it falls within one of the categories described below. In each case such official shall specify in writing on the material the exemption category being claimed and, unless impossible, a date or event for automatic declassification. The use of the exemption authority shall be kept to the absolute minimum consistent with national security requirements and shall be restricted to the following categories:

(1) Classified information or material furnished by foreign governments or international organizations and held by the United States on the understanding that it be kept in confidence.

(2) Classified information or material specifically covered by statute, or pertaining to cryptography, or disclosing intelligence sources or methods.

(3) Classified information or material disclosing a system, plan, installation, project or specific foreign relations matter the continuing protection of which is essential to the national security.

THE PRESIDENT

(4) Classified information or material the disclosure of which would place a person in immediate jeopardy.

(C) *Mandatory Review of Exempted Material.* All classified information and material originated after the effective date of this order which is exempted under (B) above from the General Declassification Schedule shall be subject to a classification review by the originating Department at any time after the expiration of ten years from the date of origin provided:

- (1) A Department or member of the public requests a review;
- (2) The request describes the record with sufficient particularity to enable the Department to identify it; and
- (3) The record can be obtained with only a reasonable amount of effort.

Information or material which no longer qualifies for exemption under (B) above shall be declassified. Information or material continuing to qualify under (B) shall be so marked and, unless impossible, a date for automatic declassification shall be set.

(D) *Applicability of the General Declassification Schedule to Previously Classified Material.* Information or material classified before the effective date of this order and which is assigned to Group 4 under Executive Order No. 10501, as amended by Executive Order No. 10964, shall be subject to the General Declassification Schedule. All other information or material classified before the effective date of this order, whether or not assigned to Groups 1, 2, or 3 of Executive Order No. 10501, as amended, shall be excluded from the General Declassification Schedule. However, at any time after the expiration of ten years from the date of origin it shall be subject to a mandatory classification review and disposition under the same conditions and criteria that apply to classified information and material created after the effective date of this order as set forth in (B) and (C) above.

(E) *Declassification of Classified Information or Material After Thirty Years.* All classified information or material which is thirty years old or more, whether originating before or after the effective date of this order, shall be declassified under the following conditions:

(1) All information and material classified after the effective date of this order shall, whether or not declassification has been requested, become automatically declassified at the end of thirty full calendar years after the date of its original classification except for such specifically identified information or material which the head of the originating Department personally determines in writing at that time to require continued protection because such continued protection is essential to the national security or disclosure would place a person in immediate jeopardy. In such case, the head of the Department shall also specify the period of continued classification.

(2) All information and material classified before the effective date of this order and more than thirty years old shall be systematically reviewed for declassification by the Archivist of the United States by the end of the thirtieth full calendar year following the year in which it was

originated. In his review, the Archivist will separate and keep protected only such information or material as is specifically identified by the head of the Department in accordance with (E)(1) above. In such case, the head of the Department shall also specify the period of continued classification.

(F) *Departments Which Do Not Have Authority For Original Classification.* The provisions of this section relating to the declassification of national security information or material shall apply to Departments which, under the terms of this order, do not have current authority to originally classify information or material, but which formerly had such authority under previous Executive orders.

Sec. 6. Policy Directives on Access, Marking, Safeguarding, Accountability, Transmission, Disposition and Destruction of Classified Information and Material. The President acting through the National Security Council shall issue directives which shall be binding on all Departments to protect classified information from loss or compromise. Such directives shall conform to the following policies:

(A) No person shall be given access to classified information or material unless such person has been determined to be trustworthy and unless access to such information is necessary for the performance of his duties.

(B) All classified information and material shall be appropriately and conspicuously marked to put all persons on clear notice of its classified contents.

(C) Classified information and material shall be used, possessed, and stored only under conditions which will prevent access by unauthorized persons or dissemination to unauthorized persons.

(D) All classified information and material disseminated outside the executive branch under Executive Order No. 10865 or otherwise shall be properly protected.

(E) Appropriate accountability records for classified information shall be established and maintained and such information and material shall be protected adequately during all transmissions.

(F) Classified information and material no longer needed in current working files or for reference or record purposes shall be destroyed or disposed of in accordance with the records disposal provisions contained in Chapter 33 of Title 44 of the United States Code and other applicable statutes.

(G) Classified information or material shall be reviewed on a systematic basis for the purpose of accomplishing downgrading, declassification, transfer, retirement and destruction at the earliest practicable date.

Sec. 7. Implementation and Review Responsibilities. (A) The National Security Council shall monitor the implementation of this order. To assist the National Security Council, an Interagency Classification Review Committee shall be established, composed of representatives of the Departments of State, Defense and Justice, the Atomic Energy Commission, the Central Intelligence Agency and the National

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Security Council Staff and a Chairman designated by the President. Representatives of other Departments in the executive branch may be invited to meet with the Committee on matters of particular interest to those Departments. This Committee shall meet regularly and on a continuing basis shall review and take action to ensure compliance with this order, and in particular:

(1) The Committee shall oversee Department actions to ensure compliance with the provisions of this order and implementing directives issued by the President through the National Security Council.

(2) The Committee shall, subject to procedures to be established by it, receive, consider and take action on suggestions and complaints from persons within or without the government with respect to the administration of this order, and in consultation with the affected Department or Departments assure that appropriate action is taken on such suggestions and complaints.

(3) Upon request of the Committee Chairman, any Department shall furnish to the Committee any particular information or material needed by the Committee in carrying out its functions.

(B) To promote the basic purposes of this order, the head of each Department originating or handling classified information or material shall:

(1) Prior to the effective date of this order submit to the Interagency Classification Review Committee for approval a copy of the regulations it proposes to adopt pursuant to this order.

(2) Designate a senior member of his staff who shall ensure effective compliance with and implementation of this order and shall also chair a Departmental committee which shall have authority to act on all suggestions and complaints with respect to the Department's administration of this order.

(3) Undertake an initial program to familiarize the employees of his Department with the provisions of this order. He shall also establish and maintain active training and orientation programs for employees concerned with classified information or material. Such programs shall include, as a minimum, the briefing of new employees and periodic reorientation during employment to impress upon each individual his responsibility for exercising vigilance and care in complying with the provisions of this order. Additionally, upon termination of employment or contemplated temporary separation for a sixty-day period or more, employees shall be debriefed and each reminded of the provisions of the Criminal Code and other applicable provisions of law relating to penalties for unauthorized disclosure.

(C) The Attorney General, upon request of the head of a Department, his duly designated representative, or the Chairman of the above described Committee, shall personally or through authorized representatives of the Department of Justice render an interpretation of this order with respect to any question arising in the course of its administration.

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Sec. 8. *Material Covered by the Atomic Energy Act.* Nothing in this order shall supersede any requirements made by or under the Atomic Energy Act of August 30, 1954, as amended. "Restricted Data," and material designated as "Formerly Restricted Data," shall be handled, protected, classified, downgraded and declassified in conformity with the provisions of the Atomic Energy Act of 1954, as amended, and the regulations of the Atomic Energy Commission.

Sec. 9. *Special Departmental Arrangements.* The originating Department or other appropriate authority may impose, in conformity with the provisions of this order, special requirements with respect to access, distribution and protection of classified information and material, including those which presently relate to communications intelligence, intelligence sources and methods and cryptography.

Sec. 10. *Exceptional Cases.* In an exceptional case when a person or Department not authorized to classify information originates information which is believed to require classification, such person or Department shall protect that information in the manner prescribed by this order. Such persons or Department shall transmit the information forthwith, under appropriate safeguards, to the Department having primary interest in the subject matter with a request that a determination be made as to classification.

Sec. 11. *Declassification of Presidential Papers.* The Archivist of the United States shall have authority to review and declassify information and material which has been classified by a President, his White House Staff or special committee or commission appointed by him and which the Archivist has in his custody at any archival depository, including a Presidential Library. Such declassification shall only be undertaken in accord with: (i) the terms of the donor's deed of gift, (ii) consultations with the Departments having a primary subject-matter interest, and (iii) the provisions of Section 5.

Sec. 12. *Historical Research and Access by Former Government Officials.* The requirement in Section 6(A) that access to classified information or material be granted only as is necessary for the performance of one's duties shall not apply to persons outside the executive branch who are engaged in historical research projects or who have previously occupied policy-making positions to which they were appointed by the President; *Provided*, however, that in each case the head of the originating Department shall:

(i) determine that access is clearly consistent with the interests of national security; and

(ii) take appropriate steps to assure that classified information or material is not published or otherwise compromised.

Access granted a person by reason of his having previously occupied a policy-making position shall be limited to those papers which the former official originated, reviewed, signed or received while in public office.

Sec. 13. *Administrative and Judicial Action.* (A) Any officer or employee of the United States who unnecessarily classifies or over-

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classifies information or material shall be notified that his actions are in violation of the terms of this order or of a directive of the President issued through the National Security Council. Repeated abuse of the classification process shall be grounds for an administrative reprimand. In any case where the Departmental committee or the Interagency Classification Review Committee finds that unnecessary classification or overclassification has occurred, it shall make a report to the head of the Department concerned in order that corrective steps may be taken.

(B) The head of each Department is directed to take prompt and stringent administrative action against any officer or employee of the United States, at any level of employment, determined to have been responsible for any release or disclosure of national security information or material in a manner not authorized by or under this order or a directive of the President issued through the National Security Council. Where a violation of criminal statutes may be involved, Departments will refer any such case promptly to the Department of Justice.

Sec. 14. *Revocation of Executive Order No. 10501.* Executive Order No. 10501 of November 5, 1953, as amended by Executive Orders No. 10816 of May 8, 1959, No. 10901 of January 11, 1961, No. 10964 of September 20, 1961, No. 10985 of January 15, 1962, No. 11097 of March 6, 1963 and by Section 1(a) of No. 11382 of November 28, 1967, is superseded as of the effective date of this order.

Sec. 15. *Effective date.* This order shall become effective on June 1, 1972.



THE WHITE HOUSE,
March 8, 1972.

[PR Doc.72-3782 Filed 3-9-72; 11:01 am]

Appendix IV. — "Reorganization of the Intelligence Community" (November 5, 1971)

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WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, NOVEMBER 8, 1971

Reorganization of the U.S. Intelligence Community

*Announcement Outlining Management Steps for
Improving the Effectiveness of the Intelligence
Community. November 5, 1971*

The White House announced today that the President has directed a number of management steps to improve the efficiency and effectiveness of the U.S. foreign intelligence community.

The President's objectives are to ensure:

- Continuing review of the responsiveness of the U.S. intelligence effort to national needs.
- Strengthened leadership for the community as a whole.
- More efficient use of resources in the collection of intelligence information.
- Elimination of less efficient or outmoded activities.
- Improvement in the quality, scope, and timeliness of intelligence information.

The improvements directed by the President follow an exhaustive study conducted at his direction by the staffs of the National Security Council (NSC) and the Office of Management and Budget (OMB) with contributions from the President's Foreign Intelligence Advisory Board (PFIAB), the President's Science Adviser, and the intelligence community.

The major management improvements include:

- An enhanced leadership role for the Director of Central Intelligence (DCI) in planning, reviewing, coordinating, and evaluating all intelligence programs and activities, and in the production of national intelligence.
- Establishment of a National Security Council Intelligence Committee, chaired by the Assistant to the President for National Security Affairs. Its members will include the Attorney General, the DCI, the Under Secretary of State, the Deputy Secretary of Defense, and the Chairman of the Joint Chiefs of Staff. The Committee will give direction and guidance on national intelligence needs and provide for a continuing evaluation of intelligence products from the viewpoint of the intelligence user.
- Establishment of a Net Assessment Group within the National Security Council Staff. The group will be headed by a senior staff member and will be responsible for reviewing and evaluating all intelligence products and for producing net assessments.
- Establishment of an Intelligence Resources Advisory Committee, chaired by the DCI, including as members a senior representative from the Department of State, the Department of Defense, the Office of Management and Budget, and the Central Intelligence Agency. This Committee will advise the DCI

on the preparation of a consolidated intelligence program budget.

- Reconstitution of the United States Intelligence Board chaired by the DCI, including as members the Deputy Director of Central Intelligence (Vice Chairman); Director of Bureau of Intelligence and Research, State Department; Director of National Security Agency; Director of the Defense Intelligence Agency; representatives of the Secretary of the Treasury and of the Director of the Federal Bureau of Investigation and the Atomic Energy Commission. The Board will advise and assist the DCI with respect to the production of national intelligence, the establishment of national intelligence requirements and priorities, the supervision of the dissemination and security of intelligence material, and the protection of intelligence sources and methods.

The President has also directed certain changes in the Department of Defense's intelligence organization.

A National Cryptologic Command will be set up under the Director of the National Security Agency. Under this command will be consolidated activities now carried out by separate agencies. A further change is the consolidation of all Department of Defense personnel security investigations into a single Office of Defense Investigations. The President has also directed that a Defense Map Agency be created by combining the now separate mapping, charting, and geodetic organizations of the military services in order to achieve maximum efficiency and economy in production.

Appendix V.—Additional correspondence and materials relating to the General Accounting Office.

Part A.—Letter of July 31, 1975, from Elmer B. Staats, Comptroller General of the United States, to Chairman Pike, and attachment.

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

July 31, 1975

The Honorable Otis Pike, Chairman
Select Committee on Intelligence
House of Representatives

Dear Mr. Chairman:

The Committee has requested our assistance in updating material we furnished to Senator William Proxmire in a letter dated May 10, 1974. The letter discussed congressional oversight and control over U.S. intelligence activities and our involvement in reviewing and auditing such activities. We have also been asked to identify various restrictions placed on our access to intelligence personnel and information and their effect on our work and to recommend any changes we believe would improve our effectiveness or facilitate the congressional oversight function in this area.

Our May 1974 letter includes as part of the U.S. intelligence community the National Security Council; Central Intelligence, Defense Intelligence, and National Security Agencies; Army, Navy, and Air Force intelligence components; Federal Bureau of Investigation; Department of the Treasury; Atomic Energy Commission (now the Energy Research and Development Administration); and Bureau of Intelligence and Research of the Department of State.

CONGRESSIONAL OVERSIGHT AND CONTROL

Our May 1974 letter pointed out that the determination made in 1949--that congressional oversight would be limited to reviews by the relatively few members serving on designated oversight committees or subcommittees--remained unchanged, although there has been extensive and increasing concern on the part of individual Members of Congress with the level of oversight and independent surveillance over the intelligence community.

Also, we pointed out that various Members of Congress have in the past raised the question of the sufficiency of congressional access to information about the activities of the intelligence community in light of the constitutional provision that no money may be spent from the public treasury unless appropriated by Congress.

As your Select Committee addresses the question of the adequacy of U.S. congressional oversight and control of U.S. intelligence activities, the information discussed below concerning our role may be useful.

GAO ACTIVITIES IN THE
INTELLIGENCE COMMUNITY

GAO's basic audit authority is contained in the Budget and Accounting Act of 1921, the Accounting and Auditing Act of 1950, and the Legislative Reorganization Act of 1970. These statutes direct GAO to examine and audit the activities of each executive branch agency and grant GAO access to these agencies' records and information as necessary to discharge this responsibility. GAO's authority is extensive, encompassing not only financial auditing but also management reviews and evaluations of programs and activities. Broad access to records and information is necessary to accomplish these tasks. However, certain restrictions on GAO audit authority are provided by law, including instances where moneys are accounted for solely on certification by the head of a department or establishment. Appendix I details the primary statutory provisions for GAO audits and reviews of agency activities and identifies specific statutory restrictions on audits of the intelligence community.

As discussed in our May 10, 1974, letter, our contacts with and work in the intelligence community over the years have been limited. We stated that we had had sufficient contact to enable us to identify basic problems involved in obtaining information from and about intelligence organizations. In addition to basic disagreement over our right of access to certain information, the intelligence community generally requires special security clearances, which are expensive to process and require at least 6 months or more to complete.^{1/}

Currently, 11 GAO professional staff members have the special clearances required to examine military intelligence matters. This is all that have been requested, except for two additional clearances, requested recently,

^{1/} Clearances for top secret defense data and restricted atomic energy data are not considered sufficient for access to intelligence data.

that are in process. Three of these professional staff members are presently involved in work at the National Security Agency; the remaining eight are at the management levels in Washington.

Our May 10, 1974, letter outlines various instances in which we tried to examine certain intelligence matters but were unable to gain access to the necessary information. The following cases illustrate our experience in performing reviews within or related to intelligence activities since May 1974.

1. In July 1974 the Chairman, Special Subcommittee on Intelligence, House Committee on Armed Services, requested us to examine the reasonableness of the divestiture of a proprietary interest by the Central Intelligence Agency. After discussions with Subcommittee representatives the request was modified to that of an examination of the reasonableness of the Agency's procedures for achieving the divestiture, due to the limited time available prior to execution of the divestiture. This examination was made by personnel having no special intelligence security clearance, although they had other security clearances. A report on this matter was issued to the Subcommittee in August 1974.

2. At the request of the Chairman, House Judiciary Committee, we are reviewing the Federal Bureau of Investigation's domestic intelligence operations. This review involves examining policies, procedures, and the application of resources to these operations. To determine how the Bureau carries out its domestic intelligence activity, it is necessary for us to review investigative cases.

The Bureau was concerned that GAO's having free access to its domestic intelligence files could negatively effect its capability to develop informants and conduct intelligence investigations. Accordingly, a procedure was worked out whereby the Bureau prepared special summaries of the case files randomly selected by GAO for review. These Bureau-prepared summaries and followup interviews with appropriate personnel associated with the sample cases is providing information on how the Bureau's policies and procedures are carried out in domestic intelligence investigations. To ensure the accuracy of the summaries, however, we need to verify the information contained in the case summaries.

We proposed a verification procedure by which we would randomly select documents from the case files and insure that these documents were accurately reflected in the summaries. The Bureau could block out the names of its informants from the documents before giving them to us. However, the Attorney General and the Bureau's Director have not, to date, been willing to allow us access to these documents and have so notified the Chairman of the Judiciary Committee; therefore our report to the Committee will be based largely on unverified data furnished by the Bureau.

3. In October 1974 the Chairman, Subcommittee on Europe, House Committee on Foreign Affairs (now Committee on International Relations) requested us to examine the adequacy of executive branch procedures for monitoring the provisions of Joint Resolution 1167 relating to the conditions Turkey was to meet to preclude a cutoff of U.S. aid. We were unable to obtain and verify Central Intelligence Agency information or analyses that we believed necessary, and consequently we could not make the requested review.

4. On November 4, 1974, Senator James Abourezk requested us to identify former oil company officials currently employed by 11 Federal agencies, including the Central Intelligence Agency. On January 17, 1975, the Comptroller General sent a letter to the Director, Central Intelligence Agency, requesting this information. The Agency has not responded to this letter, and efforts to contact the Agency to determine whether it plans to respond have been unsuccessful. We have drafted a report to the Senator that contains no information from the Central Intelligence Agency.

5. In May 1975 the Chairman, Special Subcommittee on Intelligence, House Committee on Armed Services, requested us to examine the reasonableness of the procedures followed in the divestiture of a second proprietary interest by the Central Intelligence Agency. The Agency gave us excellent cooperation, which permitted us to carry out this review expeditiously.

6. Since May 1974 the Senate Government Operations and Senate Budget Committees have requested us to secure and compile personnel and budget data on U.S. intelligence agencies and on police and investigative activities throughout the Federal Government. Although we did obtain some

data on State Department, Atomic Energy Commission, and some Defense Department intelligence activities, we were refused data by the Office of Management and Budget for the Central Intelligence Agency, National Security Agency, and certain other sensitive Defense intelligence activities. We were directed to the congressional intelligence oversight committees for this data. Because select congressional committees have been created to investigate intelligence operations, we decided not to make any further attempts to obtain data on the Central Intelligence and National Security Agencies and sensitive Defense activities.

With respect to the Federal Bureau of Investigation, we were advised that its Intelligence Division performs intelligence and counterintelligence activities relating to sabotage, espionage, and other matters affecting the national security. A Bureau official estimated that 23 percent of the Bureau's resources are directed to security matters carried out primarily by the Intelligence Division. Bureau officials stated, however, that an exact identification of Intelligence Division activities and related funds would require a high-level policy decision within the Bureau before this information could be released. We did not pursue this course because a detailed GAO review of the Bureau is currently being made.

7. At the National Security Agency we have received excellent cooperation to date. Our reviews there in the past were limited to administrative compliance audits; we had not conducted management-type reviews. Recently, however, we began acquiring rather extensive background information on Agency operations, preparatory to undertaking more substantive reviews in selected areas.

Aside from the National Security Agency where broader work is in the preliminary stage, we have not made and are not making self-initiated program and activity reviews within the intelligence community. We are unaware of any information having been given to us with the proviso that, for jurisdictional or security reasons, it not be shared with individual Members or Committees of Congress.

The only legislative changes which have either expanded or restricted our authority since May 1974 involve the deletion of language of Defense appropriation acts under the title "Operation and Maintenance." Before

1974, these annual appropriation acts contained special language which made the Defense and Service Secretaries' determinations on such confidential expenses final and conclusive on U.S. Government accounting officers. As a result of these restrictions, we were precluded from reviewing these expenditures. Such restrictions have generally been eliminated and we plan to consider these special funds as we select Defense programs for future review. However, from the following table, it may be seen that such funds are only a minor amount of what has been estimated by others to be an aggregate annual intelligence budget of no less than \$6 billion.

Amounts Provided for Confidential Military
Purposes by the 1974 and 1975
Department of Defense Appropriation Acts

<u>Operation and maintenance</u>	<u>Fiscal year 1974 (Public Law 93-238)</u>	<u>Fiscal year 1975 (Public Law 93-437)</u>
	(000 omitted)	
Army	\$ 3,069	\$ 2,689
Navy	4,242	3,707
Air Force	2,343	2,293
Defense agencies	5,448	6,518
Contingencies, Defense	<u>5,000</u>	<u>2,500</u>
Total	<u>\$20,102</u>	<u>\$17,707</u>

OBSERVATIONS

In general, GAO has not taken the initiative in pressing for oversight of intelligence operations but has made serious efforts to assist the committees on a request basis. Even so, we continue to have serious difficulty in obtaining information from and about the intelligence community in those limited instances where intelligence information is germane to the issues we are addressing. On occasion, the community cooperates to the extent of giving us certain requested information but even then we are afforded insufficiently broad access to agency records to independently verify the accuracy and/or completeness of the material supplied to us, precluding us from reporting to the Congress in a way that would materially contribute to the exercise of its oversight function.

Also lacking, in our opinion, is any clear-cut mechanism for acquiring access to information when our views and the agency's views differ as to our right to access, such as power to enforce access in court.

We believe a strong congressional endorsement will be necessary to open the doors to intelligence data wide enough so that we can make the meaningful reviews of intelligence activities that would assist the Congress in performing its oversight function.

We have been asked for our views on how congressional oversight and control over the intelligence community might be improved in the context of the sensitivity necessarily attached to intelligence matters and the desire to reduce the risk of leakage by minimizing the number of people having access to intelligence data. Our experience in the intelligence community, as indicated above and in our letter to Senator Proxmire, has been relatively limited. However, we have had sufficient experience to identify the hard policy questions, outlined below, that we conclude deserve congressional attention and that your Committee undoubtedly will focus upon.

1. Significant amounts of public funds are spent for intelligence, but only a small congressional minority has access to the use planned to be made of these funds. We believe, therefore, that the Congress should once again, as it has in the past, consider the manner in which oversight of the intelligence community is managed in the light of the constitutional provision that no moneys be spent from the public treasury unless appropriated by the Congress. In this regard, the Congress should consider the role GAO is to play in what the Congress ultimately decides should be the requisite congressional approval of intelligence community funding and activities. GAO's role should be sufficiently clarified so that it can determine its reporting responsibilities.

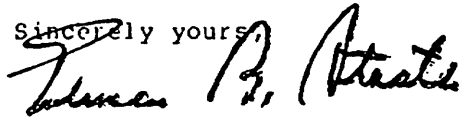
2. The Central Intelligence Agency, in effect, serves as more than an intelligence agency. In addition, a number of authorities have expressed concern that it has been permitted to enlarge its purpose and to exceed the authority contained in its enabling legislation.

We believe the Congress should address the questions of whether some broad policy guidelines and criteria for certain types of covert national security activities should be established by legislation; whether any agency responsible for intelligence collection should also be responsible for carrying out actions; and whether the existing congressional system for identifying, approving, or disapproving significant individual covert projects is adequate.

3. The U.S. intelligence budget annually accounts, according to various estimates by others, for 2 percent to 5 percent of the Federal budget, depending on whether the cost of such things as reconnaissance aircraft and scouting submarines are charged to intelligence or to other functions. The U.S. intelligence operation basically involves (a) determining requirements, (b) collecting, (c) analyzing, and (d) producing and disseminating the product. The U.S. intelligence community is such a highly compartmentalized structure of organization and management that only a few people at the top have visibility and cognizance of all activities. With a large number of agencies involved in intelligence collection, constituting a vast network of collection points, the inherent possibilities for duplication, conflict, and unnecessary collection are substantial. Given this situation, the question arises as to the adequacy of the available management review function. Are the agencies within the intelligence community so organized and structured as to permit such a management review function as an "internal" matter? If not, can they be made so to enhance the possibility of effective congressional oversight management review, either by the oversight committees themselves or with the assistance of GAO or others?

We are hopeful that the above information will be useful to you and your Committee in its studies of U.S. Government intelligence activities.

Sincerely yours,



Comptroller General
of the United States

D-170206
June 1975

**PRIMARY STATUTORY PROVISIONS RELATING
TO GAO AUDITS AND REVIEWS OF THE
ACTIVITIES OF INTELLIGENCE AGENCIES**

In general, the Comptroller General has a statutory right to access to the books and records of Federal agencies for the purpose of carrying out his duties, unless specifically barred by statute. This attachment is in two parts. Part one identifies the primary statutory material conferring the right of access on the Comptroller General. Part two identifies the components of the "Intelligence Community" and specific statutory restrictions on the Comptroller General's access to information relating to those components.

**I. PRIMARY STATUTES GIVING THE COMPTROLLER ACCESS
TO INFORMATION AND MANDATE TO REVIEW AGENCY
ACTIVITIES; GENERAL.**

**A. BUDGET AND ACCOUNTING ACT, 1921, AS AMENDED
(31 U.S.C., §1 et seq., 42 Stat. 20):**

For the purpose of conducting audits and reviewing agency activities, the GAO has, under 31 U.S.C. §54, 42 Stat. 20, legal right of access to any books, documents, records or papers of the Executive departments. That statute states in pertinent part:

"All departments and establishments shall furnish to the Comptroller General such information regarding the powers, duties, activities, organization, financial transactions, and methods of business of their respective offices as he may from time to

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time require of them; and the Comptroller General, or any of his assistants or employees, when duly authorized by him, shall, for the purposes of securing such information, have access to and the right to examine any books, documents, papers, or records of any such department or establishment. * * *

This statutory right of access to information is a necessary adjunct to the obligation imposed upon the Comptroller General to "investigate * * * all matters relating to the receipt, disbursement and application of public funds * * *" (31 U. S. C. §53, 42 Stat. 20; emphasis added.)

B. LEGISLATIVE REORGANIZATION ACT OF 1970, AS AMENDED (31 U. S. C. §1151, et seq., P. L. 91-510, 84 Stat 1140):

This Act provides for the development, establishment and maintenance of a standardized data processing and information system. 31 U. S. C. §1151 states in part:

"The Secretary of the Treasury and the Director of the Office of Management and Budget, in cooperation with the Comptroller General of the United States, shall develop, establish, and maintain, for use by all Federal agencies, standardized data processing and information systems for fiscal, budgetary, and program-related data and information."

31 U. S. C. §1152 calls upon the Comptroller General to develop and maintain standard terminology for Federal fiscal, budgetary and program related data and information, and to assist congressional committees in developing their information needs. In addition, 31 U. S. C. §1153 provides in pertinent part:

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"(a) Upon request of any committee of either House, of any joint committee of the two Houses, of the Comptroller General, or of the Director of the Congressional Budget Office, the Secretary of the Treasury, the Director of the Office of Management and Budget, and the heads of the various executive agencies shall--

(1) furnish to such committee or joint committee, the Comptroller General, or the Director of the Congressional Budget Office information as to the location and nature of available fiscal, budgetary, and program-related data and information;

(2) to the extent practicable, prepare summary tables of such data and information and any related information deemed necessary by such committee or joint committee, the Comptroller General, or the Director of the Congressional Budget Office;
* * *."

Lastly, and most importantly for the purposes of this discussion, 31 U. S. C. §1154(a) provides:

"(a) The Comptroller General shall review and evaluate the results of Government programs and activities carried on under existing law when ordered by either House of Congress, or upon his own initiative, or when requested by any committee of the House of Representatives or the Senate, or any joint committee of the two Houses, having jurisdiction over such programs and activities."

This latter provision must necessarily be read together with 31 U. S. C. §54 providing for access to information in order for it to be effectuated.

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II. PRIMARY STATUTES AFFECTING REVIEW OF AGENCY ACTIVITIES IN THE INTELLIGENCE COMMUNITY.

A. BOARDS AND COUNCILS:

1. National Security Council (NSC):

- NSC intelligence Committee
- NSC Net Assessment Group

50 U.S.C. §402 establishes the NSC. Appropriations are line item in the appropriation for the Executive Office of the President.

Review Restrictions: No apparent statutory restriction on audit authority.

2. Intelligence Resources Advisory Committee:

Established by November 5, 1971 Presidential Directive. Probably funded by funds from Executive Office of the President or NSC.

Review Restrictions: No apparent statutory restriction on GAO audit authority, but this would depend on source of funds.

3. U.S. Intelligence Board:

Same as Intelligence Resources Advisory Committee (see above).

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4. Foreign Intelligence Advisory Board:

Established by section 5 of Executive Order 11460,
March 20, 1969.

Review Restrictions: No apparent statutory restrictions
on GAO audit authority.

B. AGENCIES:**1. Central Intelligence Agency (CIA):**

Established by 50 U.S.C. 403, et seq.

Review Restrictions:**a. 50 U.S.C. §403j, (b) - Funds available to the CIA**

"may be expended without regard to the provisions of law and regulations relating to the expenditure of Government funds; and for objects of a confidential, extraordinary, or emergency nature, such expenditures to be accounted for solely on the certificate of the Director and every such certificate shall be deemed a sufficient voucher for the amount therein certified."

b. 50 U.S.C. §403f. (a):

In the performance of its functions CIA is authorized to transfer to and receive from other Government agencies such sums as may be approved by the Office of Management

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c. 50 U.S.C. §403g:

CIA is exempt from the provisions of any laws which require the publication or disclosure of the organization, functions, names, official titles, salaries or numbers of personnel employed by the agency.

2. Defense Intelligence Agency (DIA):

Established by DOD Directive 5105.21, August 1, 1961.

Appropriations may include those listed as "Intelligence and Communications Activities" within the DOD appropriations.

Review Restrictions:

A certain portion of the "Intelligence and Communications Activities" funds are set aside for use by the Secretary of Defense "on his certificate of necessity for confidential military purposes * * *"
P.L. 93-437, October 8, 1974. Otherwise, no apparent statutory restrictions on GAO audit authority.

3. Armed Services Intelligence:

- Army Intelligence
- Navy Intelligence
- Marine Corps Intelligence
- Air Force Intelligence

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Funds to support intelligence activities are contained in the appropriations for each of the military services.

Review Restrictions: A portion of the Services' funds are set aside for "emergencies and extraordinary expenses to be expended on the approval or authority of the Secretary of the [Service] and payments may be made on his certificate of necessity for confidential military purposes." See, e.g., P. L. 93-437, October 8, 1974.

Otherwise, there is no apparent restriction on GAO audit authority, at least with respect to the Army and Air Force. Unlike these two services, however, the Navy has a separate authorizing statute, 10 U. S. C. § 7202(a) (which is specifically referred to in P. L. 93-437, title III) which states:

"Within the limits of appropriations made for the purpose, the Secretary of the Navy may provide for any emergency or any extraordinary expense that arises in the Department of the Navy and that cannot be anticipated or classified. When it is so provided in such an appropriation, the funds may be spent on approval or authority of the Secretary for any purpose he determines to be proper, and such a determination is final and conclusive upon the accounting officers of the United States. The Secretary may certify the amount of any such expenditure that he considers advisable not to specify, and his certificate is a sufficient voucher for the expenditure of that amount."

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4. National Security Agency (NSA):- National Cryptologic Command

Established by 50 U.S.C. §402 (note), Public Law 86-36;

DOD Directive 5100.23, May 17, 1967.

Funding: probably same as the Defense Intelligence Agency
(see above).

Review Restrictions: (Section 6(a) of P.L. 86-36) With one exception which is not pertinent, no law shall be construed to require the disclosure of the organization or any function of NSA, of any information with respect to the activities thereof, or of the names, titles, salaries or number of the persons employed by such agency. In our letter to Senator Proxmire dated May 10, 1974, B-179296, we took the position that this section should not be construed as prohibiting GAO access on a confidential basis, but only as prohibiting disclosure to the public at large.

5. Department of State - Bureau of Intelligence and Research:

Review Restrictions: No apparent statutory restrictions on GAO audit authority, but this would depend on the source of the funds.

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6. Energy Research and Development Administration

P.L. 93-438, §104 (42 U.S.C. §5815) approved October 11, 1974, abolished the Atomic Energy Commission. Prior to its abolition, 42 U.S.C. §2017 had provided that appropriations acts could specify portions to be accounted for solely upon the certification of the commission. No comparable provision appears in P.L. 93-438 (42 U.S.C. §5801 et seq.) creating the Energy Research and Development Administration. P.L. 93-438, 42 U.S.C. §5875 requires annual authorization of appropriations. As of May 20, 1975, no appropriations statute has been passed for E.R.D.A., which is presently operating with funds transferred generally from A.E.C. appropriations. It remains to be seen whether the E.R.D.A. appropriations acts will contain provisions substantially similar to former 42 U.S.C. §2017(b).

7. Federal Bureau of Investigation:

Established by 28 U.S.C. §531 et seq., and funded by annual appropriations.

Review Restrictions: 28 U.S.C. §537 provides that some FBI appropriations are available for expenses of unforeseen emergencies of a confidential character, when so specified in the appropriation concerned, to be spent under the direction of the Attorney General. The Attorney General shall certify the amount spent that he considers advisable not to specify. His certification is "sufficient voucher for the amount * * * spent."

Part B.—“The Right of Access of the General Accounting Office to Intelligence Agency Data” (Congressional Research Service; September 16, 1975).



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**THE RIGHT OF ACCESS OF THE GENERAL ACCOUNTING OFFICE
TO INTELLIGENCE AGENCY DATA**

The General Accounting Office (GAO) was created by the Budget and Accounting Act of 1921. 42 Stat. 20; 31 U.S.C. 1 et seq. (1970). It was vested with all the powers and duties of its predecessors, the six auditors and the Comptroller of the Treasury. Since that time, several pieces of legislation have broadened its reporting requirements and auditing activities. ^{1/} The GAO was set up to be "independent of the executive departments"; ^{2/} its basic purposes are to "assist the Congress, its committees, and its Members to carry out their legislative and overseeing responsibilities, consistent with its role as an independent non-political agency in the legislative branch; carry out legal, accounting, auditing, and claims

^{1/} See: Government Corporation Control Act, 59 Stat. 597 (1945); 31 U.S.C. 841 et seq. (1970). Legislative Reorganization Act of 1946, Section 206, 60 Stat. 837; 31 U.S.C. 60 (1970). Budget and Accounting Procedures Act of 1950, 64 Stat. 832; 31 U.S.C. 65; 16 U.S.C. 452, 24 U.S.C. 278, 31 U.S.C. 2, 11, 14, 16, 18a, 18b, 22-24, 65-67, 581-581c, 624, 719, 847 (1970). Legislative Reorganization Act of 1970, Title II, 84 Stat. 1140; 31 U.S.C. 1151-57, 1171-76 (1970). Federal Election Campaign Act of 1971, 86 Stat. 3; 2 U.S.C. 431 et seq., 47 U.S.C. 801 et seq. (Supp. 1973). Presidential Election Campaign Fund Act, of 1966, 80 Stat. 1539; 26 U.S.C. 5096, 31 U.S.C. 271-73 (1970). Presidential Campaign Fund Act, 85 Stat. 497 (1971); 26 U.S.C. 9001 et seq. (Supp. 1973)

^{2/} 31 U.S.C. 42 (1970)

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settlement functions with respect to Federal Government programs and operations as assigned by the Congress; and make recommendations designed to make Government operations more efficient and effective." ^{3/}

The mission of the GAO under the Comptroller General in the area of investigations and reports is set out at 31 U.S.C. 53 (1970):

- a) The Comptroller General shall investigate, at the seat of government or elsewhere, all matters relating to the receipt, disbursement, and application of public funds, and shall make to the President when requested by him, and to Congress at the beginning of each regular session, a report in writing of the work of the General Accounting Office, containing recommendations concerning the legislation he may deem necessary to facilitate the prompt and accurate rendition and settlement of accounts, and concerning such other matters relating to the receipt, disbursement, and application of public funds as he may think advisable. In such regular report, or in special reports at any time when Congress is in session, he shall make recommendations looking to greater economy or efficiency in public expenditures.
- b) He shall make such investigations and reports as shall be ordered by either House of Congress or by any committee of either House having jurisdiction over revenue, appropriations, or expenditures. The Comptroller General shall also, at the request of any such committee, direct assistants from his office to furnish the committee such aid and information as it may request.
- c) The Comptroller General shall specially report to Congress every expenditure or contract made by any department or establishment in any year in violation of law.

3/ United States Government Manual 1974-75 at 44.

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- d) He shall submit to Congress reports upon the adequacy and effectiveness of the administrative examination of accounts and claims in the respective departments and establishments and upon the adequacy and effectiveness of departmental inspection of the offices and accounts of fiscal officers.
- e) He shall furnish such information relating to expenditures and accounting to the Bureau of the Budget [now Office of Management and Budget] as it may request from time to time. June 10, 1921, c. 18, Title III, Sec. 312, 42 Stat. 25.

The Comptroller General is specifically assigned the task of making expenditure analyses of executive agencies and to furnish such reports to congressional committees. No agencies are exempted in the statute (31 U.S.C. 60), which provides:

The Comptroller General is authorized and directed to make an expenditure analysis of each agency in the executive branch of the Government (including Government corporations), which, in the opinion of the Comptroller General, will enable Congress to determine whether public funds have been economically and efficiently administered and expended. Reports on such analyses shall be submitted by the Comptroller General, from time to time, to the Committees on Government Operations, to the Appropriations Committees, and to the Legislative Committees having jurisdiction over legislation relating to the operations of the respective agencies, of the two Houses. Aug. 2, 1946, c753 Title II, Sec. 206, 60 Stat. 837.

Compliance by executive agencies with requests for information and data from the Comptroller General is also required by statute (31 U.S.C. 54), and only one limitation is placed on the demands which may be made:

All departments and establishments shall furnish to the Comptroller General such information regarding the powers, duties, activities, organization financial transactions, and methods of

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business of their respective offices as he may from time to time require of them; and the Comptroller General, or any of his assistants or employees, when duly authorized by him, shall, for the purpose of securing such information, have access to and the right to examine any books, documents, papers, or records of any such department or establishment. The authority contained in this section shall not be applicable to expenditures made under the provisions of section 107 of this Title. June 10, 1921, c. 18, Title III, Sec. 313, 42 Stat. 26.

31 U.S.C. 107 (1970) provides that:

Whenever any sum of money has been or shall be issued, from the Treasury, for the purposes of intercourse or treaty with foreign nations, in pursuance of any law, the President is authorized to cause the same to be duly settled annually with the General Accounting Office, by causing the same to be accounted for, specifically, if the expenditure may, in his judgment, be made public; and by making or causing the Secretary of State to make a certificate of the amount of such expenditure, as he may think it advisable not to specify; and every such certificate shall be deemed a sufficient voucher for the sum therein expressed to have been expended. R.S. Sec. 291; June 10, 1921, c. 18, Title III, Sec. 304, 42 Stat. 24.

31 U.S.C. 107 (a) provides for the delegation of the authority to account by certificate:

The Secretary of State may delegate to subordinate officials the authority vested in him by section 107 of this title pertaining to certification of expenditures. Aug. 5, 1953, c. 328, Title I, Sec. 101, 67 Stat. 368.

The authority of the President to so spend on certificate alone derives from the Act of February 9, 1973, c. 4, Sec. 2, 1 Stat. 300. While this is the only such spending specifically exempted under 31 U.S.C. 54, other legisla-

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tion has been passed which authorizes certificate spending for other agencies as well.

Despite language seeming to bestow very broad authority upon the GAO to gain access to executive agency data, there are two provisions of law which reveal a degree of recognition that procedures may have to be tailored in some measure to the particular agency under scrutiny. In its "declaration of policy" in the Accounting and Auditing Act of 1950, Congress declares as policy that "[f]ull consideration be given to the needs and responsibilities of both the legislative and executive branches in the establishment of accounting and reporting systems and requirements." 31 U.S.C. 65 (b) (1970). The scope of GAO inquiry is to some degree to be a decision of the Comptroller General.

It is declared to be policy that "[e]mphasis be placed on effecting orderly improvements resulting in simplified and more effective accounting, financial reporting, budgeting, and auditing requirements and procedures and on the elimination of those which involve duplication or which do not serve a purpose commensurate with the costs involved." (Italics added) 31 U.S.C. 65 (c) (1970). And 31 U.S.C. 67(a) (1970) reinforces this policy of vesting some discretion in the Comptroller General:

Except as otherwise specifically provided by law, the financial transactions of each executive, legislative, and judicial agency, including but not limited to the accounts of accountable officers, shall be audited by the General Accounting Office in accordance with such principles and procedures and under such rules and regulations as may be prescribed by the Comptroller General of the United States. In the determination of auditing procedures to be followed and the extent of

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examination of vouchers and other documents, the Comptroller General shall give due regard to generally accepted principles of auditing, including consideration of the effectiveness of accounting organizations and systems, internal audit and control, and related administrative practices of the respective agencies. Sept. 12, 1950, c. 946, Title I, pt. II, Sec. 117, 64 Stat. 837.

Nowhere in the statutory language of the laws setting up and prescribing the duties and functions of the GAO is there any reference to a specific exception in the case of agencies functioning in the area of intelligence collection or other intelligence-related activities.

There are, however, statutory exceptions to be found in the legislation pertaining to intelligence agencies themselves as well as other executive departments. The CIA is so exempted under 50 U.S.C. 403 (j) (b) which provides:

The sums made available to the Agency may be expended without regard to the provisions of law and regulations relating to the expenditure of Government funds; and for objects of a confidential, extraordinary, or emergency nature, such expenditures to be accounted for solely on the certificate of the Director and every such certificate shall be deemed a sufficient voucher for the amount therein certified. June 20, 1949, ch. 227, Sec. 8, formerly Sec. 10, 63 Stat. 212, renumbered July 7, 1958, Pub. L. 85-507, Sec. 21 (b) (2), 72 Stat. 337.

Certificate spending by the Federal Bureau of Investigation is provided for in limited circumstances at 28 U.S.C. 537:

Appropriations for the Federal Bureau of Investigation are available for expenses of unforeseen emergencies of a confidential character, when so specified in the appropriation concerned, to be spent under the direction of the Attorney General. The Attorney General shall certify the amount

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spent that he considers advisable not to specify, and his certification is a sufficient voucher for the amount therein expressed to have been spent. Added Pub. L. 89-554, Sec. 4(c), Sept. 6, 1966, 80 Stat. 617.

The National Security Agency (N.S.A.) is protected under Pub. L. 86-36,

May 29, 1959, 73 Stat. 63, Section 6:

- (a) Except as provided in subsection (b) of this section, nothing in this Act or any other law including but not limited to, the first section and section 2 of the Act of August 28, 1935 (5 U.S.C. 654)) shall be construed to require the disclosure of the organization or any function of the National Security Agency, of any information with respect to the activities thereof, or of the names, titles, salaries, or number of the persons employed by such agency.
- (b) The reporting requirements of section 1582 of Title 10, United States Code, shall apply to positions established in the National Security Agency in the manner provided by section 4 of this Act.

42 U.S.C. 2017(b) covers the Atomic Energy Commission:*

Any Act appropriating funds to the Commission may appropriate specified portions thereof to be accounted for upon the certification of the Commission only.

Several other statutory restrictions upon the audit authority of the GAO in non-intelligence-related areas have been enacted by Congress, frequently in the form of certificate spending provisions. ^{4/}

^{4/} See Legislation Relating To The Functions And Jurisdiction Of The General Accounting Office, prepared by the Office of the General Counsel, General Accounting Office. January 1973. Chapter C. "Restrictions on Audit Authority." See Appendix.

*AEC functions have now been transferred to the Energy Research and Development Administration and the Nuclear Regulatory Commission.

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Regarding the CIA provision the General Counsel's Office of the CAO has stated that "following the enactment of the Central Intelligence Agency Act of 1949, the then Director of the Agency requested that, notwithstanding the very broad and unusual powers granted to the Central Intelligence Agency by the Act, an audit of expenditures at the site, as previously performed by the General Accounting Office, be continued. Accordingly, the General Accounting Office continued to make audits of vouchered expenditures, under the same arrangements that were in effect with the predecessor Central Intelligence Group...However, in view of the provisions of section 8 of the Central Intelligence Agency Act, and the lack of access for any substantive review of agency policies and of its practices and procedures, an audit of voucher expenditures is not now being made."^{5/} In a letter to Senator William Proxmire, dated May 10, 1974, the then Acting Comptroller General explained the sequence of events leading to the present policy:

Subsequent to the enactment of the Central Intelligence legislation, we broadened the type of audit we made of the activities of most Government agencies. We adopted the "comprehensive audit" approach under which we construed an agency's financial responsibilities as including the expenditure of funds and the utilization of property and personnel in furtherance of authorized programs or activities in an efficient, economical, and effective manner. We concluded in 1959 that this broader type of audit was appropriate for our work at the CIA and was more likely to be productive of evaluations which would be helpful to the Congress and the Agency Director. We also determined that the previous

^{5/} Id., at C-3

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limited audit work at CIA should not be continued. In the fall of 1959, we agreed with the then Director of Central Intelligence to broaden our audit efforts at CIA on a trial basis.

In 1961, after the trial period, we concluded that under existing security restrictions on our audit of CIA activities, we did not have sufficient access to make comprehensive reviews on a continuing basis which would produce evaluations helpful to the Congress. We further determined that continuation of the limited financial audit effort which we had conducted in prior years at the CIA would not serve a worthwhile purpose; we therefore proposed to cease all activities at the Agency. At about this same time the Agency was engaged in a major reorganization and strengthening of its comptroller and internal audit functions. Concurrence in our proposal to terminate all audit efforts was forthcoming in 1962, and since that time we have not conducted any reviews at the CIA nor any reviews which focus specifically on CIA activities. ^{6/}

Little in the way of legislative history is available on the CIA statutes due to the secret nature of the activities of the Agency. Both the National Security Act of 1947 and the Central Intelligence Agency Act of 1949 were considered in executive sessions by the congressional committees concerned. Background material controlled by the Executive Branch is generally classified and therefore not available. But it seems clear that the provisions exempting the CIA from normal government procedures in the expenditure and accounting of funds were intentionally broad. In introducing the Central Intelligence Agency Act of 1949, Representative Sasser of Maryland stated:

Finally we have provided in this bill some basic appropriations language to which the Government Accounting Office and the budget and fiscal offices of the Agency can look in the expenditure of funds. Much of

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this language is necessary, for without it the expenditure of funds for the purposes set forth herein cannot be allowed. In addition, we have provided the legal basis for the granting to the Agency authority for the spending of those unvouchered funds which the Appropriations Committee of the House will earmark, and without which there can be no successful operation of an intelligence service. 7

It was pointed out by the Acting Comptroller General in his letter to Senator Proxmire that over 200 bills have been introduced in the last two decades which sought to make the CIA more accountable to the Congress. The failure of those proposals is seen by some as evidence that Congress did indeed intend to grant the CIA extraordinary authority in the conduct of its intelligence mission. In United States v. Richardson, 418 U.S. 166 (1974) the Supreme Court found that there was no standing in a suit to compel the Government to give information on how the CIA spends its funds (status as a taxpayer had been asserted as providing standing), but in so holding acknowledged that the CIA is not the only agency protected by a statute such as 50 U.S.C. 403 (j)(b), which: "provides different accounting and reporting requirements and procedures for the CIA, as is also done with respect to other governmental agencies dealing in confidential areas." (at 175)

The experience of the GAO with regard to N.S.A. has been somewhat different from that with the CIA. Limited audits have been conducted of that Agency, but those limits are strict. The GAO conducts three types of audits: 1) Audits of financial operations and legal compliance; 2) audits of efficiency and economy of operations; and 3) audits of program results. These have been described by the GAO in the following manner:

7/ 95 Cong. Rec. 1945 (1949)

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- 1) An audit of financial operations and legal compliance ...is an audit of financial transactions, accounts, and reports and of compliance with applicable laws and regulations. The audit includes enough work to determine whether:

- The agency controls and accounts effectively for its funds, property, and other assets; its liabilities; and its revenues and expenditures.
- The agency keeps adequate accounting records according to the principles, standards, and related requirements prescribed by the Comptroller General.
- The agency's financial reports show fully and fairly its financial condition and the results of its operations and provide adequate financial information for use by managers.
- The agency's accounting system provides:
 1. A basis for settling accountable officer's accounts.
 2. Reliable information for use in preparing budget requests, controlling the budget, and furnishing financial information to the Office of Management and Budget.
 3. Information required for the Government's central system in the Treasury Department.
- The agency is complying with the laws and regulations governing the receipt, disbursement, and application of public funds.

- 2) Audits concerned with efficiency and economy in the use of public resources: Policies, procedures, and transactions are examined 1) to evaluate the efficiency, economy, and legality with which an agency carries out its programs and activities and uses financial, property, and personnel resources and 2) to develop recommendations for improvements.

Specifically, these audits inquire into such matters as the:

- Need for goods or services provided or procured.
- Reasonableness of costs incurred or expenditures made.
- Adequacy of safeguards over and care of resources acquired.
- Proper Utilization of resources.
- Adequacy of revenues received for goods or services sold.

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3) Audits of program results would be concerned with inquiring into whether desired results or benefits are being achieved and whether the objectives established by the Congress are being met. The scope of an audit of program results often considers such additional factors as whether:

- Management weaknesses adversely affect the achievement of desired results.
- Alternative approaches might achieve program objectives more effectively or at a lower cost.
- Benefits or detriments are resulting that were not contemplated when the program was established.
- The Congress should reconsider the program objectives in the light of experience.

In the case of the National Security Agency only the first type of audit has regularly been conducted by the GAO. On site audits of vouchers and accounts have been performed by permanently assigned GAO staff members since 1955. Those directly involved were required to obtain special security clearances in order to conduct their audits. The Acting Comptroller in his letter to Senator Proxmire pointed to four problems which are presented by the requirement of security clearances: 1) the clearance is expensive, 2) requires at least 6 or more months to complete, 3) for certain operations higher level clearances might be necessary, and 4) the results of the work performed would be highly classified and severely limited in distribution.^{9/} He went on to state that GAO has been "advised that the required clearance for work at N.S.A. will generally be acceptable for performing similar work at other organizations (other than the CIA) within the intelligence community."^{10/}

^{8/} The General Accounting Office, Answers to Frequently Asked Questions, United States Government Printing Office: 1973. Nos. 16, 17, 18, 19.

^{9/} 121 Cong. Rec. S-1774 (1975)

^{10/} Id.

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But the clearance matter is still the stumbling block, and the CIA is apparently more reluctant to grant such clearances than other agencies. The nature of a clearance itself poses additional difficulties:

The problem of obtaining proper security clearances is a major obstacle to our work. Hence, for example, while many of our staff have clearances for 'Top Secret' defense data and 'Atomic Energy Restricted' data, these are not considered sufficient for access to all intelligence data. In each case the "need to know" test is applied and the deeper we have tried to delve into the working of the intelligence community, the more difficult the test becomes. We have been told that within the Defense intelligence community there would be over 100 separate clearances involved if one person were to gain access to the entire community. ^{11/}

The conclusion reached by GAO is that "a strong endorsement by the congressional oversight committees will be necessary to open the doors to intelligence data wide enough to enable us to perform any really meaningful reviews of intelligence activities." ^{12/}

Criticism of the CIA in this area has not been infrequent:

Since GAO provides the mechanism through which Congress normally audits the executive agencies whose budgets it authorizes, the failure of the CIA to cooperate with GAO auditors and investigators presents an extremely serious problem. The intelligence subcommittee staffs do not have the capacity to audit a billion-dollar budget such as the CIA's, while GAO was established precisely to perform such audits for Congress. Thus, by not cooperating with GAO, the CIA effectively forecloses Congress from auditing its books. ^{13/}

^{11/} Id.

^{12/} Id.

^{13/} 7 New York University Journal of International Law and Politics 493, 519. (Winter: 1974).

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Representative Bob Eckhardt of Texas has introduced legislation aimed at curbing the discretion inherent in certificate spending procedures. H.R. 1523, 94th Cong., 1st Sess. (1975) would add to the Budget and Accounting Act of 1921 the following paragraph:

- (b) Notwithstanding any provision of law heretofore enacted permitting an expenditure to be accounted for solely on the approval, authorization, or certificate of the President of the United States or the head of a department or establishment, the Comptroller General shall be furnished such information relating to such expenditure as he may request and access to all necessary books, documents, papers, and records, relating to such expenditure in order that he may determine whether the expenditure was, in fact, actually made and whether such expenditure was authorized by law. The provisions of this paragraph shall not be superseded except by a provision of law enacted after the date of enactment of this paragraph and specifically repealing or modifying the provisions of this paragraph.

To the extent that this bill aims at curbing activities of the intelligence community, it should be remembered that prior to this Congress measures designed to in any way "watchdog" the intelligence organizations beyond present safeguards have met with little success. In 1956 Senator Mike Mansfield of Montana introduced S. Cong. Res. 2, 84th Cong., 2d Sess, which sought to establish a Joint Committee on Central Intelligence. This effort to establish a committee to make continued studies of the activities of the CIA which that agency would have to keep fully and currently informed, was voted down 27-59 after lengthy debate. And in 1966 an effort to create a Senate Committee on Intelligence Operations also was defeated. Such efforts have led the GAO to conclude that "although the question of whether the Congress exercises adequate oversight concerning the intelligence community has been raised a number of times, the determination made in 1949 that Congressional oversight would be limited to reviews by the relatively few members who

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serve on certain designated committees or subcommittee remains unchanged." ^{14/}
Until Congress takes positive measures to indicate that the Comptroller General is obligated to go further in auditing and reporting on the activities of intelligence agencies it is both unlikely that he will attempt to do so, or that the agencies themselves will feel any greater obligation to provide data requested.

14/ 121 Cong. Rec. S-1773 (1975)



Kent M. Ronhovde
Legislative Attorney
American Law Division
September 16, 1975

Part C.—Letter of May 10, 1974, from R. F. Keller, Acting Comptroller General of the United States, to Senator William Proxmire, and subsequent correspondence between William E. Colby and Elmer B. Staats.

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

May 10, 1974

The Honorable William Proxmire
United States Senate

Dear Senator Proxmire:

In a letter dated January 24, 1974, you requested our assistance in reviewing the extent of Congressional oversight and control over the operations of the United States intelligence community. You consider the following agencies as part of the intelligence community: the Central Intelligence Agency; the Defense Intelligence Agency; the National Security Agency; the intelligence components of the Army, Navy and Air Force; the Federal Bureau of Investigation; the Department of the Treasury; the Atomic Energy Commission; and the Bureau of Intelligence and Research of the Department of State.

Under the Constitution of the United States the Congress is empowered to raise and support armies, provide and maintain a Navy and make rules for the Government and regulation of the Armed Forces. Art. I, Sec. 8, Cls. 12, 13 and 14. Clause 18 of Article I, Sec. 8 of the Constitution empowers the Congress "[T]o make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States and in any Department or Officer thereof."

Pursuant to its constitutional authority, the Congress has enacted numerous statutes dealing with national security. We will concentrate herein on the two statutes cited in your letter.

On July 26, 1947, there was signed into law the National Security Act of 1947, Pub. L. 80-253, 61 Stat. 495, as amended, 50 U.S.C. 401, *et seq.* Generally that act established a federated agency, the National Military Establishment, to coordinate the three separate executive departments of the Army, Navy and Air Force, each to be headed by a civilian secretary. Outside the National Military Establishment, but somewhat closely related to it, three other agencies were created by the act: the National Security Council, the Central Intelligence Agency, and the National Security Resources Board.

The National Security Council (Council) was established to advise the President with respect to the integration of domestic,

foreign and military policies relating to the national security so as to enable the military services and the other departments and agencies of the Government to cooperate more effectively in matters involving the national security. As such it is generally the President's chief policy advisor in national security matters. It also assists the President in implementing that policy. As established by that statute, the Council consisted of the President, the Secretary of State, the Secretary of Defense, the secretaries of the three services, the Chairman of the National Security Resources Board, and certain enumerated persons when appointed by the President by and with the advice and consent of the Senate to serve at the President's pleasure. The composition of the Council has since been altered slightly.

Established under the Council is the Central Intelligence Agency (CIA). The purpose of this agency is largely to coordinate, under the direction of the Council, the intelligence activities of the several Government departments and agencies in the interest of national security. In addition to its coordination functions the CIA performs such other functions and duties related to intelligence affecting the national security as the Council may from time to time direct.

The National Security Resources Board, which was abolished by statute in 1954 (act of September 3, 1954, 68 Stat. 1226, 1244), was composed of a Chairman and such heads or representatives of the various executive departments and independent agencies as may be designated from time to time by the President. Its purpose was to advise the President relative to the coordination of military, industrial and civilian mobility and certain other matters.

On June 20, 1949, the Congress enacted Public Law 81-110, which is known as the Central Intelligence Agency Act of 1949, 63 Stat. 208 as amended, 50 U.S.C. 403a-403j. The purpose of this legislation generally is to grant to the CIA the necessary authority for its proper and efficient administration. Previously the CIA had been operating under the 1947 Act which did not grant the CIA "the authorities necessary for its proper administration." As a result of questions raised by this Office and other agencies as to the legality of some of the CIA's activities, Congress decided to spell out the manner in which the agency would be administered. Public Law 81-110 deals with, among other things, procurement authority, travel and allowances for CIA personnel, methods of expenditures of appropriated funds, and other related authorities connected with the agency's administration. Other provisions enable the agency to protect its confidential functions. In passing this act the Congress recognized that some of its provisions were of an unusual nature but determined that they were nonetheless necessary to the successful operation of an efficient intelligence service.

Your inquiry first requests us to review the oversight authority of Congress in relation to the aforementioned acts and the intelligence community as a whole. Through the exercise of the "power of the purse" given to it by the Constitution, the Congress, in our view, is entitled to any information on the expenditure of funds which it wishes to receive from the executive branch of the Government. When denied desired data the Congress may deny funds to the agency involved until such information is forthcoming. Within the limits of this ultimate power the Congress may establish the rules with respect to its access to information and materials held by the executive branch.

In enacting the above-cited statutes the Congress did not specifically address itself to the question of the kind and amount of oversight and control which it would exercise over the intelligence community, other than giving the community, under the direction of the CIA, authority to keep its operations from becoming public.

However, the attitude of the Congress with respect to its oversight functions, at that time, can be seen in its consideration of the Central Intelligence Agency Act of 1949 (CIA Act). In hearings held by the House Committee on Armed Services on February 23, 1949, on H.R. 1741, H.R. 2546, and H.R. 2663, the Chairman stated:

"Now, of course, we all recognize the purpose of this bill. Of course, there is a great deal of matter that we cannot discuss here, and we cannot discuss on the floor of the House. We will just have to tell the House they will have to accept our judgment and we cannot answer a great many questions that might be asked. We cannot have a Central Intelligence Agency if you are going to advertise it and all of its operations from the tower [of the Empire State Building]." pp. 486-487.

In its report of February 24, 1949, to the House on H.R. 2663, the Committee set forth an explanation of certain sections of the bill. It concluded, however, that:

"The report does not contain a full and detailed explanation of all of the provisions of the proposed legislation in view of the fact that much of such information is of a highly confidential nature. However, the Committee on Armed Services received a

complete explanation of all features of the proposed measure. The committee is satisfied that all sections of the proposed legislation are fully justified." House Rept. 81-160, p. 6.

The House considered the Committee report on March 7, 1949. (See Cong. Rec. (daily ed.) pp. 1982-1990.) Objection was raised at that time to the failure of the Committee to inform the House as to the full implications of the bill under consideration. For example, Mr. Celler stated in pertinent part:

"Mr. Speaker, although I do not like the hush-hush business surrounding this bill, I shall not oppose it. Certainly if the members of the Armed Forces Committee can hear the detailed information to support this bill, why cannot our entire membership? Are they the Brahmins and we the untouchables? Secrecy is the answer. What is secret about the membership of an entire committee hearing the lurid reasons? In Washington three men can keep a secret if two men die. It is like the old lady who said, 'I can keep a secret but the people I tell it to cannot.'" p. 1985.

The Senate on May 27, 1949, amended and passed the bill (H.R. 2663) as passed by the House. The Senate debate (Cong. Rec. (temp. ed.) pp. 7082-7090) reflects the knowledge of that body that it was not being given a full explanation of all of the provisions of the bill. Despite this lack of knowledge on the part of both Houses of Congress, the conference report was agreed to and the bill passed both Houses and was signed by the President.

Inasmuch as the Congress as a whole was not given a detailed explanation of the provisions of the CIA Act of 1949 or of the underlying information which prompted the legislation, it seems that the Congress expected its oversight over the CIA to be handled by the appropriate committees in secrecy consistent with the manner in which the bills which were enacted into this legislation were handled.

Since that time, however, there has been extensive and increasing concern on the part of various members of the Congress with the level of oversight and independent surveillance over the intelligence community. The question of whether the Congress

was giving sufficiently serious consideration to the constitutional provision that no money may be spent from the public treasury without congressional approval was the subject of a major Senate debate in 1956. The debate was triggered in part by the 1955 Hoover Commission Study which expressed concern about the absence of congressional and other outside surveillance of Government intelligence activities.

Senator Mansfield introduced a bill--with 34 cosponsors--for a joint committee on intelligence. The Senate Rules Committee majority concluded that while secrecy is essential for certain intelligence community operations, a wide area of intelligence activities constituted proper grounds for congressional review; and reported the bill favorably out of the committee.

A strong administration opposition to the bill caused 14 of the original cosponsors of the bill to reverse their positions and the bill was defeated by a vote of 59 to 27, with 10 Senators not voting.

In 1960 two events resulted in congressional attention being given to the subject issue.

Shortly after the U-2 incident the Senate considered, but did not pass, a proposal for a major reorganization of the policy-making machinery of the executive branch, which provided for, among other things, the transfer from the CIA of all non-clandestine intelligence collection, and the establishment of a joint committee of the Congress on the CIA.

The House, shortly thereafter considered a resolution--triggered by the suspected defection of two NSA employees--to authorize the House Committee on Un-American Activities to conduct a full and complete study of each of the intelligence agencies. The House adjourned without passing the resolution. However, the Chairman of the Armed Services Committee did name a three man subcommittee to conduct, without publicity, a complete investigation of the intelligence agencies.

In 1966 the subject issue was again debated in the Senate. Consideration of more systematic congressional surveillance of intelligence activities was focused by a proposed Senate resolution calling for an investigation by the Senate Foreign Relations Committee of American foreign intelligence activities. The proposal was referred to the Foreign Relations Committee,

where it was approved by a vote of 14 to 5. After considerable debate the Senate voted--61 to 28--to send the resolution to the Armed Services Committee but no action was taken on the bill. However, the Chairman of the Armed Services Committee did invite selected members of the Foreign Relations Committee to attend all intelligence subcommittee sessions.

In the past two decades, more than 200 bills aimed at making the CIA more accountable to the Congress have been introduced.

Thus, although the question of whether the Congress exercises adequate oversight concerning the intelligence community has been raised a number of times, the determination made in 1949 that Congressional oversight would be limited to reviews by the relatively few members who serve on certain designated committees or subcommittees remains unchanged.

You also requested that we provide you with an opinion as to the legality of the Council's issuing classified directives to the intelligence community based on the CIA Act of 1949 and the National Security Act of 1947, if the directives deal with subjects, such as instructions to engage in covert activities not considered in the original legislation. You also ask whether the terms of subsections 102 (d)(4) and (5) of the National Security Act, 50 U.S.C. 403(d) represent "a totally open ended provision" and whether the Council must make all directives issued pursuant to those subsections available to the Congress.

The relevant portions of section 102(d) provide:

"(d) For the purpose of coordinating the intelligence activities of the several Government departments and agencies in the interest of national security, it shall be the duty of the Agency [CIA], under the direction of the National Security Council--

* * * * *

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

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

As noted above, the Council is the President's chief advisor on national security policy and it also is responsible for assisting in implementing that policy. The Council acts generally through the issuance of instructions or directives to the agencies within the intelligence community. Inasmuch as the Council is endowed with broad authority in this area, it may issue directives dealing with virtually any subject dealing with national security and United States intelligence operations. While the statute does not explicitly mention "covert operations and activities, it seems clear that those operations and activities are part of the national security intelligence operations which are within the Council's jurisdiction. Of course, the Council may not direct an agency to perform duties proscribed by statute. Thus, for example, the CIA may not undertake internal security functions. See subsection 102(d)(3) of the NSA Act of 1947 (50 U.S.C. 403(d)(3)). Copies of the Council's directives apparently would be available to the Congress in accordance with the discussion above of congressional oversight of intelligence operations.

Finally, you have asked for a review of GAO's right to review, audit or otherwise examine the programs and operations of the various intelligence agencies. Also, you request information on the success we have had in obtaining information from and about the intelligence community, the staff support we could provide to the oversight committees and the problems which might attend congressional requests for investigations in the intelligence field.

The basic audit authority of this Office is contained in the Budget and Accounting Act, 1921, and the Accounting and Auditing Act of 1950. Pursuant to these and other statutory authorities the audit authority of the General Accounting Office extends generally to the expenditures of the various departments and establishments. There are, however, exceptions provided by law, including a fairly substantial number of instances where expenditures are accounted for solely upon a certification by the head of the department or establishment involved. For example, expenditures of a confidential, extraordinary or emergency nature by the CIA are to be accounted for

solely on the certificate of the Director of Central Intelligence. 50 U.S.C. 403j(b). Sometimes such restrictions are contained in appropriation acts. For example, annual appropriations for the Federal Bureau of Investigation have included funds to meet unforeseen emergencies of a confidential character to be expended under the direction of the Attorney General and accounted for solely on his certificate.

Overall we have had relatively limited contact with the intelligence community. However, we have had sufficient contact to enable us to identify certain problems we would have in obtaining information from and about intelligence organizations. Underlying these problems is the extremely high degree of sensitivity attached to intelligence matters and the desirability within the intelligence community of reducing the risk of leakage by minimizing the number of people having access to such matters. Part of this latter factor, which also entails a relatively considerable expenditure of time and money in obtaining necessary security clearances, is that the intelligence community restricts the numbers of clearances it will issue to us. Generally to carry out a survey or review in a timely manner, develop a report and process it through Office review channels requires effort on the part of a relatively large number of people. Our experience indicates, however, that we will be issued only a few clearances on a given intelligence subject--not nearly enough to allow us to do the type of job we normally expect to do. Of course, we try to streamline our procedures as much as possible in handling these matters. Another problem is working out arrangements acceptable to all parties for distributing any of our final products to the Congress.

Following enactment of the Central Intelligence Agency Act of 1949, the then Director of the Agency requested that notwithstanding the very broad and unusual powers granted to the CIA by the Act, an audit of expenditures at the site, as previously performed by GAO, be continued. Accordingly, our Office continued to make audits of vouchered expenditures under the same arrangements that were in effect with the predecessor Central Intelligence Group. However, in view of the provisions of section 8 of the Act (formerly section 10), no exceptions were taken to any expenditures; in those cases where questionable payments came to our attention, we referred the matter to the CIA Comptroller's Office for corrective action. In using the term "questionable payments," we meant any expenditures

which, except for former section 10(a) of the Act, appeared to be improper or illegal either under law or under the decisions of the Comptroller General. In our audit work, we did not make substantive reviews of Agency policies, nor of its practices and procedures; further, we made no audit of expenditures of unvouchered funds.

Subsequent to enactment of Central Intelligence legislation, we broadened the type of audit we made of the activities of most Government agencies. We adopted the "comprehensive audit" approach under which we construed an agency's financial responsibilities as including the expenditure of funds and the utilization of property and personnel in the furtherance of authorized programs or activities in an efficient, economical and effective manner. We concluded in 1959 that this broader type of audit was appropriate for our work at the CIA and was more likely to be productive of evaluations which would be helpful to the Congress and the Agency Director. We also determined that the previous limited audit work at CIA should not be continued. In the fall of 1959, we agreed with the then Director of Central Intelligence to broaden our audit efforts at CIA, on a trial basis.

In 1961, after the trial period, we concluded that under existing security restrictions on our audit of CIA activities, we did not have sufficient access to make comprehensive reviews on a continuing basis which would produce evaluations helpful to the Congress. We further determined that continuation of the limited financial audit effort which we had conducted in prior years at the CIA would not serve a worthwhile purpose; we therefore proposed to cease all activities at the Agency. At about this same time the Agency was engaged in a major reorganization and strengthening of its comptroller and internal audit functions. Concurrence in our proposal to terminate all audit efforts was forthcoming in 1962, and since that time we have not conducted any reviews at the CIA nor any reviews which focus specifically on CIA activities.

At this point, it might be useful to relate some of the activities and problems we have had in relation to the intelligence community.

One of our divisions, the Procurement and Systems Acquisition Division (PSAD), has attempted to engage in several reviews in the intelligence area. For example, in June 1973, it planned to make a survey at a Department of Defense field installation

but access was blocked because of the sensitive nature of work being performed there. Instead, DOD suggested that the Division Director first obtain a special clearance, get a briefing on the installation, and then decide what GAO's course of action should be. He immediately requested clearance for himself and an Assistant Director. Even though both had Top Secret and AEC "Q" clearances, a new "full field" investigation was required for the special clearance involved. They have not yet received the clearances, and consequently have obtained no information about the installation other than its name.

In another instance, this division had one of our regional offices make a survey at a DOD field installation having responsibility for analyzing data contained in foreign country technical publications. The survey proceeded well until our requests for information apparently reached the sensitive stage. A meeting was then held with a high intelligence official in Washington at which time the conditions under which we could continue our work were outlined. The official seemed to be very cooperative and offered to accelerate the special clearance procedure so long as no more than 3 or 4 staff members were to be cleared and assigned to intelligence work for several years. It appeared to us that we would not have full control over the direction of our effort. Because of this and other factors we decided to terminate the survey.

On another assignment, initiated at the request of a Senate Armed Services subcommittee, we attempted to compare the Soviet and U.S. expenditures for military research and development. We had good cooperation from DOD, including access to some intelligence reports, due at least partially to the existence of a congressional request. But even so, we were not able to see all the intelligence reports used by DOD in making its own comparison. The intelligence community refused to provide us with the reports or to work with us directly.

Our International Division has the most contact with and concerning the intelligence community. The International Division has had contact with the Central Intelligence Agency directly or indirectly in connection with broad reviews regarding such matters as international narcotics control, military activities in Laos, contracting for technical services, language training, transfers of excess defense articles to foreign governments, U.S. economic assistance programs, and

the wheat sale to the Soviet Union. In some cases the Division has experienced cooperation from the CIA in obtaining information it desired; in other cases attempts to get information were frustrated. The Division's overall success in obtaining information from the intelligence community must be characterized as border line, at best.

Finally, we might discuss the work of our Logistics and Communications Division with respect to the National Security Agency (NSA). The NSA is a separately organized agency within the Department of Defense and, for financial administrative convenience, is under the direction of the Secretary of Defense. It is a unified organization providing for the collecting and presenting of intelligence information on a worldwide basis through verbal or message type media and interception and analysis of wave or signal type communications. NSA is also responsible for insuring secure communications systems for all departments and agencies of the Government. The Congress has enacted several statutes to safeguard the agency's cryptologic activities and to enable the Government to limit disclosure of its cryptologic activities to such information as does not interfere with the accomplishment of cryptologic missions.

In response to a request by the Director of NSA an arrangement was approved by the Comptroller General on July 18, 1955, whereby a GAO staff member would be assigned to the NSA on a permanent basis to perform on-site audits of its vouchers and accounts. The designated staff member or GAO representative and the responsible Director having general supervision for this work were required to obtain the necessary special security clearance to conduct reviews, surveys, or other similar efforts.

From 1955 through 1973 only two or three GAO personnel had this special clearance at any one time. During this period the audit effort by GAO has been primarily the compliance type, that is, examining the financial accounting records and related documents together with limited effort in the procurement and contracting areas.

Under present on-site audit procedures all vouchers, contracts, schedules, accounts current or statements of transactions, and other supporting documents are kept at NSA or designated records storage sites for audit purposes. This is primarily for security reasons because the majority of the documentation is of classified nature and not for ready publication.

The ready accessibility of the GAO representative(s) to NSA officials provides for frequent discussions and ready "on the spot" resolution of questionable entitlement claims provides for early detection of over or under payments thereby enabling NSA to take appropriate action. Generally, these matters and other queries relating to the functions of NSA are handled between GAO representative(s) and cognizant NSA officials on an informal basis primarily because of agency controls and provisions of law to safeguard the sensitive activities of the NSA.

The provisions of Public Law 86-36, approved May 1959 enables NSA to function without disclosure of information which would endanger the accomplishments of its missions. Section 6 thereof provides that no law shall be construed to require the disclosure by the organization or any function of the NSA of any information with respect to the activities thereof. We believe that this section should not be construed as prohibiting GAO access on a confidential basis but only as prohibiting disclosure of its findings to the public at large. Consequently, no formal report disclosing the results of our continuing examinations of the agency activities has been published. To date, informal discussions with officials outside of NSA have been held with only those GAO personnel, at the director level or higher, having the proper clearance and the need-to-know concerning the various sensitive activities of this agency.

Discussions were held in latter 1973 and early 1974 with top-level NSA officials about GAO expanding its examinations by performing management-type reviews of the significant aspects of the agency's operations as well as the compliance type financial audits and certain assist work for other GAO divisions that we have been engaged in up to the present. Although it was concluded that the expansion was feasible, performance of reviews in some functions would be limited from a practical viewpoint, based upon applicable laws, regulations, and controls governing the cryptologic functions of NSA.

Furthermore, it was very evident that any work involving NSA operations would require, without exception, the special clearance for each GAO staff member assigned responsibility for this type of work. This can be a problem because (1) the clearance is expensive, (2) requires at least 6 or more months to complete, (3) for certain operations higher level clearances

might be necessary, and (4) the results of the work performed would be highly classified and severely limited in distribution.

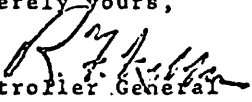
Since discussions in latter 1973, arrangements have been made with NSA to have eight additional staff members obtain the necessary clearances. This will provide ten staff members with this type clearance. To date seven have been cleared. We have been advised that the required clearance for work at NSA will generally be acceptable for performing similar work at other organizations (other than the CIA) within the intelligence community. We plan for fiscal year 1975 preliminary review efforts of NSA's automatic data processing functions.

As indicated by the foregoing, we have had some serious difficulties in obtaining information from and about the intelligence community. Sometimes the community has cooperated to the extent of providing us with the requested information but we have been unable to verify it independently. The problem of obtaining proper security clearances is a major obstacle to our work. Hence, for example, while many of our staff have clearances for "Top Secret" defense data and "Atomic Energy Restricted" data, these are not considered sufficient for access to all intelligence data. In each case the "need-to-know" test is applied and the deeper we have tried to delve into the workings of the intelligence community, the more difficult the test becomes. We have been told that within the Defense intelligence community there would be over 100 separate clearances involved if one person was to gain access to the entire community. The time it takes to obtain clearances varies but it is at best, a slow process. Also, as indicated, there is a question as to whether we could get enough staff members cleared to do a thorough job on a timely basis.

From prior experience, it is our view that a strong endorsement by the congressional oversight committees will be necessary to open the doors to intelligence data wide enough to enable us to perform any really meaningful reviews of intelligence activities.

We trust the above has been responsive to your inquiry.

Sincerely yours,


Acting Comptroller General
of the United States

CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20503

16 June 1975

Honorable Elmer B. Staats
Comptroller General of the United States
General Accounting Office
441 G Street
Washington, D. C. 20548

Dear Mr. Staats:

My attention has been directed to a letter from Mr. Keller, General Accounting Office, to the Honorable William Proxmire dated May 10, 1974, which was placed in the Congressional Record by Senator Proxmire on February 11, 1975. The letter deals with the intelligence community and reviews the General Accounting Office's right to audit and obtain information from the Central Intelligence Agency.

Inasmuch as Mr. Keller has treated a subject basic to this Agency's capability to carry out work mandated by Congress, I believe it would serve a useful purpose to review some of the background concerning the use of confidential funds and their relationship to the audit of CIA over the years.

Mr. Keller notes in his letter that there are "a fairly substantial number of instances where expenditures are accounted for solely upon a certification by the head of the department or establishment involved." The need is clear in the case of this Agency. The necessity to safeguard certain truly vital foreign intelligence secrets has been recognized by the Congress in its direction to the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure. This responsibility was complemented by authorizing certain expenditures "for objects of a confidential, extraordinary, or emergency nature," to be accounted for solely on the certificate of the Director of Central Intelligence. Such expenditures would apply, for example, to a secret agent operating abroad in a hostile climate whose identity must be protected not only so that he can continue supplying the intelligence involved, but also because his freedom--and on occasion his life--weighs in the balance. p. 7

Other intelligence activities do not have such obvious security requirements, but are, nonetheless, within the sources and methods concept. Liaison with foreign intelligence and security agencies is extremely important in fields of both positive intelligence and counterintelligence. Such liaisons to be effective depend on the confidence of each service that the other will protect not only the mere fact of the relationships, but also its sources and methods and sensitive information. Compromise of any of these brings not only protests from the foreign liaison service, but in some cases a lessening or even cessation of its cooperation.

Even overt activities have their own security problems. Thus, many U. S. citizens and others are willing to provide sensitive information to overt intelligence units only on condition that their cooperation in this respect be absolutely protected.

This need for the special protection of intelligence sources and methods has been well recognized by officials in the executive, judicial, and legislative branches of our Government. Mr. Lindsay C. Warren, then Comptroller General of the United States, in a letter dated March 12, 1948, to the Director, Bureau of the Budget, addressed the provision granting the Director of Central Intelligence the power to certify the expenditure of confidential funds by stating that while it provided "for the granting of much wider authority than I would ordinarily recommend for Government agencies, generally, the purposes sought to be obtained in the establishment of the Central Intelligence Agency are believed to be of such paramount importance as to justify the extraordinary measures proposed therein." He went on to say that the "necessity for secrecy in such matters is apparent and the Congress apparently recognized this fully in that it provided in section 102(d)(3) of Public Law 253, that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure." Under these conditions, he stated, "I do not feel called upon to object to the proposals advanced ..."

It has been and it remains the policy of CIA to rely upon vouchered funds wherever possible. (Vouchered funds are those which can be accounted for and audited in conformance with the laws that apply to other Government agencies and with standard Government regulations and procedures.) Currently more than half of the Agency's appropriations are disbursed as vouchered funds. The confidential funds certification authority referred to by Mr. Warren in his March 12, 1948 letter is reserved for "objects of a confidential, extraordinary, or emergency nature."

From the beginning of CIA records for all vouchered fund expenditures were made available to and were subject to a voucher audit by the GAO. Use of the voucher audit procedure allowed the GAO to examine expenditure and collection vouchers and related documents to determine whether expenditures were made legally and solely for the objects for which appropriations were made. Use of the voucher audit procedure also allowed CIA to protect those activities of a confidential, extraordinary, or emergency nature, i.e., intelligence sources and methods.

Subsequent to the enactment of the CIA legislation, GAO adopted a "comprehensive audit approach," and raised with the CIA Subcommittee of the House Armed Services Committee the desirability of an expanded audit of Agency activities. The Comptroller General stated by letter dated May 29, 1959 to Subcommittee Chairman Kilday that he did "not recommend any change in section 10 (now section 8) of the Central Intelligence Act" and that "any broadening of our audit activities should not include an evaluation of the intelligence activities of the Agency."

Mr. Allen Dulles, then Director of Central Intelligence, agreed that GAO should expand its current audit activities in a letter to the Comptroller dated October 16, 1959, cautioning, however, that the comprehensive audit would have to be limited so as to remain outside the area of sensitive security operations for which by law the Director's certificate must be deemed a sufficient voucher.

The results of the trial period of comprehensive audit from 1959 to 1961 were made known to the CIA Subcommittee in a letter of May 16, 1961 from the Comptroller General in which he said the GAO planned to discontinue the audit of CIA activities. He acknowledged that various steps were taken by the CIA "to place the General Accounting Office in a position to make a comprehensive audit of the overt activities of CIA." Nevertheless, he stated that GAO "cannot effectively review and evaluate activities of the Support Component because the confidential and overt activities of this component are integrated to such an extent that we cannot make reasonably comprehensive audits." He further stated "we have been given sufficient access to make reasonably comprehensive reviews of the overt activities of the Intelligence Component, but such reviews, in our opinion, will not be productive of significant evaluations because we cannot feasibly evaluate the extent to which needed overt information is available for collection or determine the need for the intelligence information selected for collation and use in the production of intelligence reports." In short, the Comptroller General was recognizing the conflict between the philosophy underlying a "comprehensive audit approach" and the Director's statutory responsibility and authority to protect intelligence sources and methods.

Both the Director and Chairman Vinson, of the House Committee on Armed Services, requested that the Comptroller General continue to audit Agency affairs on a limited basis, but after another trial period the Comptroller General reiterated his earlier view. In a letter to Chairman Vinson dated June 21, 1962, the Comptroller General stated his belief that for maximum effectiveness "it would be necessary for our GAO audit staff to have nearly complete access to CIA activities," and that even to perform reasonably comprehensive reviews would require "complete access to the administrative activities . . . that are performed in support of both sensitive and nonsensitive operations of CIA."

Chairman Vinson replied to the Comptroller General on July 18, 1962, stating that, "the restrictions you met within the Central Intelligence Agency are necessary, I believe, for the proper protection of its intelligence activities and should be maintained." The Chairman agreed, however, that in view of the Comptroller General's opinion that a continued audit was not a worthwhile effort, GAO might withdraw from further audit activities in the Central Intelligence Agency.

In summary, I believe that several points are deserving of emphasis in assessing the nature and history of GAO's audit activities with respect to this Agency:

(a) CIA cooperated fully in all respects in extending administrative support and in granting security clearances and access to information related to vouchered fund activities.

(b) The Chairman of the interested oversight committee in the House of Representatives was fully informed of the nature and status of the activity.

(c) This Agency encouraged GAO to conduct and to continue to conduct its activities consistent with the operational and statutory requirements imposed upon this Agency.

(d) The decision to discontinue the audit activities was made solely by GAO and was approved by the Chairman of the House Armed Services Committee.

Sincerely,



W. E. Colby
Director



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-179296

June 24, 1975

The Honorable W. E. Colby, Director
Central Intelligence Agency

Dear Mr. Colby:

Thank you for your letter of June 16, 1975, concerning the Deputy Comptroller General's letter of May 10, 1974, which deals with the intelligence community and reviews the GAO's right to audit and obtain information from the CIA.

Your views on Mr. Keller's letter will be helpful in connection with any future comments the GAO may have to make. I must note however that I do not think that Mr. Keller's statements are inconsistent with the facts stated in your letter, although they are not in as much detail in some areas as those you have set forth in your letter. I might add that Mr. Keller was familiar with the background of the audit of CIA by GAO and was a participant in the negotiations during the 1959 to 1962 period.

I appreciate receiving your comments.

Sincerely yours,
James B. Aronson

Comptroller General
of the United States

Part D.—Correspondence between the GAO, the CIA, and the House Committee on Armed Services (May 29, 1959, to July 26, 1962), concerning GAO audits of the CIA.

COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON 25

FILE COPY - COMP. GEN.

May 29, 1959

Honorable Paul J. Kilday, Chairman
Special Subcommittee, Central Intelligence Agency
Committee on Armed Services
House of Representatives

Dear Mr. Chairman:

On May 15, 1959, Mr. A. T. Samuelson, Director of our Civil Accounting and Auditing Division, attended an executive meeting of your Subcommittee to discuss our audit responsibilities and activities at Central Intelligence Agency. At the conclusion of this meeting, it was suggested that recommendations be submitted for the future audit activities by the General Accounting Office at this Agency.

Following the enactment of the Central Intelligence Agency Act of 1949, the then Director of the Agency requested that notwithstanding the very broad and unrestricted powers granted to the Central Intelligence Agency by the Act on matters of expenditures at the site, no provisions preferred by the Comptroller General be continued. Accordingly, the General Accounting Office has been asked to make a study of expenditures under the provisions of the Act and to report on the propriety of continued Central Intelligence Agency. However, in view of the provisions of section 10 of the Central Intelligence Agency Act, no exceptions have been taken to any expenditures. In those cases where questionable payments came to our attention, we refer the same to the CIA Comptroller's Office for corrective action. In using the term questionable payments, we mean any payments which, except for section 10 (a) of the Act, would appear to be improper or illegal either under law or under the decisions of the Comptroller General. In our audit work, we have not taken the tentative position of Agency policies, nor of its practices and procedures, and we have made no audit of expenditures of unauthorized funds.

Since the enactment of Central Intelligence legislation, we have generally broadened the type of audit we make of the activities of most Government agencies. Under our comprehensive audit approach, our basic purpose is to review and evaluate the manner in which the agency or activity under audit carries out its financial responsibilities. This includes the proper use of funds in incurring the expenditure of funds and the utilization of property and personnel in the furtherance only of authorized programs or activities in an effective, efficient, and economical manner. In carrying out this kind of an

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audit, we examine the organization structure and review the established agency policies for conformity with legislative intent and applicability to agency activities. We also examine agency practices and procedures followed in carrying out the agency policies and make selective examinations of actual transactions as a means of appraising the application of agency practices and procedures. Reports on the results of our work are submitted to the Congress and to agency management officials.

We believe that a broader type of audit is appropriate for our work at Central Intelligence Agency and is more likely to be productive of evaluations of the administrative functions which would be helpful to the Congress and the Agency Director. We have accordingly concluded that it would be desirable to expand our audit work at Central Intelligence Agency more in line with our regular comprehensive audit approach. The expanded work would include an examination of vouchered expenditures, and, at the outset, the controls and procedures used in processing unvouchered expenditures. Also we would propose to make a limited examination of the support for unvouchered expenditures in accordance with such agreement as to access as can be worked out between CIA and our Office. As indicated by the preceding comments we have heretofore carried out only limited audit work at CIA, and we do not believe such limited work should be continued.

At this time we do not recommend any change in section 10 of the Central Intelligence Agency Act. We believe, however, that your subcommittee could be very helpful in effecting a change in the scope of our audit work at CIA by advising the Agency of your interest in broadening the audit performed by the General Accounting Office. Any broadening of our audit activities should not include an evaluation of the intelligence activities of the Agency.

We are prepared to discuss this matter further at your convenience.

Sincerely yours,

JOSEPH CAMPBELL

Comptroller General
of the United States



CENTRAL INTELLIGENCE AGENCY

WASHINGTON 25, D. C.

OCT 20 9 01 AM '59
OFFICE OF THE DIRECTOR

W. Samuelson
W. H. Kellen

B-133200

10 OCT 1959

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INDEX

OCT 21 1959

B.A.O.

The Honorable Joseph Campbell
The Comptroller General of
the United States
Washington 25, D.C.

Dear Mr. Campbell:

Since we had the pleasure of briefing you on 30 July, we have discussed further with Mr. Samuelson how the General Accounting Office's audit of this Agency might be improved. I believe that the General Accounting Office can expand its current audit activities in a considerable portion of the Agency, and in moving forward in this direction I feel that we should reach agreement on certain fundamental aspects.

In the Central Intelligence Agency Act of 1949, the Congress, recognizing some of the unique problems involved in the conduct of intelligence activities, provided broad authorities over the expenditure of and accounting for Agency funds. In particular, Section 3 of that Act (formerly Section 10) provides that expenditures for objects of a confidential, extraordinary, or emergency nature are "to be accounted for solely on the certificate of the Director and every such certificate shall be deemed a sufficient voucher for the amount therein certified." This wording does not contemplate the review of expenditures which the Director certified were made for confidential, extraordinary, or emergency purposes.

While all funds appropriated to the Agency are technically on an "unvouchered" basis, it has been my policy and that of my predecessors to limit the exercise of this special authority to those activities which in the national interest should have the maximum security protection. To the extent possible Agency funds are expended under the other provisions of the Central Intelligence Agency Act and the vouchers for these expenditures are available to the General Accounting Office. This policy has been exercised to such a degree that certain activities, not in themselves sensitive but conducted solely in support of highly

confidential operations, are funded under general authorities without involving my special authority to make final accounting therefor. A comprehensive audit of the sort now conducted by the General Accounting Office in other agencies, if applied to our so-called vouchered expenditures, would necessarily reach into the confidential operations which they support and which are protected by my special authority under Section 8 of the Act. In these instances, therefore, the comprehensive audit would have to be limited so as to remain outside the area of sensitive security operations.

In view of the statutory background, I trust that you will agree with the position set forth above. If you have any question I would be delighted to discuss the subject with you at your convenience. If we are in agreement on these fundamental principles, I suggest that your representatives continue to explore with my Staff the manner in which the scope of the General Accounting Office's audit of the Agency may be broadened, consistent with the security requirements described above.

Sincerely,



Allen W. Dulles
Director



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON 25

B-133200

October 21, 1959

FILE COPY - COMP. GEN.

Honorable Paul J. Kilday, Chairman
Special Subcommittee, Central Intelligence Agency
Committee on Armed Services
House of Representatives

Dear Mr. Chairman:

Enclosed for your information is a copy of a letter to Mr. Allen Dulles, Director, Central Intelligence Agency, on the proposed extension of the audit at Central Intelligence Agency. In this letter we state we are willing, on a trial basis, to broaden our activities at Central Intelligence Agency within certain parameters outlined in Mr. Dulles' letter of October 16, 1959.

Sincerely yours,

Joseph C. Gurnea

Comptroller General
of the United States

Enclosure



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON 25

B-133200

October 21, 1959

Honorable Allen Dulles, Director
Central Intelligence Agency

FILE COPY - COMP. GEN.

Dear Mr. Dulles:

Your letter dated October 16, 1959, concerning a proposed extension of our audit of Central Intelligence Agency has been reviewed, and further discussions have been had between representatives of this Office and your Staff.

Your letter notes the unique problems involved in the activities of the Central Intelligence Agency and the broad authorization given you over the expenditures of and accounting for Agency funds. In recognition thereof, you indicate that an audit of the Central Intelligence Agency would have to be limited to reviews outside the area of sensitive security operations on:

- (1) Expenditures certified by the Director under Section 8 of the Central Intelligence Agency Act of 1949, as amended.
- (2) Certain activities in support of confidential operations protected by your authority under Section 8.

We agree that to the extent expenditures are certified by you as confidential, extraordinary, or emergency nature, such expenditures are not subject to examination by us without your concurrence.

In our comprehensive audits, we examine the organization structure, agency policies, and agency practices and procedures, together with a selective examination of actual transactions as a means of appraising the application of agency practices and procedures. As a result of the discussions with your Staff it seems possible for the General Accounting Office to expand its audit at the Central Intelligence Agency into a considerable part of the Agency's activities, even though our reviews would be outside the area of sensitive security operations. Despite the limitation, we believe as a result of the reviews we could make that we would be in a position to make evaluations of a substantial part of the administrative functions.

The Central Intelligence Agency presents problems on sufficient breadth of coverage and review of detail for the purpose of reaching sound evaluations, but we are willing to broaden our activities at Central Intelligence Agency within the principles expressed in your letter. However, in the event it appears after a trial period that our reviews are limited to such an extent that we cannot effectively and constructively accomplish any worthwhile objectives, we will have to consider whether the audit should be continued.

On the basis of the above, we are willing to have further discussions with your Staff in order that the audit may proceed.

Sincerely yours,

Joseph Campbell
Comptroller General
of the United States



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON 25

B-133200

MAY 16 1961

COMP. GEN.
FILE COPY

Honorable Allen Dulles, Director
Central Intelligence Agency

Dear Mr. Dulles:

The General Accounting Office has completed a review of selected overt activities of the Central Intelligence Agency. Based on this review, we believe that under existing security restrictions on the General Accounting Office audit of CIA activities, we do not have sufficient access to make comprehensive reviews on a continuing basis that would be productive of evaluations helpful to the Congress.

Our review of selected overt activities in the Intelligence Component disclosed certain matters that were brought to the attention of CIA officials, and we were advised by them that corrective action on these matters is to be taken, or is presently under consideration by CIA.

I wish to acknowledge the cooperation of CIA officials in taking various steps to place the General Accounting Office in a position to make a comprehensive audit of the overt activities of CIA.

Transmitted herewith is a copy of a letter sent today to the Chairman, Special Subcommittee, Central Intelligence Agency, Committee on Armed Services, House of Representatives, presenting the results of our review.

Sincerely yours,

Joseph H. Chandler

Comptroller General
of the United States

Attachment

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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON 25

MAY 16 1961

Paul J. Kilday, Chairman
Special Subcommittee, Central Intelligence Agency
Committee on Armed Services
House of Representatives

Dear Mr. Chairman:

The General Accounting Office has made a review of selected activities of the Central Intelligence Agency (CIA) for the purpose of determining whether the scope of the audit of the General Accounting Office could be expanded sufficiently to make reasonably comprehensive evaluations of CIA activities that would be helpful to the Congress.

This review was made pursuant to the interest indicated by the Special Subcommittee at an executive hearing in May 1959. Following several meetings between representatives of the General Accounting Office and CIA, the Director of Central Intelligence and the Comptroller General in October 1959 had an exchange of correspondence concerning the audit and concerning restrictions on undertaking reviews in the area of sensitive security operations. Various steps were taken by CIA to place the General Accounting Office in a position to make a comprehensive audit of the overt activities of CIA. It is our view, however, that under existing security restrictions on our audit of CIA activities, we do not have sufficient access to make comprehensive reviews on a continuing basis that would be productive of evaluations helpful to the Congress.

We limited our review to selected overt activities as access to the covert (confidential) activities of CIA was denied us. We have had no access whatsoever to the Plans Component, and we cannot effectively review and evaluate the activities of the Support Component because the confidential and overt activities of this component are integrated to such an extent that we cannot make reasonably comprehensive audits. We have been given sufficient access to make reasonably comprehensive reviews of the overt activities of the Intelligence Component, but such reviews, in our opinion, will not be productive of significant evaluations because we cannot possibly evaluate the extent to which needed overt information is available for collection or determine the need for the intelligence information selected for collection and use in the production of intelligence reports. About 70 percent of the annual expenditures of the Intelligence Component are used to payroll and other contractual payments for personal services rendered in collecting, on the basis of personal judgment under broad guidelines established by the intelligence community, the specific information to be collected, collated, and used in the production of intelligence reports.

BECK VALENTINE E. GONZA

Based on our review, we believe that (1) CIA is financing certain Library of Congress activities which substantially transcend CIA's interest and responsibility for providing a centralized reference service as a service of common concern to the intelligence community and (2) administrative controls over CIA's covert field organization, the U.S. Joint Publications Research Service, should be strengthened. In addition, we have questioned the arrangements under which CIA is financing certain activities at the Department of State.

Two projects at the Library of Congress, the Monthly Index of Russian Accessions and the East European Accession Index, are being financed through the operating budgets of the Office of Central Reference. The budget of this office includes \$685,000 to finance these projects in fiscal year 1961. The projects produce publications which are primarily distributed to public and private research organizations and libraries in the United States and many foreign nations, including some in the U.S.S.R. and its satellites. These projects, in our opinion, substantially transcend CIA's interest and responsibility for providing a central reference facility as a service of common concern to the intelligence community.

We have been advised by CIA that based on a review of the needs of the intelligence community, it has been determined that the present published form of these indexes is not essential for intelligence purposes, but, there are portions of the research work that goes into the preparation of the indexes that CIA would want to continue, and the matter is under active consideration to determine what portion of the related costs should continue to be financed by CIA.

Certain administrative procedures pertinent to CIA's control over the activities of its covert field organization, the U.S. Joint Publications Research Service, should be strengthened. We have been advised by CIA that changes are to be made which will strengthen these controls.

Two projects at the Department of State, the National Intelligence Survey and Biographic Intelligence, are being financed by CIA through the operating budgets of the Office of Central Reference and the Office of Basic Intelligence. The budgets of the two offices include \$2,417,000 to finance these projects in 1961. In April 1961, we were advised by CIA that the Department of State and CIA have been considering the possible transfer of these Department of State activities to CIA. CIA presently has under consideration other matters raised by us on these financing arrangements, and we will furnish you with a supplementary letter when decision has been reached thereon.

In as much as we cannot, in our opinion, effectively accomplish any worthwhile audit objectives on a continuing basis, we plan to discontinue our audit of CIA activities.

We are prepared to discuss these matters with you should you so desire.

A copy of this letter is being sent today to the Director of Central Intelligence.

Sincerely yours,

W. Joseph Campbell
Comptroller General
of the United States



CENTRAL INTELLIGENCE AGENCY

WASHINGTON 25, D. C.

OFFICE OF THE DIRECTOR

MAY 18 10 15 AM 1961

17 May 1961

The Honorable Joseph Campbell
Comptroller General of the United States
Washington 25, D. C.

JC

Dear Mr. Campbell:

I have your letter of 16 May 1961 enclosing a copy of your letter of the same date to the Honorable Paul J. Kilday with regard to your review of selected activities of the Central Intelligence Agency for the purpose of determining whether the scope of the audit of the General Accounting Office could be expanded.

I wish to express my appreciation for your cooperation and understanding since our exchange of correspondence in October of 1959 which formed the basis on which we have jointly attempted to expand GAO audit activities in the Central Intelligence Agency. The reviews made by your representatives have brought a number of matters to our attention which have been helpful and on which corrective action either has been or is being taken.

I believe that over the years the audit of Agency activities by the General Accounting Office has been most beneficial and regret that you plan to discontinue it completely. Before final action is taken I should like very much to discuss with you the possibility of your continuing an audit on some scale.

Sincerely,

Allen W. Dulles
Director

EIGHTY-SEVENTH CONGRESS

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HOUSE OF REPRESENTATIVES
 COMMITTEE ON ARMED SERVICES
 SUITE 313, HOUSE OFFICE BUILDING
 WASHINGTON 25, D.C.

May 18, 1961

CONFIDENTIAL

MAY 18 4 03 P.

Honorable Joseph Campbell
 Comptroller General of the United States
 Washington 25, D. C.

Dear Mr. Campbell:

This is with reference to your letter of May 16 to Honorable Paul J. Kilday, Chairman, Subcommittee on the Central Intelligence Agency, Committee on Armed Services.

Mr. Kilday and I have discussed the contents of your letter at some length and in view of the course of action which you contemplate, I feel it incumbent upon me to promptly express my judgment on this matter.

As you know, Mr. Kilday's Subcommittee gave considerable attention to the audit conducted by the General Accounting Office of the Central Intelligence Agency. It was fully recognized that there were certain restrictions on the scope of the audit by the General Accounting Office, which restrictions were inherent in a relationship of this nature. However, the Subcommittee was of the firm opinion that even a limited audit of overt accounting actions would serve a worthwhile purpose. In furtherance of that judgment, the Subcommittee concluded that the limitations which were inherent required more experienced representatives of your office than had been assigned to this function. The Committee was gratified that you concurred in that judgment and improved the quality of the representatives so assigned.

I am of the firm opinion that the points which you raise in your letter to Mr. Kilday should be the subject of further discussions between the Committee, the General Accounting Office, and the Central

Honorable Joseph Campbell
Page Two

May 18, 1961

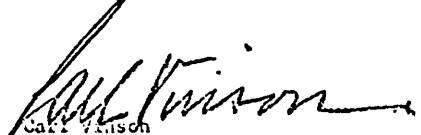
Intelligence Agency. Pending the completion of those discussions, I can not recommend too strongly against the course of action which you propose in the final paragraph on page two of your letter. I know you must fully appreciate that there are other overriding considerations which can not be divorced, under prevailing circumstances, from any change in the existing relationship between your office and the Central Intelligence Agency.

I trust you will agree with my firm belief that there is nothing in this situation which requires precipitous action. On the other hand, I want to assure you that the matters set forth in your letter will be the subject of further consideration by Mr. Kilday's Subcommittee, in full consultation with your office, at a time which better accommodates the overriding requirements of national interest.

I would appreciate a response to this expression of my views.

With kindest regards, I am

Sincerely,


Carl Vinson
Chairman



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON 25

B-133200

MAY 23 1961

Honorable Carl Vinson, Chairman
Committee on Armed Services
House of Representatives

Dear Mr. Chairman:

We acknowledge your letter dated May 18, 1961, responding to our letter of May 16 to the Honorable Paul J. Kilday, Chairman, Subcommittee on the Central Intelligence Agency, Committee on Armed Services, relating to our reviews at the Central Intelligence Agency.

We are mindful of the interest in our reviews at CIA as expressed by Chairman Kilday and members of his Subcommittee to a representative of our Office at an executive meeting on May 15, 1959. After considering these views we informed Chairman Kilday by letter dated May 29, 1959, that we believed a broader type of audit more in line with our regular comprehensive audit approach was appropriate for our work at CIA. The expanded work would include an examination of vouchered expenditures, and, at the outset, the controls and procedures used in processing expenditures. In addition, we would make an examination of the support for unvouchered expenditures in accordance with such agreement as to access as could be arranged between CIA and our Office. We also stated in this letter that heretofore we had carried out only limited audit work at CIA and that we did not believe such limited work should be continued.

Following several meetings with the Director, Central Intelligence Agency, and members of his staff, we exchanged correspondence in October 1959 which in essence recognized that an audit of Central Intelligence Agency would have to be limited to reviews outside the areas of sensitive security operations on:

- (1) Expenditures certified by the Director under Section 8 of Central Intelligence Act of 1949, as amended.
- (2) Certain activities in support of confidential operations protected by the authority to the Director under Section 8.

We agreed that to the extent expenditures were certified by the Director as being of a confidential, extraordinary, or emergency nature, such expenditures were not subject to examination by the General Accounting Office without the concurrence of the Director. Nonetheless, we were willing to broaden our activities at CIA within the principles laid down by the Director in his letter of October 16, 1959, but we stated in our reply dated October 21, 1959, that in the event it appeared after a trial period our reviews were limited to such an extent that we could not effectively and constructively accomplish any worthwhile objectives we would consider whether or not the audit should be continued.

During the ensuing 18 months we undertook to make reviews of selected overt activities as access to the covert activities was not made available to us. In this connection, access to the activities of the Support Component in which we could be expected to be most effective in our reviews was significantly limited because covert and overt activities of this component are integrated. We were not able to review sufficiently financial management, property management, procurement, and similar activities for any effective appraisal of the administration of these activities. Our access for a review of the internal audit program and reports was very limited and we had no access whatever to the work of the Inspector General; therefore, we were not able to appraise the internal review mechanisms within the Agency. We have had rather complete access to the activities of the Intelligence Component, but the nature of these activities and the lack of complete access to internal review programs and reports has significantly limited our effectiveness in this area.

In undertaking to broaden our reviews at the Central Intelligence Agency, we recognized that the nature of the activities of this Agency presented problems on sufficient breadth of coverage and review of detail for the purpose of reaching sound conclusions. We made every effort to broaden our review of the activities of the Agency within the limitations which were placed on us, and we wish to assure you our conclusion that we could not effectively accomplish any worthwhile audit objectives at CIA on a continuing basis was reached only after considering all the factors as we saw them. However, having in mind your firm belief that our work should not be discontinued we will continue our limited program.

We note from your letter that Chairman Kilday's Subcommittee will further consider the contents of our letter of May 16, and we shall be prepared to meet with him and the members of his Subcommittee at their convenience.

Sincerely yours,

JOSEPH CAMPBELL

Comptroller General
of the United States



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON 25

B-133200

MAY 23 1961

Honorable Allen Dulles, Director
Central Intelligence Agency

Dear Mr. Dulles:

We acknowledge your letter dated May 17, 1961, responding to our letter of May 16 to you relating to our reviews at the Central Intelligence Agency.

We acknowledge also your appreciation in our joint attempt to expand the General Accounting Office activities at the Central Intelligence Agency and your comment that the reviews made by our representatives have been helpful. As noted in our letter of May 16, 1961, we do not believe that we have had sufficient access to permit us to make reviews sufficient in scope to be helpful to the Congress and for this reason we planned to discontinue the audit at this time. Your letter notes that over the years the work of the General Accounting Office has been most beneficial to you.

We believe it is appropriate here to clarify the scope of our work program preceding the reviews that were undertaken following our exchange of letters in October 1959.

Following the enactment of the Central Intelligence Agency Act in 1949, the then Director of the Agency requested that notwithstanding the very broad and unusual powers granted to the Central Intelligence Agency by the act an audit of expenditures at the site as previously performed by the General Accounting Office be continued. Accordingly the General Accounting Office continued to make audits of vouchered expenditures under the same arrangements that were in effect with the predecessor Central Intelligence Group. In view of the provisions of Section 8 of the Central Intelligence Agency Act no exceptions were taken to any expenditures but questionable payments coming to our attention were referred to the CIA Comptroller's Office for corrective action. We did not make a substantive review of Agency policies nor of its practices and procedures and we made no audit of expenditures of unvouchered funds.

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However, at the time of the enactment of CIA legislation in 1949 we were in the process of applying the comprehensive audit approach to the activities of most Government agencies. Under this audit approach our basic purpose is to review and evaluate the manner in which the agency or activity under audit carries out its financial responsibilities. We construe financial responsibilities as including the expenditure of funds and the utilization of property and personnel in furtherance only of authorized programs or activities in an effective, efficient and economical manner. In carrying out this type of audit we examine the organization's structure and review the established agency policies for conformity to legislative intent and applicability to agency activities. We also examine agency practices and procedures followed in carrying out the agency policies and make a selective examination of actual transactions as a means of appraising the application of agency practices and procedures. It was this kind of a review that we proposed for the Central Intelligence Agency in accordance with whatever agreement we could reach with you as to access to the records. Our work during the last 18 months has demonstrated to us that under existing security restrictions we do not have sufficient access to make comprehensive reviews of CIA activities on a continuing basis that would be productive of evaluations helpful to the Congress.

We deeply appreciate your interest in the possibility of continuing our work at the Central Intelligence Agency on some scale and we are prepared to discuss this prospect at your convenience. For the present and pending discussions with you and appropriate congressional interests, we will continue our limited program.

Sincerely yours,

JOSEPH CAMPBELL

Comptroller General
of the United States



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON 25

B-133200

JUN 21 1962

Honorable Carl Vinson, Chairman
Committee on Armed Services
House of Representatives

Dear Mr. Chairman:

By letter dated May 16, 1961, to Honorable Paul J. Kilday, Chairman, Special Subcommittee, Central Intelligence Agency, Committee on Armed Services, House of Representatives, we reported upon our review of scope of activities of Central Intelligence Agency (CIA) for the purpose of determining whether the scope of the audit of the General Accounting Office could be expanded sufficiently to make reasonably comprehensive evaluations of CIA activities. In this letter we stated that under the existing security restrictions on our audit of CIA activities we did not have sufficient access to the comprehensive reviews on a continuing basis that would be productive of evaluations helpful to the Congress and that we planned to discontinue the work.

Your letter to us dated May 16, 1961, recommended that the audit not be discontinued at that time and accordingly we have continued our work at CIA despite the severe limitations placed upon us. Our further reviews, confined wholly to certain units in the Intelligence Component, have not resulted in any change in our views that under existing security restrictions on our audit of CIA activities we do not have sufficient access to effectively accomplish any verifiable audit objectives at CIA on a continuing basis. We are submitting this letter so that you may consider further our views on this matter at this time.

The limitations placed upon our audit activities at CIA are severe. Following several meetings with the Director, Central Intelligence Agency, and members of his staff, we exchanged correspondence in October 1959 which in essence recognized that an audit of CIA would have to be limited to reviews outside the areas of sensitive security operations on:

- (1) Expenditures certified by the Director under Section 8 of Central Intelligence Act of 1949, as amended.
- (2) Certain activities in support of confidential operations protected by the authority to the Director under Section 8.

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We agreed that to the extent expenditures were certified by the Director as being of a confidential, extraordinary, or emergency nature, such expenditures were not subject to examination by the General Accounting Office without the concurrence of the Director. The activities in support of the confidential operations embraced practically all of the administrative operations. Nonetheless, we were willing to attempt to make an audit at CIA within the principles stated by the Director in his letter of October 16, 1959, but in our reply dated October 21, 1959, we stated that in the event it appeared after a trial period our reviews were limited to such an extent that we could not effectively and constructively accomplish any worthwhile objectives we would consider whether or not the audit should be continued.

During the ensuing 30 months we undertook to make reviews of selected overt activities as access to the covert activities was not made available to us. In this connection, access to the activities of the Support Component in which we could be expected to be most effective in our reviews was significantly limited because covert and overt activities of this component are integrated. We were not able to review sufficiently financial management, property management, contracting, procurement, and similar activities for any effective appraisal of the administration of these activities. Our access for a review of the internal audit program and reports was very limited and we had no access whatever to the work of the Inspector General; therefore, we were not able to appraise the internal review mechanisms within the Agency. We have had rather complete access to the activities of the Intelligence Component, but the nature of those activities and the lack of complete access to internal review programs and reports has significantly limited our effectiveness in this area.

In undertaking to make reviews at the Central Intelligence Agency, we recognized that the nature of the activities of this Agency presented problems of sufficient breadth of coverage and review of detail for the purpose of reaching sound conclusions. We have made every effort to broaden our review of the activities of the Agency within the limitations which were placed on us, and we wish to assure you that our conclusion that we could not effectively accomplish any worthwhile audit objectives at CIA on a continuing basis was reached only after considering all the factors as we saw them.

To obtain the maximum effectiveness of a General Accounting Office audit of CIA activities, it would be necessary for our audit staff to have nearly complete access to CIA activities. However, we believe it to be possible to perform reasonably comprehensive reviews of CIA activities if we were permitted complete access to the administrative activities, such as financial, procurement, property, and personnel

management and internal review activities that are performed in support of both sensitive and nonsensitive operations of CIA.

We appreciate your interest in our work at CIA and the expression of your views on the discontinuance of our work there is invited. We are prepared to discuss these matters further with you.

Sincerely yours,

Joseph Campbell

Comptroller General
of the United States

EIGHTY-SEVENTH CONGRESS

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FRANK M. BLATTNER, CHIEF CLERK

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COMMITTEE ON ARMED SERVICESSUITE 317, HOUSE OFFICE BUILDING
WASHINGTON-25, D.C.

July 18, 1962

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H. K. Kettner
H. Sam Nelson

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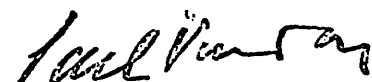
Honorable Joseph Campbell
The Comptroller General
of the United States
Washington 25, D. C.

Dear Mr. Campbell:

I have read your letter of June 21, 1962, concerning the restrictions on your performance of an audit of the Central Intelligence Agency and your opinion that as a result of these restrictions you could not effectively accomplish any worthwhile audit objectives at the Central Intelligence Agency.

I believe the restrictions you met with in the Central Intelligence Agency are necessary for the proper performance of its intelligence activities and should be maintained. Also, Mr. McCone has informed me that among the reorganizational steps he has carried out is a major strengthening of the comptroller and internal audit functions in the Agency. Consequently, I believe you have met the objectives of my letter of May 18, 1961, which recommended that you continue your work in the Agency at that time, and since after this trial period you feel confirmed in your opinion that it is not a worthwhile effort, I will accept your conclusion that you should withdraw from further audit activities in the Central Intelligence Agency.

Sincerely,


Carl Vinson
Chairman



COMPTROLLER GENERAL
OF THE UNITED STATES
WASHINGTON

JUL 26 1962

COMP. GEN.
FILE COPY

Dear Mr. Chairman:

Your letter dated July 13, 1962, on further audit activities by the General Accounting Office at Central Intelligence Agency is acknowledged.

Your acceptance of our conclusion that we withdraw from further audit activities at this Agency is appreciated and we will proceed to complete the work that is in process at a relatively early date.

Sincerely,

Joseph Campbell

Comptroller General
of the United States

Honorable Carl Vinson
Chairman, Committee on
Armed Services
House of Representatives

Part E.—Letter of November 10, 1975, from Mr. Staats to Chairman Pike responding to questions raised during the July 31 hearing.



COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-179296
B-133200

November 10, 1975

The Honorable Otis G. Pike, Chairman
Select Committee on Intelligence
House of Representatives

Dear Mr. Chairman:

This letter responds to your request dated October 8, 1975, for advice and recommendations for the Committee's consideration. Since July 31, 1975, when your Committee received our testimony regarding the relationship between the General Accounting Office and the intelligence agencies, our staff has been in contact on several occasions with the Committee staff to render assistance and advice wherever possible. During one of these recent meetings we discussed a series of questions posed to us near the end of the July 31 hearing. We were requested to supply the Committee with a written statement with respect to the issues raised by those questions.

This letter sets forth our views on the topic of distinguishing, for budget and cost-accounting purposes, between "intelligence" and "non-intelligence" expenditures. This letter also addresses the topics of (a) legislative changes needed to facilitate meaningful GAO audit of intelligence activities and (b) the establishment of a separate personnel clearance and physical security system for the GAO and for the Congress.

A general observation ought to be made as background to the specific points upon which you have asked our comments. The Congress must first make certain fundamental determinations as to the manner and methods by which it will exercise its oversight role. Once this set of basic decisions has been made, the role of the GAO in support of the legislative review function can be more easily and precisely determined. Until these matters are resolved, GAO's review activity with respect to the intelligence agencies will be severely circumscribed by the combination

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of legal and practical inhibitions outlined in our July 31 testimony. Therefore, we see any expansion of our sphere of activity in this area as being particularly dependent upon a strong and clear endorsement from the congressional oversight committees.

"Intelligence" Budget and Costs

The Congress will ultimately have to define the intelligence community by establishing the activities it wants included in an "intelligence" budget; otherwise, it will be left to the executive branch agencies to develop their own interpretations of the concept of "intelligence." For example, does the Congress want to classify Civil Service Commission or Federal Bureau of Investigation background investigations on applicants for Federal employment as being intelligence-gathering for budget purposes? One way this congressional definition might be made would be in the statement of jurisdiction of any new committees which might be created, e.g., a joint committee on intelligence.

Once the Congress has outlined the activities which it wants identified and reported in the intelligence budget, it will be possible to establish guidelines for the executive branch to follow in developing and submitting the budget. The following concepts appear to merit consideration in the establishment of those guidelines.

Installations established for the sole purpose of intelligence-gathering should be fully budgeted for under the intelligence budget. This would include all support and administrative costs as well as the direct costs of intelligence-gathering. Where an intelligence component is only part of an installation's mission, the costs of that component should be identified and included in the intelligence budget, provided that the intelligence portion of the overall mission meets defined criteria of cost significance. In addition to the direct costs of the component, there should be included an appropriate share of the support or administrative costs of the installation.

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In budgeting for capital investment in equipment or facilities, that part of the investment which is for the purpose of intelligence-gathering as defined by the Congress should be identified and included in the intelligence budget. This identification is relatively simple when the equipment or facility is solely or primarily used for the purpose of intelligence-gathering. Where the equipment or facility is multipurpose, it is more difficult to identify the amount of investment which should be identified in the intelligence budget. However, the Congress should make clear its interest in having the intelligence investment determined on a reasonable basis and reported to the Congress along with the rationale used in making the determination. As an example, if out of a force of 30 ships of a type two were normally deployed on intelligence missions, it would be reasonable when budgeting for a replacement ship to use $6 \frac{2}{3}$ percent of the total cost in computing the amount of intelligence investment.

Multimission organizational units when scheduled to perform intelligence-gathering missions would be budgeted for in the intelligence budget, again with the proviso that the intelligence costs should be large enough to warrant separate treatment. All direct costs and an appropriate share of the costs of the administering organization would be included in the intelligence budget. Extraordinary repair and maintenance costs attributable to the intelligence-gathering mission would also be budgeted for as intelligence.

Legislative Changes

You have also asked us to identify some of the specific statutory changes needed to enable GAO to conduct thorough audits of the intelligence community, as well as some estimate of the manpower requirements associated with such audit efforts. As a result of the Committee's request, our Office of General Counsel has provided the Committee staff draft legislative language to enlarge the scope of GAO's audit authority with respect to funds expended on the

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certificate of the head of a department or establishment. We are ready to continue to assist the Committee in this manner.

On the subject of certified expenditures, it seems quite clear that any meaningful GAO review will be dependent upon the revision of existing law. As we noted in our July 31 prepared statement, the existing legal restrictions on our authority are found in the organic Central Intelligence Agency statutes and in certain limitations written into annual appropriations acts for a number of agencies. In addition, there are other provisions of permanent law, to which we referred in the appendix to our July 31, 1975, letter to the Committee, which we believe ought to be considered by the Committee. The significant legal citations are: 10 U.S.C. 7202(a), relating to expenditures on the certificate of the Secretary of the Navy; 28 U.S.C. 537, concerning confidential expenditures by the Federal Bureau of Investigation upon the certificate of the Attorney General; and section 6(a) of P.L. 86-36, relating to non-disclosure of information pertaining to the National Security Agency.

While we do not believe that removal or relaxation of these legislative provisions will alone insure the type of legislative branch oversight which your Committee or the Congress may desire, any reviews GAO might want to make in the future with respect to intelligence expenditures would be dependent, at a minimum, on appropriate statutory alterations. Moreover, even where there are no statutory bars to GAO reviews and access to information, we have sometimes experienced difficulties in securing necessary access to agency records. We have therefore sought legislation to provide a judicial resolution of these problems. In the Senate, the bill is S. 2268, upon which we testified on October 2, 1975, before the Senate Government Operations Subcommittee on Reports, Accounting and Management; our proposed legislation has not yet been introduced in the House of Representatives. A current case-in-point is the matter of our review of the FBI's domestic intelligence operations, wherein there has arisen

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a dispute over GAO's access to investigative files on a random sample basis. This situation was discussed in our testimony on September 24, 1975, before the Subcommittee on Civil Rights and Constitutional Rights, House Judiciary Committee; copies of the GAO statement have been provided to the staff of your Committee. Of course, there is another option, which we mentioned in our testimony before your Committee; this option would be to seek explicit legislative authority for GAO audit of the intelligence agencies and access to the requisite information. Unlike the approach represented by S. 2268, this is not a course of action which we have pursued, but neither have we ruled it out. Your Committee could devote some attention to the possibility of recommending such legislation in its final report.

Our Office has quite limited familiarity with the scope and nature of the operations of the intelligence agencies, since we have not conducted any systematic self-initiated reviews of intelligence activities. In our testimony we identified several areas of activity where we believe that, given the necessary authority, we could conduct useful management-type reviews. However, the magnitude of the effort required to actively pursue these lines of inquiry can only be realistically assessed after we have obtained some actual experience under whatever revisions or clarifications Congress might make in our statutory authority. We would follow the practice we observe with respect to audits of other Federal programs and activities-- to make a preliminary survey to acquaint ourselves with the program or activity to a sufficient degree that we can identify specific areas or issues warranting further review because of their potential for improved efficiency or economy or because of an apparent need to focus management attention in order to achieve more fully the intended results of the program or activity. As this approach implies, the manpower expenditure at the outset, or survey stage, is usually much less than that which takes place later on during the full-scale review. Therefore, we would anticipate, under the circumstances stated in the Committee's

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inquiry, that in the beginning we would expend the equivalent of several man-years of effort, with an undetermined but probably significant increase in effort thereafter. Of course, this would be largely dependent not only on the nature of changes which might be made in existing laws, but also on the interests of the appropriate oversight structure in the Congress.

Personnel and Physical Security
for Intelligence Information

The Committee's third area of interest, in which you requested our comments, concerns personnel security clearances and physical custody of sensitive intelligence documents. It was suggested that the GAO could and should develop a procedure for its own use and that of the Congress which would be independent of the executive branch.

We do not believe that the development and operation of a separate set of procedures for making determinations on personnel security clearances or for maintaining physical custody of highly sensitive intelligence information would be worth the difficulty and expense entailed. Routine "Top Secret" security clearances are granted to our employees when the nature of their work requires. We have experienced no particular difficulties or delays in receiving the results of the full field investigations conducted for us by the Civil Service Commission on a reimbursable basis. With respect to special clearances required for access to intelligence data, we have to date not needed more than a relatively few, primarily for those members of our staff dealing with the National Security Agency. While these clearances are more time-consuming than "Top Secret" clearance, we have recently noted a decrease in the time lapse between the request for a clearance and the notification that it has been granted. We have observed nothing to suggest that our requests for clearances are not treated as expeditiously as internal executive branch requests; indeed, it is possible that some priority is being given to our requests.

Further, with regard to physical custody of sensitive information, we maintain possession of many documents which are classified "Secret" or "Top Secret." However, special types of safeguards are necessary to maintain possession of many categories of intelligence information. As a practical

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solution, when a question might arise concerning where intelligence information is to be kept either during or after a GAO review, we would have no problem if the executive agency were to have physical custody of the extra copies of the report and the supporting workpapers, provided we had an agreement that recognized the right of access on the part of our employees. In fact, during the July 31 hearing, we referred to just such a situation where the extra copies of our report to the House Armed Services Special Subcommittee on Intelligence on certain CIA activities and the workpapers we compiled in conducting the review are retained at CIA headquarters, subject to availability to our staff.

On the other side of the question, there is the problem of the need to develop capabilities and techniques for conducting our own full-field investigations, the matter of the degree of co-operation we could expect from law enforcement agencies, informants, institutions of learning and other investigative sources which may be hesitant to deal with an agency other than one with which they have had long-standing and well-refined working relationships, and the core issue of the recognition or lack of recognition which might be accorded to such security clearances by those agencies from whom, after all, the needed information is to be obtained. In addition, there would obviously be a question concerning the propriety of a legislative branch agency conducting intimate background investigations on Members of Congress and congressional staffs, should any such system include the Congress as well as GAO.

A less drastic alternative is now in effect on a pilot basis, under the sponsorship of the House Government Operations Committee. Under the procedures worked out between the Committee, the GAO, and the Civil Service Commission, the existing executive branch investigative resources provide the necessary data and reports, while the Committee Chairman, after obtaining advice from GAO

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officials conversant with security investigation matters, makes a determination with respect to each Committee staff member as to whether he will grant a security clearance. A copy of the Chairman's formal determination is forwarded to GAO for reference control purposes; the investigative files and reports remain property of the Committee. Agencies needing security verification may be permitted to review the security files in the Committee offices.

Some consideration has been given to the possibility that, if this procedure proves successful, the other Committees of the Congress will be able to make use of this system. At present, the Committee has forwarded several applications to GAO for referral to the Civil Service Commission, but no application has yet proceeded through all the steps specified. Intelligence clearances and atomic energy "Q" clearances have been recognized, however, as a separate problem and are not covered by this new procedure. Should the Committee desire additional information about this matter, our staff is available to discuss the details with the Committee staff.

New Oversight Committee

Your October 8 letter invites our views and recommendations with respect to the actions for legislative and administrative reforms which the Committee might consider. Looking toward a future which seems certain to be characterized by a different congressional approach to oversight of the intelligence agencies, we would be in favor of a joint committee arrangement to carry out this function. The experience of the Joint Committee on Atomic Energy provides an example of House-Senate co-operation to limit the number of persons in both houses who need to have detailed knowledge of sensitive matters and to limit the number of necessary supportive staff. In addition, a joint

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committee would constitute a focal point with which GAO could co-ordinate its future review efforts and to which we could properly report our findings. To be fully effective and to insure public confidence that oversight is being truly exercised by the Congress, the joint committee will have to be representative of the whole Congress and membership on the committee should be for a fixed duration. The specified period of membership should be long enough that sufficient knowledge and expertise in the intelligence community can be acquired by the members. It will probably also be desirable that there be members of the joint committee who hold concurrent membership on other standing committees having jurisdiction over some significant portion of the intelligence community.

On the administrative side, while we are not privy to information necessary to form specific views, we would strongly endorse the principle that agency internal audit functions should be performed actively, by competent and adequately staffed offices, armed by clear and broad authority, with reporting responsibility to the highest levels of management. Similarly, the budget review role of the Office of Management and Budget should be confirmed and, if necessary, strengthened.

In conclusion, we recognize the possible need for adjustments to our internal structure and operating procedures in order to accommodate the special needs associated with any significant reviews of intelligence activities. If the future brings us a more meaningful role to perform, you may be assured that GAO will make the necessary adaptations.

We trust that our observations will be helpful and if we can further assist in developing specific legislative language or in any other way, please let us know.

Sincerely yours,



Comptroller General
of the United States

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**Appendix VI.—Office of Management and Budget staff:
Biographical sketches.**



**EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503**

JAMES T. LYNN

James T. Lynn is Director of the Office of Management and Budget, an Assistant to the President and a member of his Cabinet.

Mr. Lynn came to the Federal government in March 1969 as General Counsel of the Department of Commerce and became Under Secretary of that Department in April 1971. From February 1973 until becoming Director of OMB in February 1975, he served as Secretary of Housing and Urban Development.

Mr. Lynn was born in Cleveland, Ohio, on February 27, 1927. He graduated summa cum laude from Adelbert College of Western Reserve University in 1948 with a Bachelor of Arts degree in economics and political science. He received his Bachelor of Laws degree magna cum laude from the Harvard Law School in 1951.

Returning that year to Cleveland, Mr. Lynn started practice with the law firm of Jones, Day, Cockley and Reavis. He became a partner in 1960 and remained with the firm until he entered public service in 1969.

Mr. Lynn is married to the former Joan Miller of Cleveland. They live in Bethesda, Maryland, with their three children, Marjorie, 19 (now in college), Peter, 16, and Sara, almost 14.

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EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

Paul H. O'Neill

Paul H. O'Neill became Deputy Director of the Office of Management and Budget on December 9, 1974. He was the agency's first official to be confirmed by the Senate after Congress placed that requirement on the OMB Director and Deputy Director in 1974.

Mr. O'Neill was nominated by President Ford after serving for nearly two years as Associate Director of OMB for Human and Community Affairs.

A Federal career executive, Mr. O'Neill joined OMB's predecessor, the Bureau of the Budget, in 1967 as an examiner in the health unit. He had been a systems analyst in the Veterans Administration for the preceding six years. At OMB he led task force groups in the development of welfare reform and health insurance proposals. He later headed the human resources programs division and was Assistant Director for Human Resources and General Government when he was named Associate Director in 1973.

Mr. O'Neill was born in St. Louis, Mo., on December 4, 1935. He spent two years with a general contracting firm in Alaska before entering Fresno State College, where he received a Bachelor's degree in economics in 1960. He studied further at Claremont Graduate School and George Washington University, then gained a master's degree in public administration from Indiana University on completion of a year's study as a Fellow of the National Institute of Public Affairs.

In 1971 Mr. O'Neill won a William A. Jump Foundation meritorious award for skill in program analysis and in formulating human resources programs.

Mr. O'Neill is married to the former Nancy Jo Wolfe of Iowa City. They live in Fairfax, Va., with their three daughters and one son.

* * * * *



EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
WASHINGTON, D.C. 20503

DONALD G. OGILVIE

Donald G. Ogilvie was appointed Associate Director of the Office of Management and Budget for National Security and International Affairs in September 1974.

In this capacity he oversees the preparation and administration of the budget in the Departments of Defense and State, U.S. Agency for International Development, Export-Import Bank and other Federal agencies involved in international affairs. Mr. Ogilvie also coordinates legislation which affect these agencies and seeks to develop more efficient and economical management in the national security and international affairs programs.

Mr. Ogilvie had been Deputy Associate Director for Management, National Security and International Affairs, from 1973 until his appointment. Prior to joining OMB, he was President and Director of ICF, Inc., a Washington-based management consulting and venture capital firm. From 1967-69 he served as Division Head of the Southeast Asia Programs Division, Office of the Assistant Secretary of Defense for Systems Analysis.

Mr. Ogilvie graduated cum laude from Yale University with a degree in economics. He received an MBA degree from Stanford University Graduate School of Business.

Mr. Ogilvie was born in New York City on April 7, 1943, and grew up in Connecticut. He is married to the former Fan White Staunton of Charleston, West Virginia. Mr. and Mrs. Ogilvie and their two children reside in Washington, D.C.

* * * * *

DAVID SITRIN

Deputy Associate Director, National Security

David Sitrin was appointed Deputy Associate Director for National Security in April of 1974. He joined OMB in 1963 and within the National Security Division has been Air Force Branch Chief, Navy Branch Chief and Deputy Division Chief.

After active duty in the Army, where he served as a rifle company commander, Mr. Sitrin was an administrative intern with New York State. Mr. Sitrin began his Federal career with the Navy Department in 1955 where he worked until he came to the BOB in 1963. He served as Budget Officer in the Bureau of Ships and Budget Analyst in the Office of the Comptroller of the Navy.

Mr. Sitrin graduated cum laude from City College of New York in 1951. He received a Maxwell fellowship to Syracuse University, where he was awarded a Master of Public Administration degree in 1952. He also completed a year of graduate study at Stanford University under the President's Education Program in Systematic Analysis.

Richard A. Stubbing

date of birth: 6-13-30

Ph. B. (Commerce) University of Notre Dame, 1952
MBA (Finance) Harvard University 1954
Graduate Study, Princeton University, 1967-68

Active duty, U. S. Navy, 1954-1957.

1957-1961 Cost Engineer, Eastman Kodak

Bureau of the Budget, and Office of Management and Budget, 1962 to present.

1962 - 1965	Budget Examiner on Air Force ballistic missile programs.
1965 - 1970	Budget Examiner on Procurement of missiles, Navy aircraft, tactical aircraft programs, tactical air forces and strategic offensive forces.
1970 - 1974	Assistant Division Chief, National Security Division
1974-present	Deputy Division Chief, National Security Division

Arnold E. Donahue

date of birth: 3-13-38

Georgetown U. AB (History) 1960

Princeton U.MPA (Pub Affairs) 1962

1961 Economist, Commerce Dept. (summer intern)

Intel Officer, CIA, 1962-67

Bureau of the Budget and Office of Management and Budget, 1967 to present.

1967 - 1975 Budget Examiner, Intelligence Unit

1975 - Chief, Intelligence Unit, National
Security Division

Emory E. Donelson, Jr.

date of birth: 12-12-22

Syracuse U. AB (Pol Sci) 1947

MA (Soviet studies) 1949

DSS (Economics and Geography) 1950

US Army, 1943-46

Economics Analyst, CIA, 1950-53

Liaison Officer, CIA, 1954-55

Reconnaissance Specialist, CIA 1956-69

Bureau of the Budget and Office of Management and Budget, 1969 to present

1969 to present Budget Examiner, Intelligence Unit,
National Security Division

Michael A. Driggs

date of birth: 10-12-47

Potomac State C 1965-67

West Virginia University, AB (Pol Sci, Psych) 1969

MPA 1973

U.S. Army, 1969-72

Office of Management and Budget, 1973 to present

1973 - present Budget Examiner, Intelligence Unit,
National Security Division

James T. Holt

date of birth: 7-11-41

Univ. of Oklahoma, BA (Economics & Mathematics) 1963

Univ. of California, MBA (Finance) 1965

USA 1965-67

1968-73 Professional Staff, Center for Naval Analyses

1972-73 Senior Associate, Consolidated Analysis
Center, Inc.

Office of Management and Budget 1973 to present

1973 to present Budget Examiner,
Intelligence Unit
National Security Division

William A. Mitchell

date of birth: 5-29-17

Clemson C. BS (Govt., Economics) 1938
 U of NC, MA (Pol Sci) 1940
 Fellow, Duke U, 1939-41
 Princeton U. MA (Politics) 1942
 Rosenwald Fellow, 1946-47
 Ph D (Politics) 1948

US Army 1942-46

Instructor in Politics, Princeton U. 1941-42
 Instructor in Politics, Princeton U. 1946-47
 Consultant to Citizens Fed Cttee of Educ,OE, summer 1947
 Asst. Prof., Dept. of Pol Sci and Bur of Pub. Admin. U of VA. 1947-49
 Assoc Prof of Govt and Head Govt Dept. U of Mass. 1949-52
 Consultant to Comm on Structure of Mass. State Govt., summer 1950
 Intelligence Officer, CIA 1952-57
 Senior CIA Rep. at Natl Indications Center, Pentagon 1957-63
 Assoc. Prof. Lecturer in Pol Sci, GWU, 1962-63.

Bureau of the Budget and Office of Management and Budget, 1963 to present.

1963 to present - Budget Examiner
 Intelligence Unit
 National Security Division

James R. Oliver

date of birth: 9-7-44

Brown U., BA (Intl Relations) 1966
 American U, MA (African Area Studies) 1968

US Army, 1968-70

Bureau of the Budget and Office of Management and Budget, 1967 to present

1967 - 73 Budget Methods Specialist
 Budget Review Division

1973-present - Budget Examiner
 Intelligence Unit
 National Security Division

Appendix VII. — Additional correspondence and materials relating to the Central Intelligence Agency.

Part A. — "CIA Organizational History in Brief"; March 1975 (unclassified version).

March 1975

CIA ORGANIZATIONAL HISTORY IN BRIEF

Summary

During the nearly three decades of its existence; the Central Intelligence Agency has continuously adjusted its organizational structure to cope with changing conditions and responsibilities. Within the pattern of constant change; however, there have been four points at which major reorganizations have occurred. In its first two years, CIA took on numerous new activities and shifted responsibilities for those activities frequently. In 1951-52, two separate entities engaged in overseas operations were merged and the rapidly growing intelligence production function was reorganized. Another massive change occurred in 1962. A new Directorate was established to take over the many projects for technical, as opposed to clandestine human source, collection of information that were already underway and to assume the responsibility for conceiving and developing future technical collection systems. Concurrently, the remainder of the Agency was reorganized and important command and control functions were centered in an Executive Director-Comptroller. In 1973 a number of activities were transferred organizationally, with emphasis on grouping together similar functions, and the Executive Director-Comptroller functions were dispersed.

Initial Organization

A Central Intelligence Group (CIG) headed by a Director of Central Intelligence (DCI) was established in January 1946 by President Truman, and it immediately began assuming intelligence functions carried out by various agencies during World War II. Concurrently, Congress was engaged in a review of the entire national security structure, including intelligence, which resulted in the National Security Act of 1947 directing establishment of a Central Intelligence Agency (CIA). The CIG was accordingly transformed into the CIA, which began with an organizational structure that included a number of administrative functions and four major operating components:*

--The Office of Reports and Estimates, which was initially responsible for all finished intelligence production. The direct forerunner of all the producing offices now in existence, it was subdivided repeatedly as the

*See the 1947 organization chart.

production function grew in size and diversified in responsibility. It was initially formed in the Central Intelligence Group by personnel transferred from State and the military services.

-- The Office of Special Operations, derived from what remained of the wartime Office of Strategic Services (OSS), which had been attached to the War Department as the Strategic Services Unit in the immediate postwar period. It was responsible for espionage and counterespionage. Following OSS practice, worldwide communications and security support also were assigned to this operating Office.

-- The Office of Operations, responsible for overt and domestic collection of foreign intelligence. It, too, was formed partly out of the remnants of the OSS structure that had been attached to the Pentagon and included a coordinated domestic collection activity which became the Contact Division. It also incorporated the broadcast monitoring assets of the Foreign Broadcast Information Service transferred from the War Department and foreign document centers taken over from the Army and Navy and merged into the Foreign Documents Division.

-- The Office of Collection and Dissemination, responsible for establishing intelligence collection priorities, coordinating the collection efforts of the various agencies, and organizing the dissemination of both raw intelligence and finished reports. It soon assumed control of reference and records centers as well.

As additional activities and assets were transferred to CIA, they were added on to the existing structure. For example, joint military intelligence surveys became a CIA responsibility in October 1947; accordingly, the National Intelligence Survey program was organized in a Basic Intelligence Division of the Office of Reports and Estimates.

The National Security Council, established concurrently with the CIA, began issuing a series of directives in December of 1947 which shaped the subsequent structure and missions of CIA. One of the most significant ordered immediate expansion of covert operations and paramilitary activities. In response, on 1 September 1948, the Office of Policy Coordination was established.* It had an anomalous relationship with the rest of the Agency, since the NSC ordered it to remain as independent of the remainder of CIA as possible and placed it under the policy direction of the Departments of State and Defense. For OPC's first two years, policy guidance came directly from

*See the 1950 organization chart.

State and Defense, although the chain of command was through the Director of Central Intelligence. It was during this period, under OPC, that such activities as Radio Free Europe, the Committee for Free Asia, Radio Liberty, the Asia Foundation, and the youth, student, and labor programs of the Agency began.

Shortly after the establishment of OPC, a Hoover Commission Task Force began making recommendations on national security organization; they were partially endorsed by the Commission itself in February 1949. A separate National Intelligence Survey Group headed by Allen Dulles filed its own report to the NSC in January 1949. The NSC subsequently directed merger of the Office of Special Operations, the Office of Policy Coordination and the Contact Branch. This could not be accomplished under the original charter of OPC, however, and no major change was made until General Walter Bedell Smith took over as DCI in October 1950.

The existence of both OSO and OPC meant that two clandestine organizations were responding to separate chains of command while working within many of the same foreign countries. They had caused continual difficulties--especially by competing for the same potential agents--and General Smith immediately insisted that all orders to OPC be passed through him. He also designated a number of Senior Representatives abroad to coordinate the separate activities. By mid-1951, integration of the two organizations had begun; complete integration was ordered in July 1952, although some overseas stations continued to report directly to the DCI through overseas Senior Representatives until 1954. The new joint organization was renamed the Clandestine Services; within it, an International Organizations Division was activated in June 1954 to handle student, youth and labor programs.

General Smith also created two new Deputy Directors, one for Administration and one for Operations; the latter, redesignated the Deputy Director for Plans (DDP) in January 1951, headed what became the Clandestine Services.

Meanwhile reorganization of intelligence production offices was being undertaken. The Office of Research and Estimates was divided into the Office of National Estimates, responsible for national-level policy-related papers that projected analysis into the future, and the Office of Research and Reports (ORR), which handled economic and geographic intelligence and the National Intelligence Survey program. A new Office of Current Intelligence was added in January 1951. A year later, a Deputy Director for Intelligence (DDI) was named, with supervision over the above offices as well as the Office of Scientific Intelligence, the Office of Collection and Dissemination, and the Office of Intelligence Coordination which had been directly under the DCI. In March

of 1952, the Office of Operations (engaged in overt functions: domestic contacts, Foreign Broadcast Information Service, and Foreign Documents Division) was placed under the DDI. And that November the Photographic Intelligence Division was established within ORR's Geographic Research Area. A separate Office of Basic Intelligence was formed in 1955.

Between 1950 and 1952 the Agency grew markedly. Administrative support functions increased along with other activities. In February 1955, responsibilities for training, personnel administration and communications were centralized in the Directorate for Administration and the Directorate was renamed the Directorate for Support. By 1955, therefore, the basic structure of the current agency had been established.* The Director had three functional deputies, each in charge of a Directorate. Overt collection, analysis, and production of finished intelligence were centralized in the Intelligence Directorate. Other intelligence collection--both espionage and rapidly growing technical forms--was in the Plans Directorate. The Support Directorate provided administrative services of common concern as well as specialized support for the various units.

Much of this structure still exists. Over time, however, functions have been shifted from one Directorate to another, realigned within Directorates or eliminated--usually for one of two reasons:

- Decisions or recommendations have been received from other parts of the governmental structure: the President, the NSC, Congress, and a succession of special commissions and internal study groups.
- Organizational philosophy has changed as personnel have changed. Various approaches have been taken to organization--grouping similar functions, grouping organizations by common interest (such as a geographical region) or forming close organizational links between the supplier of a service and the principal customer. These changes have been shifts in emphasis; the organization has always been a combination of the three approaches.

Changes in the priorities given to particular missions or intelligence targets have also resulted in changes in the size and authority of organizational components. Growth in a substantive area has led to occasional divisions of one unit into smaller ones, providing more reasonable spans of control.

*See the 1955 organization chart.

In the half dozen years following establishment of this framework, most changes were minor. The DCI's Senior Representatives abroad were eliminated in 1957. A Photo Interpretation Center was established within the DDI in 1958, combining functions from several components including the Photo Intelligence Division. It was replaced in 1961 by the National Photographic Interpretation Center. And the personnel and responsibilities involved in the development of technical collection devices--primarily aircraft--were transferred from the office of the DCI to the Plans Directorate.

1961-1963

Late in 1961, the new DCI, John McCone, established a working group chaired by the Agency Inspector General, Lyman Kirkpatrick, to study Agency and Intelligence Community organization and activities. Final recommendations were submitted in April 1962 and led to the last major reorganization of the Agency.

Even before the study was completed, one major decision was made. Technological advances had been numerous and very rapid during the 1950's, and they had presented new opportunities for intelligence collection by machines. Reconnaissance aircraft had been developed within the Agency; collection of electronic intelligence by interception devices was another fast-growing area. Technology had also made new kinds of information available for analysis and created a need for more analysis by scientifically trained people. Mr. McCone designated a Deputy Director for Research, with initial responsibility for elements drawn from the DDP and additional responsibilities to await completion of the study, in February 1962. The Office of Research and Development, the Office of Electronic Intelligence, and the Office of Special Activities (responsible for overhead reconnaissance activities) were established immediately. The Office of Scientific Intelligence (from the DDI) and automatic data processing activities (from Support and the Comptroller) were added in 1963. With the establishment late that year of the Foreign Missile and Space Analysis Center, the renamed Directorate of Science and Technology assumed the basic form it still maintains.

The Kirkpatrick study also resulted in a major strengthening of the Office of the Director. The General Counsel's office, Audit Staff, Comptroller, Office of Budget, Program Analysis and Manpower and the US Intelligence Board Secretariat were added to it. By late 1962, the position of an Executive Director-Comptroller had been established and his role as third in command of the Agency had been delineated. And the Kirkpatrick study

led to centralization of paramilitary activities, an organization to provide a command mechanism for future contingencies, and establishment of a Domestic Operations Division, to develop contacts with foreign nationals in the US.

By the end of 1963, the organization had settled into the pattern it kept for the next decade.* Four directorates existed. They were primarily differentiated by function, but units performing services frequently were co-located with their customers. Central direction was strong, with an Executive Director-Comptroller playing a major role in all Agency activities and the Board of National Estimates reporting directly to the DCI, although the supporting Office of National Estimates remained in the Intelligence Directorate for about another year.

1964-1972

Organizational arrangements remained largely static for the next decade, though growing emphasis on analysis led to further subdivision of analytical offices. The DDI's Office of Operations was reorganized and renamed the Domestic Contact Service in mid-1965. The Office of Basic Intelligence was enlarged and took over geographic responsibilities from the Office of Research and Reports. The latter was divided in 1967 into the Office of Economic Research and the Office of Strategic Research. In the DDS&T, the Office of Special Projects was established in 1965 to conduct overhead reconnaissance, a duty that had been previously handled by a Staff. Staffs to address special needs were added in the Plans Directorate. Responsibility for proprietary organizations was transferred from the Domestic Operations Division to other DDP components in December 1971, and the Division was renamed the Foreign Resources Division the following month. Some mechanism for coordinating and evaluating national foreign intelligence activities had existed since the establishment of the Agency; in 1972, this took the form of the Intelligence Community Staff in the Office of the DCI.

Activities related to Southeast Asia grew and subsequently contracted during this period. Organizationally, such changes were reflected in the creation of a Special Assistant to the DCI for Vietnam Affairs with a supporting staff and in formation of a number of new low-level components throughout the Agency.

1973-1975

The most recent series of changes began when James Schlesinger was named DCI in early 1973. He put in train a number of organizational

*See the 1964 organization chart.

studies and directed a number of transfers; some were accomplished during his tenure and some were carried out after William Colby replaced Mr. Schlesinger as DCI in mid-1973.

The organizational moves and personnel reductions of that time led to today's organization:

--The Domestic Contact Service was transferred from the DDI to the DDP; the staff structure was reduced, and the Directorate was redesignated the Directorate of Operations.

--Three technical activities--technical services, communications research and development, and the National Photographic Interpretation Center were transferred to the Science and Technology Directorate. S&T also merged certain functions of the Office of Scientific Intelligence with the Foreign Missile and Space Analysis Center and established the Office of Weapons Intelligence. The Office of Special Projects was transformed into the Office of Development and Engineering, which provides engineering and system development support Agency-wide.

--A new Office of Political Research was established in the DDI.

--Computer services, which had been fragmented but with their largest manifestations in S&T, were transferred to the Support Directorate. And the Support Directorate itself went through two name changes, first to Management and Services and subsequently to the Directorate of Administration.

--The Board and Office of National Estimates were abolished and replaced by a group of senior functional and geographic specialists called National Intelligence Officers drawn partially from outside the Agency. Both the senior NIO and the head of the Intelligence Community Staff were named Deputies to the DCI.

--The position of Executive Director-Comptroller was abolished. Many of its functions were redistributed within the Office of the DCI and the Directorate of Administration. A Management Committee -- composed of the DCI, his principal Deputy, the four Deputies in charge of Directorates, the Comptroller, the General Counsel and the Inspector General was established to advise the DCI on the management policy questions.

--For budgetary reasons, a decision was made to terminate the National Intelligence Survey program in the Office of Basic and Geographic Intelligence; accordingly, the geographic intelligence unit was redesignated the Office of Geographic and Cartographic Research.

As of February 1975, therefore, the directorate structure is generally the same as it was in 1965.* However, there is a stricter adherence to combining similar functions than in earlier periods. Management direction and control is decentralized. The staff structure has been considerably reduced and simplified. And the number of full time staff personnel has been reduced substantially.

*See the 1975 organization chart.

**Part B.—Letter of November 14, 1975, from CIA to committee,
relating to the War Powers Act and covert paramilitary
operations.**

CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

14 November 1975

Mr. A. Searle Field
Staff Director
Select Committee on Intelligence
House of Representatives
Washington, D.C. 20515

Attention: Emily Sheketoff

Dear Mr. Field:

This is a response to the question as to whether the War Powers Act would prohibit covert paramilitary operations. The question was posed by Congressman Johnson during Director Colby's testimony before the House Select Committee on Intelligence on August 4, 1975, and was confirmed in writing by the Committee staff on August 19. Please bring this letter to the attention of Congressman Johnson.

As you are aware, the Act, which became effective on November 7, 1973, over Presidential veto, does not prohibit military or paramilitary operations. It merely requires Presidential consultation with Congress before the commitment of U.S. Armed Forces into hostilities and Presidential reporting to Congress following such a commitment. Specifically, the Act provides that:

... [t]he President in every possible instance shall consult with Congress before introducing United States Armed Forces into hostilities or into situations where imminent involvement in hostilities is clearly indicated by the circumstances, and after every such introduction shall consult regularly with the Congress until United States Armed Forces are no longer engaged in hostilities or have been removed from such situations.
[emphasis added]

If the President, without a declaration of war or other prior congressional authorization, takes significant action committing U.S. Armed Forces into hostilities abroad or places substantially increased U.S. combat forces on foreign territory, the Act further requires that he report to Congress within 48 hours. Thereafter, the President must terminate the use of United States Armed Forces if Congress so orders or if Congress fails to act within 120 days.



Moreover, the Act's reporting procedures clearly do not apply to paramilitary activities or other covert action. The Act had its genesis in the aftermath of the Cambodian incursion of 1970 and its purpose is to impose requirements with respect to the use of Armed Forces. The Act literally refers to "Armed Forces," and this term was taken in congressional debate to mean conventional military units and uniformed personnel. An amendment which would have broadened the Act to cover paramilitary activities of the type undertaken by the CIA in Laos was offered by Senator Eagleton and was rejected by a vote of 53 to 34, Amendment 366 to S. 440. Under that amendment, the War Powers Act would have covered

... [a]ny personnel employed by, under contract to, or under the direction of any department or agency of the U.S. Government either

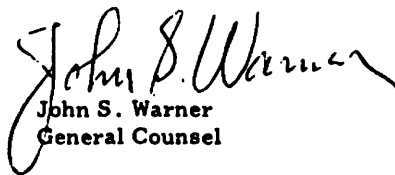
(a) actively engaged in hostilities in any foreign country;
or

(b) advising any regular or irregular military forces engaged in hostilities in any foreign country.

For these reasons, it is our opinion that the War Powers Act neither prohibits covert paramilitary operations nor does it require that such operations be reported to Congress. If, however, the President wishes to employ covert operations abroad, section 32 of the Foreign Assistance Act of 1974 requires that he determine that each operation is important to the national security of the United States and that he report, in a timely fashion, a description and scope of such operation to appropriate committees of the Congress, including the Committee on Foreign Relations of the Senate and the International Relations Committee of the United States House of Representatives. In total, six committees of the Congress are now being briefed on covert operations.

Thank you for this opportunity to submit a statement for the record. I am sure you realize that these comments reflect the position of the Agency and are not definitive with respect to either the position of the President or any other agency of the Federal Government.

Sincerely,


John S. Warner
General Counsel

Part C. — Letter of August 5, 1975 from CIA to committee, relating to the Puttaporn Khamkhruan case.

CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

5 August 1975

The Honorable Otis G. Pike, Chairman
Select Committee on Intelligence
House of Representatives
Washington, D. C. 20515

Dear Chairman Pike:

During Mr. Colby's testimony on Monday, August 4, Congressman Murphy asked a series of questions concerning the part the Agency played in the decision by the United States Department of Justice not to prosecute Mr. Puttaporn Khamkhruan on narcotics charges. In his reply Mr. Colby indicated that the Central Intelligence Agency brought the fact that opium had been sent through the mail from Thailand to the attention of the Bureau of Customs. In making that statement, Mr. Colby, as you may recall, looked to me for confirmation and I erroneously agreed with his statement that the Agency brought it to Customs attention. This was wrong.

Since the record is in error, we wish to submit the enclosed memorandum which provides a detailed explanation of the facts and circumstances resulting in the dismissal of the indictments against Khamkhruan.

Sincerely,



Mitchell Rogovin
Special Counsel to the Director

Enclosure:

Memo on Puttaporn Khamkhruan Case

cc: Congressman Murphy

THE PUTTAPORN KHRAMKHRUAN CASE

This chronology is in response to Senator Percy's request and explains the circumstances involved in the drug prosecution of Mr. Puttaporn Khramkhruan.

Mr. Khramkhruan spent approximately 10 months in jail before the indictment was dismissed. The charges were related to a shipment of 59 pounds of raw opium sent through the mail from Thailand. It was identified by the customs inspectors and seized prior to its delivery in Chicago, Illinois.

Khramkhruan was born on 15 July 1944 in Burma, was first contacted by the Agency in late 1969 in Chiang Mai, Thailand, and began reporting on narcotics trafficking in northern Thailand in July of 1972. He was paid a salary of \$144.58 per month. He came to the United States in April 1973 under an AID-sponsored training program. On 11 May 1973 a representative from the Bureau of Customs visited our base in Chiang Mai, Thailand to discuss his investigation of a narcotics smuggling case. He stated that on 8 January 1973, a U.S. citizen was arrested in Chicago for smuggling 59 pounds of opium in film canisters from Thailand to the United States. The customs officials in Chicago had found in one of the parcels a large brown envelope used as packaging material which had Khramkhruan's address in Chiang Mai on it. Our field base advised Headquarters of this inquiry and the appropriate Agency office contacted the Bureau of Customs in Washington and learned about the Chicago investigation. On 7 June 1973, to assist the Bureau of Customs, an Agency officer introduced the customs investigators to Khramkhruan who was then studying at Syracuse University. On 14 June 1973, Customs advised this Agency they had discovered additional evidence that Khramkhruan was directly involved in the smuggling.

On 18 June, Mr. John K. Greaney, Associate General Counsel, went to Chicago to discuss the case with the Assistant U.S. Attorney, Jeffrey Cole and U.S. Customs special agent, Mr. J. Bax. It was explained to Mr. Cole that Khramkhruan had worked for CIA and had reported information about narcotics traffickers. He had no other assignment. He was not instructed to engage in narcotics trafficking or any other illegal activities. Mr. Cole was given a sanitized version of an intelligence report submitted by Khramkhruan which describes a transaction for the procurement of opium in Chiang Mai in December 1972. This report does not mention Khramkhruan's participation in the deal. Further, Mr. Cole was told that the Agency had a responsibility to protect intelligence sources and methods and would have to consider very carefully whether or not an Agency rebuttal witness could be supplied if needed by the prosecution. It was Mr. Cole's opinion at this time that he would prefer to use Khramkhruan as a witness rather than indict him.

On 3 July 1973, Mr. Khramkhruan was escorted to Chicago, Illinois by customs agents to be interviewed by Mr. Jeffrey Cole. During the interview, Mr. Khramkhruan admitted having been actively engaged in shipping the narcotics and stated that he furnished the wax paper, twine and wrapping paper for this particular shipment. He also identified five additional people including Bruce Hoeft, a Peace Corps volunteer stationed in Chiang Mai. Subsequently, Mr. Khramkhruan advised the U.S. attorney that he was returning to Thailand and would not be available as a witness for the Government in their prosecution. Upon hearing this, Mr. Cole obtained a warrant for Mr. Khramkhruan's arrest and had him confined in the Cook County jail. Mr. Khramkhruan was indicted by the July 1973 Grand Jury, the U.S. District Court, Northern District of Illinois, Eastern Division.

On 11 March 1974, Mr. Greaney again went to Chicago to discuss the case since the trial was set to begin on 18 March. This trial date was later postponed until sometime in May. The Government attorneys at that time were hoping to use Khramkhruan as a witness. They planned to accept a guilty plea from him with the understanding that his sentence would be limited to that time he had already served in jail since his confinement in July of 1973. The Assistant U.S. Attorney, Mr. Thomas Dent, who had replaced Mr. Cole, was advised that the Agency would not be able to furnish a rebuttal witness should questions be raised on the cross-examination of Khramkhruan if he were used as a prosecution witness. The Agency felt the witness would be questioned about sensitive intelligence sources and methods. It was also explained to Mr. Dent that the Agency in order to protect its intelligence sources and methods including the identities of employees and agents and on-going operations would have to resist the production of its operational files under a subpoena duces tecum from the defense. Mr. Dent felt that perhaps an in camera conference could be held to show the material to the judge.

As the trial date approached, Khramkhruan was openly discussing his Agency relationship and indicated that he intended to use this as his defense. Therefore, on 15 April 1974, Mr. John Warner, the General Counsel, CIA and Mr. John Greaney met with Henry E. Petersen, Assistant Attorney General, Criminal Division, Department of Justice and Mr. Kevin Maroney, Mr. Petersen's deputy. It was explained that Khramkhruan was an Agency asset who had been used to report on narcotics traffickers in Thailand, but of course had not been authorized nor directed to participate in the illegal shipment of narcotics for which he was indicted in Chicago. The Agency was concerned about the production of its operational files and intelligence reports as well as possible subpoenas for Agency employees whose identities must be protected. Mr. Petersen stated that he understood the problem but stated he was reluctant to order dismissal since the problems raised by the Agency were speculative at that time. He felt a better course of action would be for the Agency lawyers to discuss the case with the U.S. attorney in Chicago. On 30 April 1974 Mr. Greaney again went to Chicago to meet

with Mr. James Thompson, U.S. attorney and discuss the possible dismissal of the indictment against Mr. Khramkhruan. It was explained to the First Assistant U.S. Attorney, Mr. Joel Flaum, that the Agency's major concern dealt with the possibility of having to submit the operational files concerning on-going activities to the defense for inspection under pre-trial discovery as well as the possible issuance of subpoenas for Agency employees to testify as part of Khramkhruan's defense. These Agency employees were under cover in Thailand. Mr. Flaum appreciated the problem and thought that Mr. Petersen could have initiated the dismissal on the behalf of the Department of Justice. It was explained to Mr. Flaum that Mr. Petersen's position was that the U.S. Attorney's Office in Chicago had obtained the indictment and they should make the decision with regard to any persons to be dismissed from that indictment.

On 3 June 1974 Khramkhruan was released from jail under a \$5,000 bond. Khramkhruan's attorney filed a motion to suppress evidence and in preparation for the motion hearing requested copies of all the statements Mr. Khramkhruan had given to the U.S. Attorney since July 1973. He also wanted the testimony of the Agency employee who had introduced Khramkhruan to the customs investigators. On 5 June 1974, Mr. Jeffrey Cole stated that a request for dismissal of the indictment (Form 900) against Khramkhruan and Hoeft had been sent to the Department of Justice, Washington, D.C. On 17 June 1974, Mr. William Ryan, Chief, Narcotics Section, Criminal Division, Department of Justice, advised the Agency that the Form 900 had been approved and sent back to the U.S. attorney in Chicago to proceed with the dismissal of the indictment against Khramkhruan and Hoeft. On 16 September 1974, Mr. Gregg Jones, Assistant U.S. Attorney in Chicago, advised that a superseding indictment was to be obtained on 17 September 1974 and this new indictment would drop the charges against Khramkhruan and Mr. Bruce Hoeft. On 7 October 1974 Mr. Khramkhruan was back in Chiang Mai, Thailand.

On 14 March 1975 Mr. Khramkhruan wrote a letter to the American Embassy in Bangkok seeking compensation for alleged injuries he received while in jail. The Embassy referred the request to the Department of State in Washington and CIA advised the Department of State on 21 May 1975 that based on their investigation they would urge the Department to deny Khramkhruan's request for compensation for the alleged injuries.

This Agency was advised by Mr. Gregg Jones of Chicago on 27 March 1975 that on 6 January 1975 Theodore Norcutt, John Weber and Alan Gluck all pleaded guilty to the charges in the indictment relating to the shipment of the 59 pounds of raw opium. On 11 February 1975 Norcutt was sentenced to 18 months in prison and began serving that term on 11 March 1975. Weber was placed on probation for four years. Gluck was placed on probation for four years with a 90-day sentence

scheduled to begin on 11 May 1975. Jay Antonoff and Marlene Antonoff were both indicted, however, neither was tried since they are fugitives from the United States. Thus, the defendants, except Hoefft and the Antonoffs, were punished including Khramkhruan who was in jail from July 1973 until June 1974.

Part D.—“Agency Policy and Procedures for Ensuring Compliance with Government Contracting Policies” (June 7, 1974).

7 JUN 1974

**AGENCY POLICY AND PROCEDURES
FOR ENSURING COMPLIANCE WITH
GOVERNMENT CONTRACTING POLICIES***

The basic procurement authority for the Agency is found in Section 3 of the Central Intelligence Agency Act of 1949, 63 Stat. 208, PL 81-110, June 20, 1949. This Act authorizes the Agency to procure necessary supplies and services by either formally advertised or negotiated procurement methods in accordance with selected provisions of the Armed Services Procurement Act of 1947, 62 Stat. 21, PL 80-413, February 19, 1948. Agency procurement activities are in conformance with this act and the Federal Property and Administrative Services Act of 1949, as amended, 63 Stat. 377, PL 81-152, June 30, 1949.

In addition to the authority cited above, Section 8 of the CIA Act of 1949, PL 81-110, authorizes the expenditure of funds without regard to law and regulation for objects of a confidential, extraordinary, or emergency nature. The certification of the Director of Central Intelligence suffices for the settlement of such expenditures without further review by the General Accounting Office. Agency regulations prescribe the fundamental procurement policies for complying with this Congressional intent.

The Director of Logistics in the Directorate of Administration exercises all delegable procurement authority of the Director of Central Intelligence as Agency head, except as otherwise specifically delegated by the Director. Production and services procurements, Federal Supply Schedule items, and purchase orders are centralized in the Procurement Division in the Office of Logistics. For research and development procurements, the Director of Logistics has established a decentralized procurement system consisting of contracting teams serving each Directorate.

The Procurement Management Staff, reporting directly to the Director of Logistics, assists him in the management of the decentralized research and development contracting teams and the centralized Procurement Division. The Procurement Management Staff functions as the overall point of coordination

*The policy and procedures described herein are applicable for procurements funded from Agency appropriations.

for the creation and maintenance of uniform Agency procurement policies and procedures, and acts as a focal point for efforts to increase the efficiency and effectiveness of Agency procurements. This staff performs periodic reviews, for the Director of Logistics, of the contracting teams and the Procurement Division to insure that procurement policies are implemented by uniform procedures and practices. The chief of this staff serves as the Agency representative on various governmental committees concerned with procurement, such as the Commission on Government Procurement and the Executive Subcommittee of the Committee on Government Patent Policy.

Each of the research and development contracting teams serving the Directorates and each of the sections within the Procurement Division are staffed by a senior contracting officer who holds a written delegation of contracting authority from the Director of Logistics, several negotiators/administrators, an industrial auditor, and an industrial security officer. The procurement of personal services has been delegated by the Director of Central Intelligence to the Office of Personnel. Construction contracting is handled by the Real Estate and Construction Division of the Office of Logistics in coordination, where appropriate, with other governmental agencies and/or military departments.

The following is a summary of Agency procedures and practices to ensure compliance with Government contracting policies.

a. Contracting Procedures

The Agency is authorized to undertake procurements by formal advertising and by negotiation. Because of the sensitive nature or the security classification of its procurements, negotiation has been the feasible and practicable method of contracting. As a result the Agency places great emphasis on its source selection procedures. Competition is emphasized to the maximum extent practicable. A list of qualified sources is maintained and is constantly being enlarged. At present, this list includes more than 2,200 contractors, not including those companies dealing in the GSA Federal Supply Schedule items. Our Procurement Management Staff is the focal point for assuring that contractors interested in Agency procurements receive the opportunity to do business with the Agency. Requests for proposals are issued by Agency contracting officers. Under the decentralized team concept, source selection is reviewed by senior officials of operating components in selection panels made up of senior

engineers and scientists, auditor/cost analysts, security officers, contracting officers, and selected management officers. The director or deputy director at the operating component level reviews and concurs in the undertakings of the panel. All procurements planned by the Directorates are reviewed quarterly in management meetings with the directors of the operating components. Major procurements are submitted to the DCI for his review.

Agency contracting officers are authorized to use all of the types of contracts available to the Department of Defense and the General Services Administration, from fixed price through the various cost and incentive-type contracts. Determinations and findings are executed for all procurements, certifying that the contract has been entered into pursuant to a specific provision of the law and with the source selection standards applicable. Agency contracts contain the clauses required by the Armed Services Procurement Regulations (ASPR) for the type of contract written. The clauses in the ASPR regulations embody the requirements of the law in such areas as labor, small business, equal employment opportunity, veterans hiring preference, and numerous other areas of federal legislation.

Contracting Officers are responsible for a continuing review of the contracts under their purview. They make periodic administrative visits to contractors to ensure acceptable performance on Agency contracts. In addition, they obtain information on the capabilities of new contractors to determine their acceptability as qualified Agency contractors.

All Agency contracts are reviewed by the General Counsel in a pre- or post-review of their legal sufficiency and for compliance with Agency procurement regulations and Federal laws.

b. Audit Procedures

The Commercial Systems Audit Division (CSAD) of the Office of Finance conducts a comprehensive on-site survey of a contractor's financial condition and accounting practices and procedures to determine acceptability for Government work. Auditors are guided by the Defense Contract Audit Agency (DCAA) Manual and accepted accounting procedures in the conduct of their survey work. Each contracting team is supported by members of the Audit Division, not only for surveys of contractors' accounting procedures but for a

cost/price analysis of proposals submitted during the precontract phase of the procurement. Once a contract has been let the auditor assigned provides an interim audit of incurred costs at least once a year and a final audit of incurred costs upon completion of the work. The auditor participates as a contract team member in the analysis of a contractor's labor rates, material costs, unit costs, and other direct and indirect expenses. He participates from the proposal analysis phase through to the final negotiated settlement of the contract. The auditor is guided in his determinations by Section 15 of the ASPR, which is incorporated by reference into Agency contracts for determining the standards of allowability and allocability of costs. CSAD maintains direct liaison with DCAA. In determining the indirect expense rates to be applied to Agency contracts the negotiated overhead rates established by the DCAA are used to avoid duplication of effort.

c. Security Procedures

The Director of Logistics is responsible for the protection of classified matters relating to Agency contracts. A security staff reports directly to the Director of Logistics to advise and assist him in discharging this responsibility. In addition, security officers are assigned to each contracting element for the purpose of advising contracting officers in security matters. Security officers conduct on-site surveys of contractors' physical and personal security, provide security clearances, conduct security briefings, and develop security plans for classified contracts. All contractors and their personnel performing work under Agency classified contracts are required to conform to the policies set forth in the Agency publication "Security Requirements for Contractors," dated 1 March 1971, which is incorporated into the terms and conditions of each classified contract. The security staff maintains liaison with the Defense Supply Agency for assistance on industrial security matters.

d. Technical Procedures

Technical officers conduct on-site surveys of contractors' facilities, research programs, and products. Technical discussions are undertaken with key company scientists to develop new approaches to technical problems. Technical inspection reports measuring the progress and acceptability of the contract work are undertaken periodically by Agency technical officers. Final inspection reports certifying the acceptability of the items produced or the services

performed are also completed. Quality assurance procedures are a part of Agency contracts and are monitored by technical officers on inspections undertaken at the contractor's plant and on final delivery of the items at Agency testing and acceptance facilities. All items are inspected and accepted by Agency personnel in accordance with the terms and conditions of the contract.

e. Management Review

In addition to the management checkpoints at the operating and Directorate levels in Agency procurements, regulations provide for several other management reviews. A CIA contract Review Board advises and assists the Director of Logistics in exercising the procurement authority delegated to him. The Board is composed of a senior-level representative from each Directorate, as well as an audit, security, and legal adviser, and is chaired by the Deputy Director of Logistics. The Board reviews proposed procurements having an estimated value in excess of \$150,000 and selected procurements which might affect Agency contractual policy or procedures. The Board makes recommendations to the Director of Logistics for final decision. The CIA Contract Review Board is also charged with the responsibility of providing recommendations on Agency-wide procurement policies, procedures, and practices when so requested by a Deputy Director of a Directorate or by the Director of Logistics. The Chief, Procurement Management Staff, serves as the principal advisor and consultant to the CIA Contract Review Board. To support management review, a computer-based management information system has been developed. It furnishes statistical data and analytical reports of Agency procurement to the Director of Logistics and to the Comptroller.

Another type of review occurs when contracts may involve questions of political sensitivity; are undertaken in behalf of or are funded by other agencies; involve real property transactions which may raise security or operational difficulties; or involve more than \$500,000. In these cases, even though the contracts may have been approved in principle in operating plans, they require a notice of imminent action. This procedure provides the opportunity for another review by the Deputy Director of the concerned Directorate and the Comptroller and, as appropriate, by the Management Committee and the DCI.

Finally, the Director of Central Intelligence has established an internal audit function within his immediate office which conducts periodic audits of the Agency's procurement activities.

Part E.—Memorandum dated May 9, 1973, from James R. Schlesinger, Director of Central Intelligence, and attached testimony.



CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20305

OFFICE OF THE DIRECTOR

9 May 1973

MEMORANDUM FOR ALL CIA EMPLOYEES

1. Recent press reports outline in detail certain alleged CIA activities with respect to Mr. Howard Hunt and other parties. The presently known facts behind these stories are those stated in the attached draft of a statement I will be making to the Senate Committee on Appropriations on 9 May. As can be seen, the Agency provided limited assistance in response to a request by senior officials. The Agency has cooperated with and made available to the appropriate law enforcement bodies information about these activities and will continue to do so.

2. All CIA employees should understand my attitude on this type of issue. I shall do everything in my power to confine CIA activities to those which fall within a strict interpretation of its legislative charter. I take this position because I am determined that the law shall be respected and because this is the best way to foster the legitimate and necessary contributions we in CIA can make to the national security of the United States.

3. I am taking several actions to implement this objective:

- I have ordered all the senior operating officials of this Agency to report to me immediately on any activities now going on, or that have gone on in the past, which might be construed to be outside the legislative charter of this Agency.
- I hereby direct every person presently employed by CIA to report to me on any such activities of which he has knowledge. I invite all ex-employees to do the same. Anyone who has such information should call my secretary (extension 6363) and say that he wishes to talk to me about "activities outside CIA's charter."

4. To ensure that Agency activities are proper in the future,
I hereby promulgate the following standing order for all CIA employees:

Any CIA employee who believes that he has received instructions which in any way appear inconsistent with the CIA legislative charter shall inform the Director of Central Intelligence immediately.


James R. Schlesinger
Director

DCI STATEMENT

BEFORE

SENATE APPROPRIATIONS SUBCOMMITTEE
ON INTELLIGENCE OPERATIONS

9 MAY 1973

OPENING STATEMENT

Mr. Chairman, I am here to discuss the questions which have arisen over CIA's real and alleged role in events that occurred in 1971 and 1972. I have opened a detailed investigation into the precise nature of that role. I can report to you on what Agency records, now being intensively reviewed, reveal at this juncture. However I do not yet know that I have all the facts in the matter. Nonetheless, I am pleased to present to you such facts as are now available, and I will certainly provide you with any further details as they come to my attention.

Let me start with the Agency's relationship with Mr. Howard Hunt, whose testimony has recently been made public. Mr. Hunt was a staff employee of the Agency from 8 November 1949 to 30 April 1970. At that time he retired from the Agency. He performed one editorial job of writing up a recommendation for an award for one of our officers in November 1970. He was not paid for these services, although the Agency placed the sums of \$200.00 and \$50.00 in two charitable organizations for the service performed.

In early July 1971, General Cushman, then the Deputy Director of Central Intelligence, received a telephone call from the White House. He was informed that Mr. Hunt had become a consultant on security affairs for the White House, and a request was made that Mr. Hunt receive assistance from the Agency. The minutes of the Agency Morning Meeting of 8 July 1971 indicate that the DDCI (General Cushman) reported a call by John Ehrlichman stating that Howard Hunt had been appointed a White House security consultant.

On 22 July 1971 Mr. Hunt visited General Cushman at the CIA building. According to the records, Mr. Hunt stated that he had been charged with a highly sensitive mission by the White House to visit and elicit information

from an individual whose ideology he was not entirely sure of, and for that purpose he said he was asked to come to the Agency to see if he could get two things: identification documents in alias and some degree of physical disguise, for a one-time operation. He stressed that he wanted the matter to be held as closely as possible and that he would like to meet the Agency people in an Agency safehouse. Agency records indicate that, in the course of the conversation, Mr. Hunt referred to Mr. Ehrlichman by name and General Cushman acknowledged an earlier call from Mr. Ehrlichman to him. The Committee may desire to query General Cushman whose knowledge would not come from such secondary sources.

General Cushman directed the appropriate technical service of the Agency to be of assistance to Mr. Hunt, based on the above request. On 23 July 1971 Mr. Hunt was given alias documents, including a Social Security card, driver's license, and several association membership cards, in the name of "Edward Joseph Warren" similar to material he had been furnished for operational use while he had been an Agency employee, under the name of "Edward V. Hamilton." The same day Mr. Hunt was also given disguise materials (a wig, glasses, and a speech alteration device).

By calling an unlisted telephone number given him, Mr. Hunt arranged several additional meetings with Agency technical officers, the dates of which cannot be provided with precision. In these, he requested and was provided a commercial tape recorder (in a typewriter case) and a commercial Tessina camera disguised in a tobacco pouch. He also brought in a then-unidentified associate (later identified from press photos as Mr. G. Gordon Liddy) and secured for him a disguise (wig and glasses) and alias documents in the name of "George F. Leonard."

The Agency technical officers met these requests despite the absence of the procedural steps and approvals normally required by Agency regulations. However, they became increasingly concerned at the escalation of Mr. Hunt's requests for assistance. These finally included a request from Mr. Hunt to be met on the morning of 27 August 1971, upon his return from California, to have a film developed and returned to him. This was done the same day. He also asked for a New York mail address and telephone-answering service for operational use.

The technical officers raised their concern with senior officers, who noted the possibility that these activities could involve the Agency in operations outside its proper functions. As a result, again according to Agency records, General Cushman telephoned Mr. Ehrlichman at the White House on 27 August 1971 and explained that further such assistance could not be given. Mr. Ehrlichman agreed. The request for mail address and telephone answering service was not honored. On 31 August 1971, Mr. Hunt contacted the technical officers again, requesting a credit card, but this was refused. Mr. Hunt had also made a request on 18 August 1971 for the assignment of a secretary he had known during his Agency career. This was also refused. The earlier-furnished alias documents and other material were not recovered, however, except for the Tessina camera which was returned on 27 August as unsuitable. Since the end of August 1971, the Technical Services Division has had no further association with Mr. Hunt. As a point of reference, I would note that the break-in of the office of Mr. Ellsberg's psychiatrist took place on or about 3 September 1971.

The Agency outlined the above events to Mr. Patrick Gray, Acting Director of the FBI, in letters dated 5 and 7 July 1972, and a meeting on 23 July 1972. A series of questions were asked the Agency on 11 October 1972 by Mr. Earl Silbert, Principal Assistant United States Attorney for the District of Columbia. On 24 October 1972, Attorney General Kleindienst and Assistant Attorney General Petersen reviewed the 5 and 7 July transmittals together with additional, more detailed but undated materials, that had been provided to Acting FBI Director Gray on 18 October 1972. The Agency is aware that this material was reviewed on 27 November 1972 by Mr. Silbert, who asked additional questions on that date as well as on 29 November 1972. Written responses to the foregoing questions were provided on 13 December 1972. An additional submission was made to the Assistant Attorney General Petersen on 21 December 1972. This material was discussed at a meeting held with Assistant Attorney General Petersen and Mr. Silbert on 22 December 1972. All of the foregoing materials can be made available to the Committee if it so desires.

As a separate matter, which was not known by those who prepared the material for the Department of Justice in the fall of last year, the Office of Medical Services of the Agency prepared and forwarded to the White House two indirect personality assessments of Mr. Daniel Ellsberg. The Agency has had a program of producing, on a selective basis, such assessments or studies on foreign leaders for many years. In July 1971, Mr. Helms, then Director, instructed Agency officers to work with Mr. David Young of the White House Staff relative to security leaks in the intelligence community.

Mr. Young requested a study on Mr. Ellsberg in the latter part of July 1971, which Agency activity was apparently approved by Mr. Helms. At that time, Mr. Young supplied raw material consisting principally of newspaper and magazine articles together with some State Department and Justice Department papers. The first assessment delivered to the White House dated 9 August 1971, was judged insufficient. As a result, there were several meetings between Dr. Malloy, Mr. Hunt, and Mr. Liddy, in which classified information of the Justice and State Departments was introduced. One such meeting occurred on 12 August 1971. Additional material was transmitted by Mr. Hunt on 12 October, and another meeting was held on 27 October. These meetings led to a second version of the assessment, dated 9 November 1971. This document was delivered to the Executive Office by Dr. Malloy on 12 November 1971. Agency records indicate that Mr. Helms had previously communicated with Mr. Young indicating he had read both reports.

In another contact "about October 1971," an Agency officer arranged to provide Mr. Hunt certain unclassified materials from CIA files relative to a 1954 French case of leakage of Government documents. These were delivered to his office at the White House.

In closing, I would like to stress several conclusions of my investigation so far:

- a. CIA had no awareness of the details of Mr. Hunt's activities. The Agency's impression was that Mr. Hunt was engaged in an activity related to identifying and closing off the security leaks that were so much a preoccupation of the Government at the time.

b. The Agency clearly was insufficiently cautious in the initiation of its assistance to Mr. Hunt. Later, when the nature of Mr. Hunt's requests for assistance began to indicate a possible active involvement by the Agency in activities beyond its charter, the Agency terminated the relationship and refused further assistance.

c. The preparation of a profile on an American citizen under these circumstances lies beyond the normal activity of the Agency. It shall not be repeated -- and I have so instructed the staff. This shall be made a part of the regulations governing such activities.

d. As Director, I have called for a review of all Agency activities and the termination of any which might be considered outside its legitimate charter. In addition to requesting this review from my subordinates, I have directed each employee and invited each ex-employee to submit to me any cases which they may question. I am determined that the Agency will not engage in activities outside of its charter but will concentrate its energies on its important intelligence mission.

Part F.—Responses to proposed recommendations and reforms.

CENTRAL INTELLIGENCE AGENCY
WASHINGTON, D.C. 20505

Review Staff: 75/3104/3
24 November 1975

Mr. A. Searle Field
Staff Director
Select Committee on Intelligence
House of Representatives
Washington, D.C. 20515

Dear Mr. Field:

During Director Colby's earlier testimony before the House Select Committee, Congressman Milford asked certain questions concerning the adequacy of the basic laws governing the intelligence community. He also advanced some proposals on Agency and community procedural relationships with Congress and requested the Director's comments.

We are forwarding herewith Mr. Colby's response to the questions of Congressman Milford.

Sincerely,


S. D. Breckinridge
Chief, Review Staff

Attachment:
As Stated

Questions from Congressman Milford

Question: Are the basic laws governing our intelligence community adequate? If not, where are they deficient?

Answer : The basic laws governing the intelligence community are generally adequate, although there is need for some clarification in the 1947 National Security Act. A major area where these laws are deficient is in the protection of intelligence sources and methods from unauthorized disclosure, the responsibility for which has been imposed upon the Director of Central Intelligence by section 102(d)(3) of the National Security Act of 1947.

Question: Do you have any specific recommendations for changing these laws in order to fulfill the goals specified in your testimony?

Answer : The Agency recommends amending the National Security Act of 1947 as follows:

- (1) Add the word "foreign" before "intelligence" wherever applicable.
- (2) Add the collection of foreign intelligence as a function of the Central Intelligence Agency.
- (3) Clarify the proscription on internal security operations and police-type activity within the U.S. by adding provisions authorizing certain activities within the U.S. in support of foreign intelligence activities.
- (4) Remove the reporting requirement on non-intelligence gathering activities from the Foreign Assistance Act and place it within the National Security Act of 1947 in section 102(d)(5), and change the language of the reporting requirement to make it clear that timely reporting to Congress is not necessarily a condition precedent.
- (5) Enact the Agency's proposed legislation "Unauthorized Disclosure of Intelligence Sources and Methods," which amends the 1947 Act to give effect to the Director's statutory responsibilities under section 102(d)(3) of that Act.

The Agency would support the enactment of legislation which would provide for effective congressional oversight. The Agency believes that the consolidation and concentration of oversight responsibilities would result in the most effective oversight and would also protect intelligence sources and methods by reducing the proliferation of sensitive operational information throughout Congress.

We are conducting continuing studies regarding possible requirements for changes in existing statutes. Further recommendations may be made as a result of those studies.

QUESTION: Will you give me specific recommendations or steps which you believe will result in better relations among Congress, the Administration and the citizens concerning intelligence matters?

ANSWER: It is clearly recognized that the policy makers, legislators, and indeed the electorate must be adequately informed. With assurances of proper protection, the Agency strongly endorses the broad dissemination of intelligence to meet national needs. The Agency has provided essential information to the Congress while protecting sensitive matters which the Congress had mandated that the Director protect. It is believed that once the Congress has developed effective measures to protect sensitive intelligence information which has been made available to it, a major source of potential conflict will have been resolved.

QUESTION: If Congress set up a joint Committee on intelligence to properly oversee the entire intelligence community with complete confidentiality as far as classified information was concerned, would you, as Director of Central Intelligence or would the Administration that you are under, have any reservations to the following proposal:

1. That the Intelligence community present for authorization hearings its true annual budget proposals - including all line items that are normally concealed under other headings or contained within other Defense functions?

ANSWER: In the past I have taken the position that questions such as these should be resolved by the Congress. However, I cannot in good conscience concur in such a recommendation. The recommendation contemplates an annual authorization to appropriate funds for the activities of CIA, a requirement which does not now exist under current law (Central Intelligence Agency Act of 1949). Such new annual authorization requirement carries with it the same security problems of an open budget for the CIA.

I firmly believe that the CIA budget and certain classified intelligence programs of the Department of Defense should remain fully classified and non-identifiable. The requirement of annual authorization for the intelligence community requires hearings before oversight committees to explain the budget (which is presently done and which is a procedure I support) with the added requirement of moving an authorization bill through the entire legislative process. The resulting public disclosure could provide potential enemies with considerable insight into the nature and extent of our activities. Even a single figure in an authorization bill, without further revelation, could result in questions and discussions of any changes or trends developed in succeeding year figures and generate a demand for explanations eroding necessary secrecy.

I would not object, however, to an arrangement whereby the oversight committee follows a procedure similar to that utilized for the intelligence budget by the appropriations committees. Under such an arrangement, the oversight committee would authorize expenditure of a specified sum by means of a classified letter to the Director of Central Intelligence. In addition, a statement could be included in the published committee report on the authorizing legislation stating that the funds authorized in the bill included funds for the CIA.

2. That the intelligence community would totally brief the committee on the desired annual goals, programs, projects and missions of the intelligence community that the annual budget is designed to support?

ANSWER: This proposal conforms to our existing practice. I have often stated that the Agency has no secrets from its oversight committees. The Appropriations Committees or its subcommittees receive annual briefings on the goals, programs, projects, and missions of the individual agencies of the intelligence community, as part of the annual appropriations process. CIA also keeps its legislative oversight committees fully informed of the Agency's activities.

3. That the committees would assign the General Accounting Office to selectively audit any specific project, operation or mission that they would deem necessary so long as the compartmentalization principle is observed?

ANSWER: Section 8(b) of the Central Intelligence Agency act of 1949 gives the Director the authority to expend funds without the disbursements being subject to further review. It has always been my position that a substantial number of CIA's programs could be audited by GAO, and in fact, GAO did audit some of our programs for over ten years. That audit was terminated in 1962 because GAO did not have access to all our accounts, and did not feel they could conduct a meaningful comprehensive audit without additional access. I am certain that arrangements can be made for a resumption of a GAO audit of Agency activities at the request of one of our oversight committees. This would require advance agreement on security procedures and on the distribution and content of the GAO report. In this connection, it should also be noted there may be instances where expenditures may be made which would not meet normal audit procedures although they would meet the requirements for expenditures made on a certification by the Director under his specific statutory authority.

4. That the Committees would be equally informed of day-to-day intelligence activities in the same manner as the President of the United States, so long as the same security regulations are followed and further subject to specifications contained in this hypothesis?

ANSWER: The Agency is strongly committed to the idea of giving maximum dissemination of information consistent with essential security requirements. The Agency believes that an informed Congress is necessary to the effective conduct of foreign policy and believes it has an important part to play in keeping Congress informed. The Agency has provided and will continue to provide the Congress with substantive intelligence information. With respect to reporting on "day-to-day intelligence activities"-- that is, daily operational matters--different considerations are involved. The Congress established the CIA within the Executive branch. The President has the constitutional responsibility to administer the Agency and to see to the execution of its functions. Congress' oversight of intelligence activities relates to its constitutional responsibilities for appropriations and legislative oversight. To perform these legislative functions, it is not necessary that Congress be reported to on the day-to-day intelligence activities of the Agency "in the same manner" as the President of the United States, who has administrative responsibilities. Indeed, such an intensive reporting requirement would suggest that Congress had assumed the function of administering the intelligence activities of the United States.

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Appendix VIII.—“The Bureau’s Budget: A Source of Power,” by Walter Pincus (excerpted from “Investigating the FBI,” edited by Pat Watters and Stephen Gillers).

CHAPTER THREE

THE BUREAU’S BUDGET: A SOURCE OF POWER

BY WALTER PINCUS

I: Lack of Normal Controls

The Federal Bureau of Investigation’s budget—like the organization itself—stands unique within the federal government.

It is drawn up and approved, and the resultant federal funds are disbursed and even audited, not only within the Bureau itself but within just one division of it.

The funds appropriated to the Bureau come in one lump sum, to be expended not necessarily as the Director said they would during his congressional appearances, but as he wishes.

While other government agencies are tied down because their appropriations are divided among various named or line items, the FBI has only four legally binding requirements in its appropriations: the number of new and replacement automobiles (including each year “one armored vehicle,” the fabled Hoover limousine, which in 1970 cost \$30,000); \$10,000 for taxicab hire, a historic item; a \$70,000 contingency fund “to meet unforeseen emergencies of a confidential character,” but not including “payment of rewards”; and finally \$42,500 as “compensation of the director . . . so long as the position is held by the present incumbent.”

The outside budget review systems that apply to other agencies and departments do not apply to the Bureau, thanks either to statute or to tradition. The Department of Justice

The Bureau's Budget

has not in the past held in-house hearings on the FBI budget. A former top Justice Department administrator, when asked recently how the FBI budget is integrated into the department's, replied succinctly, "With a stapler."

Those who have participated in the Office of Management and Budget's half-day review of the FBI budget say it is superficial. One former official could recall only one question being raised over an eight-year period—and it was directed to the number of cars the Bureau sought.

Congress and particularly the Appropriations committees have given special treatment to the Bureau budget. The Director himself noted in testimony that "I can frankly say we have seldom been denied funds by the House Subcommittee on Appropriations . . . The Bureau of the Budget and the Congress . . . have always been most considerate of our needs." In his own modest way, Hoover was saying that over the past twenty years he got all that he asked for and on two occasions, even more—a record no other government department or agency can equal.

If the FBI were a small agency or if its activities were non-controversial, the budgetary short cuts and special treatment would be understandable if not totally acceptable. But the Bureau is big and growing bigger. The \$334 million it received for the 1971 fiscal year makes it nearly as large in terms of budget and personnel as the Department of State. And this figure is almost double the FBI budget of just four years ago. By the end of fiscal 1972 there will be a programmed 8,900 special agents, an increase of 30 per cent over the number just three years ago.

In short, after almost twenty years of slow steady growth, the FBI still employs the secrecy in management and allocation of funds that it practiced when it was a relatively small elite agency run by younger men.

An agency with the Bureau's over-all mission must maintain

Investigating the FBI

some special rights in contrast to the normal budget process. The FBI—along with the CIA and the National Security Agency in the intelligence area—should be able to undertake activities that by their nature must remain secret. The limits of that secrecy, however, should be clearly defined and should permit some outside albeit protected review, by both the executive and legislative branches.

II: Controls from Within

Discussing the manner in which the Bureau puts together its budget is difficult—impossible, in fact, without the cooperation of those within the FBI with budgetary responsibilities. I have been unable to get that cooperation.

Thus, the picture one can draw of the process itself is of necessity limited. Two things are certain. John P. Mohr, a thirty-year veteran of the FBI and now assistant to the director, is the key budgetary figure, and the process itself is run by the Bureau's Division 3, the administrative division.

Unlike other agencies, the FBI assistant directors for operational activities—general investigative or domestic intelligence, for example—do not have budgetary responsibility. They do not take part in formulation of the budget and they do not allocate funds after the budget is approved. Instead they formulate programs which are passed on to the Director for approval. Such programs may require additional agents or special equipment—but the cost factors are not included as a part of the input to the Director.

"You always would assume that if the program was approved, money would be available," a former official told me. "And with a budget that was always going up, funds were never a problem."

Cost may, according to one former assistant director, have been part of Hoover's decision whether to approve or disap-

The Bureau's Budget

prove a program. But once a program was approved, it was Mohr's job to come up with the money.

On the operational level, budgeting is the responsibility of the special agents in charge of field offices (SACs). A SAC must make the allocations and seek the finances to perform the tasks assigned to him by the various assistant directors back in Washington.

The SAC's performance is judged by the statistics he generates while using the assets at hand. The Bureau does undertake case level studies that determine whether an office, based on the number of investigative matters handled, deserves to have additional agents. Thus, in the game of Bureau politics, it becomes reasonable for the SACs to turn their assets toward those matters that will generate the most statistics. And not surprisingly, according to former officials, the assistant directors push for approval of broad programs that generate those same statistics. In this process, the well-publicized mandatory unpaid agent overtime figures are built in for later use before the Congress.

The primary asset is agents, and each agent is a generalist. The number in any field office assigned to internal security, bank robberies or car thefts can vary from day to day and is controlled not by Washington but by the local SAC. "The successful SAC is the one who reads the pressures from Washington," one official suggested in discussing how funds are allocated and statistics developed.

In only one situation, according to a former top official, did the Bureau assign from Washington a set number of agents to a national program, and that was to the loyalty program during the 1950s.

In years past, Hoover always took the position that he would undertake new tasks or responsibilities with everyone working harder. "He would always absorb the additional effort for a few months after Congress passed additional laws within the

Investigating the FBI

Bureau's purview," recalled a former official. "Then he would come in with a budget request to cover a full year's operational increase." His request would talk in terms of a number of new agents per program, but the figure would not represent the actual number of agents that in fact would be so assigned. It was just a compilation of agent hours applied to that program from hundreds of agents around the country.

In 1963, when President Lyndon Johnson wanted Hoover to step up his work in the civil rights field, the Director responded that every agent he had was fully allocated; to undertake that task he would need funds adequate to hire an additional two hundred agents.

"That was just a way to add to the Bureau," one former Justice official said in discussing the matter. "A good manager could reallocate" from less important tasks, he suggested, and pointed initially to the agents involved in car theft and interstate payment cases that generate impressive numbers and dollar-recovery figures—both of which are used before Congress.

It took several years but Hoover did get additional funds sufficient to hire one hundred new agents, supposedly for civil rights cases. In his last budgets, he sought and received funds for one thousand new agents to handle organized crime, aircraft hijacking and "extremist" matters. Whether one thousand agents are ever assigned to such cases will be known only within the Bureau's administration division.

Using the backup material Hoover provided in the budget and supplied to Congress, one may make the following estimates on how his funds were allocated:

Close to 80 per cent of the Bureau's expenditures are for personnel salaries and "other personnel compensation." Almost 75 per cent of the FBI's budget is devoted to field investigations. The fingerprint identification activity costs more than \$25 million; the FBI lab more than \$7 million. One has diffi-

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culties going beyond that, although it is clear that the Bureau itself maintains extremely tight budget controls within its own house. For example, Hoover was able to tell the Congress that the Kent State inquiry, which involved 302 special agents at the peak, cost an estimated \$274,100 not including "6,316 hours of overtime for which [the agents] received no compensation."

The first level for review of the Bureau's budget would normally be the Department of Justice and its Assistant Attorney General for Administration. Past practice was that the Justice Department official played no role in drawing up the budget. He was permitted to sit in when Clyde Tolson, Hoover's chief deputy, spent an afternoon before the Office of Management and Budget going over the Bureau's figures. The Budget agency has a reputation for looking closely and refusing funds for most agencies, but, asked in June, 1971, at a Senate hearing whether the Budget Bureau had ever denied him any funds, Hoover replied, "The Budget Bureau frequently rounds off sums which we calculate as accurately as we can. They also set limitations on the total amounts we can request in a particular year and they frequently require us to absorb unforeseen costs which may arise from time to time. As an example, the FBI was required to absorb \$670,000 during the fiscal year 1971 resulting from increased statutory health benefit costs."

What Hoover didn't add to that illustration, though he had told the House committee about it, was that rather than "absorbing" the costs, he used funds Congress had already given him in a supplemental appropriation for salaries, and deferred the hiring of one hundred new agents and seventy clerks until the beginning of the next fiscal year. In other words, he exercised his right of reaching in and taking money he had for one purpose and used it for another.

General Accounting Office audits undertaken of FBI ex-

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penditures are normally spot checks which determine if the disbursing office has a voucher behind each payment. For this type of bookkeeping the Bureau gets high marks, not just from the GAO but from the Budget Bureau as well. But that type of auditing does not measure the workings of a program nor the employment of assets—a type of audit that GAO often undertakes within other executive branch agencies.

The manner in which the Bureau uses its confidential funds, informant payments and reward money is tightly held—as it should be. The CIA has similar funds, but it makes an outside top-secret accounting to a White House control committee. The Bureau apparently tells no one.

III: Congressional Review

The FBI's unique budgetary situation must be attributed to a number of factors, not the least of which is the Bureau's almost sacrosanct status in the halls of Congress. Until 1971 Director Hoover rarely found it necessary to appear before more than one Appropriations Committee. Every other department or agency director—including the CIA most years—had to put in an appearance before both the House and Senate Appropriations Committees. But Hoover took the position that since the House had always granted him all the funds requested, he had no reason to appear before the Senate committee.

Senator John McClellan became Chairman in 1961 of the Senate subcommittee which handles the over-all Justice Department budget including that of the FBI, and pressed for a Hoover appearance that year. According to both FBI and Hill sources, the Director declined and eventually the matter was settled amicably over lunch with an understanding that the Director would not be "invited" to appear and thus not placed in the position of "refusing."

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In June, 1971, both an NBC television program and a newspaper series on the FBI made the point of Hoover's non-appearance before the Senate committee. On June 24, weeks after this criticism, Hoover made his first appearance before McClellan's subcommittee at a special closed afternoon session that followed immediately after the appearance of Attorney General John Mitchell.

The congressional committees with legislative (as opposed to appropriation) authority over the Bureau—specifically the House and Senate Judiciary Committees—have shown no interest in inquiring into the Bureau. So the only congressional review of the Bureau for the past twenty years, with minor exceptions, has been that undertaken by the House Appropriations Committee's subcommittee which handles the FBI budget.

The Bureau has maintained another unique relationship to Congress, and particularly to the House Appropriations Committee. Since 1959 FBI personnel on loan to the committee have acted as full-time directors of all surveys and investigations run by the committee. Although the committee has used investigators from other agencies, the overwhelming number of its investigators are loaned FBI agents. In fact, almost two thirds of the House committee's \$1 million investigations budget for fiscal 1971 went to reimburse the FBI for loaned agents.

Not only does this arrangement cement relations between the FBI and the committee, it also gives the Bureau a special status among other government departments. What other executive agency serves at the direction of both the legislative and executive branches?

For his part, Hoover understood the importance of his Hill connections and their value to the Bureau. The FBI agent chosen to serve as one of the committee's three full-time investigators—on loan, of course—was carefully chosen. For example, FBI inspector Paul J. Mohr, who recently concluded an

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unusual four-year term with the committee, is the brother of John P. Mohr, until recently No. 4 man in the Bureau hierarchy and responsible for the budget.

The Bureau's involvement with the House Appropriations Committee was institutionalized in 1959 when the late Representative Clarence Cannon was Chairman. Cannon developed the system of using executive branch investigators as a means of saving money and asked Hoover to loan him some agents for full-time work. When George Mahon took over the committee in 1964 he decided to continue the system. Not surprisingly, a *Congressional Quarterly* survey of ten committee members (out of fifty-five) found a general lack of knowledge about the committee's investigating system. All knew that FBI agents did investigative work for the committee, but only three knew the extent to which FBI men were used.

It is also not surprising, based more on the committee's view of the Bureau than on the presence of the agents on its staff, to find that there has been no investigation of the FBI by the committee in the last twenty years, according to the present committee staff director, Paul Wilson.

Representative John J. Rooney, the New York Democrat who now chairs the Appropriations subcommittee which handles the FBI budget, recently defended the practice of using FBI investigators in a speech on the House floor. Rooney declared: "The surveys and investigations staff has never been requested to conduct any studies directly involving an appropriations request of the FBI. The FBI's request is closely studied and independently evaluated by the regular staff of the committee—which has no FBI personnel assigned—prior to being considered by the members of the subcommittee of which I have the honor to serve as Chairman."

What Rooney failed to point out was that although the regular committee "has no FBI personnel assigned," his own subcommittee staff assistant, Jay B. Howe, the man on the

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regular staff most directly involved with the FBI budget, is himself a former FBI agent.

A less direct connection exists between the Bureau and the Senate Appropriations Committee. In the mid-1940s, according to one Bureau official, the former Senate Appropriations Committee Chairman, Carl Hayden, asked Hoover to recommend someone to work on the staff. Hoover suggested a special agent who had caught his notice named Thomas J. Scott. Today Scott, the former FBI agent, is staff director of the Senate Appropriations Committee.

Hoover's congressional testimony hardly varied in his last ten years. It reflected not only the Director's manner of operation, but also the interests of Congressman Rooney. Rooney's own words in an NBC interview earlier this year best characterized his approach to the FBI and its Director: "There have been very few other agencies in government that have been so efficiently run and with such results to the taxpayers' benefit as the Federal Bureau of Investigation . . . without a doubt Mr. Hoover is the greatest administrator we have in government, in any part of the government."

The outline of Hoover's testimony was predictable year after year and made for dismal reading to those who sought some enlightenment on the Bureau's activities. The Director's prime emphasis was constantly on the dangers that faced the country rather than on details of what the Bureau was doing with its assets. In the 1950s the stress essentially was on Communist subversion from within and Soviet spies from without. In the late 1950s Hoover picked up the theme of crime, with emphasis on youthful offenders and repeaters. The black and radical movements began to appear in his testimony in the early 1960s, and in 1971 they dominated along with an appropriate exposition on "parole, probation and clemency abuses" and an extensive paper on "major prosecutive efforts directed against organized crime."

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Surrounding these dramatic readings of the dangers we face were the statistics and dollar figures so dear to the hearts of both the Director and Mr. Rooney. The Director invariably opened his testimony with a direct statement on the increases being sought, along with a line of description—"The remaining 398 full-year employees (all clerks) for FBI headquarters are for the fingerprint operation where 95 will be used for current work increases, 29 will be involved with preparation work for the automation of identification records and 274 will work on a long-term project to consolidate our civil fingerprinting file." Those details were further embellished by an array of tables and comparison charts that would bore the most intense Bureau follower.

Hoover also occasionally lightened matters by throwing in statements that reflected a shrewd assessment of what Congress wanted to hear. For example, in telling Rooney in March, 1971, about his major increase in agents—one thousand new ones or an over-all agent growth of 12 per cent at an annual cost of more than \$10 million—Hoover stated, "The committee will be interested in knowing that of 1,000 agents which were requested by the President and implemented by the Bureau, 67 per cent or 667 of those men have had military experience, many at the rank of captain and above. That experience is a great asset because they are in fine physical shape and have the discipline needed as an agent. They have the ability to make prompt decisions, having served in leadership positions during the Vietnam era." (These are hardly the credentials needed to do objective investigative work among the peace groups and new student radicals, however.)

Among the regular statistics of 1970 delivered by Mr. Hoover in 1971—as in the past—were:

—Fingerprint receipts and, normally, how they reached record numbers. In 1971, however, there was a falling off, so

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Hoover introduced a new statistic, "correspondence, forms and name checks received." Needless to say that 1970 carried the asterisk for all-time high.

—Laboratory examinations, which as usual were at an all-time high.

—Fugitives located were at 30,318—"a new high and an increase of 18 percent over the locations in 1969."

—Automobile recoveries "increased 5 percent in 1970 as compared to 1969 to reach a new record high of 30,599."

—Investigative matters received continued to grow along with another figure, average assignment per agent. Hoover stressed he "prefers to see" an average of eighteen matters. But the average assignment per agent reported for 1970 to the House subcommittee was thirty-one matters and Hoover pointed out that the 1,036 agents to be added during the coming two fiscal years "would have little impact upon this average work assignment . . ." Just three months later in his testimony before the Senate committee Hoover noted, "The average assignment per agent is now twenty-nine investigative matters." In the intervening three months, according to the presentations, only seventy-four new agents had been added to the rolls. What caused the drop of two matters per agent was not disclosed.

One of Hoover's proudest charts was labeled "FBI accomplishments and appropriations." It showed how each year, despite the Bureau's ever-growing budget, the fines, savings and recoveries stemming from the Bureau's activities rose at an even greater rate. "This accomplishment represents an average return of \$1.60 for each \$1 of direct funds appropriated to the FBI in the 1970 fiscal year," the Director said as he handed Rooney his five-year chart.

Taken alone, these statistics appear ludicrous when ranged against the more serious problems that Hoover said the country

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laced—organized crime and espionage, for example—and which should have been a prime focus for the assets he received. Yet interviews with past and present Bureau officials confirm that a substantial amount of agent time across the country is devoted to the tasks that result in providing these statistics, rather than toward investigations that require large numbers of agents and long periods of time and may not produce any dollar statistics at all.

When the House subcommittee members ask any questions, they are most likely to be of the character that were posed in March, 1971. Representative Neal Smith, a Democrat from Iowa, asked if the Director had fingerprints for all members of Congress on file. Hoover, still stung by accusations that he had bugged Capitol Hill telephones, automatically responded, "No, sir. I would like to add, also, we have never tapped a telephone of any Congressman or any Senator since I have been Director of the Bureau."

Smith, who himself didn't want to be misunderstood, quickly responded that he "was thinking in terms of it being a good thing to have the fingerprints of all Members for the protection of the Members in the case of accident."

Representative Elford A. Cederberg raised the question of Ramsey Clark's knowledge and approval of wiretaps while he was Attorney General. Cederberg and Hoover then entered into a colloquy on Clark during which the congressman quoted a section of Clark's previous testimony before the same subcommittee in which he praised the FBI. Cederberg remarked he had brought it up because "I thought it might not be a bad idea to place on the record the statements of the former Attorney General in his last testimony before our Committee in regard to the FBI. I am delighted, in light of the facts that are being put out in public print, to know that he did, in writing, authorize the use of electronic surveillances by the FBI."

Chairman Rooney then asked, "What do we know about this

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Bernadette Devlin?" and Hoover's brief reply included the statement, "I don't know why the State Department granted the Visa for her to come over here, but it did."

Representative Robert Sikes did close by asking about "the purchase of armored cars for the FBI . . . Are they for your use?"

Hoover responded that two were kept in Washington, one in New York and one in Los Angeles, but rather than calling them his own, preferred to describe them merely as being "used for protective purposes." It fell to Clyde Tolson, sitting beside Hoover, to tell Sikes that "during the calendar year 1970, Mr. Hoover received twenty-six threats on his life and so far this year, he has received another sixteen threats. It is necessary for security reasons for Mr. Hoover to be transported in these vehicles."

The questioning—if that is what it can be called—clearly shows that the lack of substance in Hoover's testimony before the subcommittee was not solely of his own doing. The congressmen themselves did not want to get into substance.

A close study of Hoover's testimony over the past fifteen years, however, discloses a number of areas worth congressional questioning—from the approach of Bureau investigative work, such as use of informants and wiretaps, to the allocation of agent resources to produce statistics.

For example, although the number of FBI agents has increased from 6,005 in fiscal 1957 to 8,482 in fiscal 1971, Congress has actually provided funds over the past fourteen years for a total of 8,976 agents. Thus, Hoover received money enough to hire more than he actually had.

In February 1967 Hoover testified he had 6,532 agents, and, with the additional funds he sought, he would add another 106 agents. This, he told Congress, would give him a total of 6,638 agents in fiscal 1968. He got the money he wanted, but

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the next year, the Director was back saying he had only 6,590 agents—and the subcommittee never asked why this was 48 fewer than he said he would have one year earlier.

Hoover's biggest agent gap took place between 1957, when he said he had 6,005 agents, and 1962, when he said he had 5,985. In the interim, he had sought and received funds from Congress to add no fewer than 287 agents.

When asked about the "missing" agents, FBI spokesman Thomas Bishop at first said the new agent funds were to fill slots vacated by retiring agents. He later revised that to say it might refer to authorized rather than actual agents on duty. Finally he said he had no answer.

Apparently, however, the funds involved were used for other Bureau expenses. But by asking for money for new agents, Hoover was always assured he would get his request. The FBI budget is appropriated in one lump sum, so there is nothing legally wrong in what Hoover did—but it does show a bureaucrat's ability to use figures to get what he wants.

IV: The Future

Clearly if the FBI is to be reintegrated into the government, one of the first steps would be for the Attorney General and his top staff to play a role in the FBI's budgeting and the programming that stems from it. The U.S. attorneys and the department's Criminal Division in particular should be aware of FBI future planning as a guide to their own activities. As a former Justice official understated it recently, "The FBI budget planning can in the long run have an impact on caseloads and the courts."

The measure of FBI performance should be changed so as to put less stress on the statistics that prove its "efficiency" and more on meeting the most pressing of the problems it faces. In short, assets probably should be reallocated. But that judg-

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ment can only be made with a clear understanding of what the distribution is today.

It will fall to the congressional committees that review the FBI budget to apply the kinds of policy controls many feel are now lacking. They have a broad enough makeup and separation from executive responsibility to raise the controversial questions that never seem to get asked within an administration's family. Only the attitude of the members on the Hill need to change; the opportunity is already there.

Almost every year Hoover provided a brief statistical report in the area of civil rights and the FBI. He told the Rooney subcommittee that the FBI in 1970 handled 934 investigations under the Civil Rights Act of 1964 and that cases in this area "often are of a controversial nature." In order to provide a figure on agent participation, Hoover linked the work in civil rights with "that required in connection with racial disturbances and keeping abreast of the activities of extremist and hate groups" and came up with a figure of "an average of 2,139 agents each month." The Media, Pennsylvania, documents showed that the Bureau undertook a vast investigation into all black student groups—an undertaking that one would hardly class as falling within the civil rights area, though Hoover's testimony indicated that he did. No congressman present, however, raised any questions.

Hoover often referred to the publications produced by the Bureau and their costs, but no one asked him about his office of criminal records or costs of his publicity activities.

Each year Hoover reported on informants in a few paragraphs. But there never was a question about the varieties of informant activity; the committee limited its concern to the two areas Hoover cited—location of fugitives and recovery of stolen goods.

Handling of derogatory arrest information by the FBI was raised before both the House and Senate committees in 1971

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through a question and answer insert provided by the Bureau. Only Senator Roman Hruska followed up with a few questions.

The Director each year provided information on the number of Bureau electronic surveillances as of the day of his testimony. The only substantial discussion on the subject in both committees in 1971 was to criticize newspaper articles which discussed FBI wiretapping.

Hoover provided both committees with extensive prepared papers on the FBI and organized crime.

Thus, there was hardly an area of public controversy or concern that Hoover himself did not raise in his congressional appearances. In the future, perhaps someone on the pertinent subcommittees will have the sense of responsibility to follow through with questions to the Director that the public deserves to have answered.

The Bureau must be opened up for within-government review and coordination, as well as congressional inquiry for the public benefit. But this does not mean that *everything* the FBI does should be subject to executive or public review. The FBI has responsibilities for undertaking investigations that reach the highest levels of government—inquiries that should not be subject to review by higher authorities or Congress because those individuals may in fact be involved. This is the gravest type of responsibility and one that must be vested wholly within the Bureau. In some areas at some times the FBI must be an agency unto itself—and it must be so structured and run by men of the highest caliber to perform such tasks.

This country needs an agency of quality and public standing to perform the tasks assigned by law to the FBI. Time and practice have made it today a totally separate power. It needs to be brought back into government, but with the limited special status required to protect all the people and not just the few who run it now.

*The Bureau's Budget**V: Conference Discussion*

Mr. ELLIFF: First, Ken Clausen of the *Washington Post* has done some good work on informants and he comes up with this: "The Justice Department of Attorney General John Mitchell does not know how much money the FBI actually spends for informants. The funds are hidden in the Bureau's \$300 million plus budget, and the figure is jealously guarded." However, recently, Representative Rooney said, "The FBI informant fund is the same as the Bureau of Narcotics and Dangerous Drugs, which is 3.7 million dollars for informants, at least this year."

Second, in 1943, when Clarence Cannon became Chairman of the House Appropriations Committee, he asked for FBI agents to help and in the Roosevelt papers I found this memo from Francis Biddle, the Attorney General, to Roosevelt:

Congressman Cannon has requested that Hoover assign FBI agents to investigate needs of the various departments requesting appropriations so that the Committee may determine in any particular case whether additional personnel is needed, whether there is waste and so forth.

The Biddle memo goes on:

I am strongly opposed to the plan. It would put the Department of Justice in the impossible position of investigating other departments, including the Army and Navy, and passing on their needs.

And he says to the President, "I thought that I should report the matter to you since you might wish to indicate what you think should be done." And Roosevelt notes, "You are absolutely right." So under the Roosevelt administration, no FBI

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agents were assigned to the Appropriations Committee. That, of course, was changed, as you report in your paper.

Mr. PINCUS: Yes, I think two things. One, Cannon wanted to do it because he wanted to save money and he went ahead and did it anyway. It didn't matter what Biddle said. It started back in the Forties; he had not only Bureau agents, but a variety of other executive agency people working for him.

Second, my own personal feeling is that it really shouldn't be allowed. Any committee can put together its own staff and in many ways do a much better job than the Bureau is capable of doing. But you can't at the same time serve both the legislative and the executive branches.

Mr. RANSOM: I have a question for Mr. Pincus. To what extent on Capitol Hill is the fear of a secret dossier in the Bureau a deterrent to a more aggressive questioning of its present Director? I realize you can only have an impression about this, but I wonder if you have one.

Mr. PINCUS: I think it fits into the same category as every civil rights leader's feeling that his phone is tapped. A politician can't afford certain kinds of exposure or doesn't think he can afford it. Politicians have a certain number of battles that they can fight; they usually want to fight ones that they can win. It is almost impossible to beat the Bureau. Nobody has really been willing to make the fight. Part of it is the fear of the secret dossier, and I'm sure at times there have been actual uses or at least threats made.

I've asked the same question of people who have worked in the Justice Department. How often are they willing to take the extra step to confront Mr. Hoover or the Bureau on some question? Most people are willing to win some and lose some, but never try to fight the whole battle. Much of the power that has been accumulated by the Bureau has been weaned away from other agencies and institutions over a period of time because they haven't been willing to call a halt at some point.

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Mr. HUNDLEY: My question ties in with what you just said. I can understand why politicians and even people in the Department of Justice, including Attorneys General, have had some reluctance to deal directly with a person as powerful as Mr. Hoover. I also agree, as you said earlier, that the press, until quite recently, has dealt very tenderly with him. I wonder how you would explain that.

Mr. PINCUS: To go into my theories of the press would take a long time. The simplest one is that newspapers, and television to a greater degree, are dependent upon official sources for news. It is not news if I say something happens; it is news if Mr. Hoover does. And so, if you want to go after the Bureau, you're not going to get anybody to talk to you about the Bureau. You've got to go find it out yourself, and then you've got to bring those facts forward and say, "This is what I uncovered." That's a difficult job. It's much easier to use your assets as a newspaper in covering press conferences, where you can quote well-known people.

There have been, over a period of time, pieces about the Bureau, but not very many. The lack is a result of the difficulty in developing stories without help and a result of Mr. Hoover's ability to give reporters access to files that can make them look very good.

Let me give an example. When I first started out, I did a piece about his armored cars. I was doing a piece about everybody's limousines and somebody at GSA gave me the bid for Hoover's. At the time, it was just a \$20,000 car. I wrote about it. The fellow who gave me the contract, which was a public record, was transferred. My paper got all sorts of letters from Hoover, and finally said, "Well, you know, we have no control over things like that." It's not worth it for them.

Part A.—IRS “Information Gathering Guidelines” of June 23, 1975.

450-231
Department of the Treasury Internal Revenue Service

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Information Gathering Guidelines

.01 This Supplement implements Policy Statement P-1-1 (Approved 6-23-75), attached, and provides guidelines for the gathering of information that may be solicited, obtained and retained for use by Service personnel as background material prior to the assignment of a case for collection, examination or investigation.

..02 These guidelines are not intended to alter in any way the gathering, solicitation and documentation of tax related facts and evidence necessary in developing cases that have been assigned for collection of taxes, examination or investigation of a tax liability.

.01 Compliance with the tax laws which the Service is authorized and directed to enforce cannot be determined solely by reference to the information on returns and documents filed with the Service. Therefore, the Service must obtain information from outside sources for the effective administration of the tax laws.

.02 Information gathering activities which were suspended by telegram to All Regional Commissioners on January 22, 1975 (reissued in the Internal Revenue Manual as Manual Supplement 91RDD-7, CR 41RDD-18 and 51RDD-20 and 71RDD-1) and by telegram to All Regional Commissioners, District Directors and Service Center Directors on February 7, 1975 (reissued in the Internal Revenue Manual as Manual Supplement 93G-148, CR 42G-323, 45G-223, 5(12)G-22, and 71G-3) may be resumed in accordance with the guidelines and definitions set out in this Manual Supplement.

.01 No information documents of any type presently on hand or hereafter acquired in the Service concerning Intelligence Information Gathering, Joint Compliance Program, Coordinated Compliance Projects and Returns Compliance Program will be destroyed until the Senate Select Committee and all other official reviewing bodies complete their investigations of intelligence activities carried out by or on behalf of the Federal Government. The suspension of destruction procedures does not preclude use of such information for civil or criminal tax administration purposes, provided such use does not include destruction. Instructions concerning records disposition will be issued as soon as the investigations are completed.

.02 District Directors will ensure that documents and information relating to or arising from information gathering activities (including projects and programs), whether solicited or unsolicited, which are not necessary to the administration of the tax laws and do not indicate a violation of a Federal law enforced by another agency will be segregated and placed in a separate storage area with access limited to Division Chiefs. To the extent practicable, the data should be filed according to taxpayer name. An index of all documents from the discontinued Information Gathering and Retrieval System should be retained. These records may be transmitted to the Federal Records Center, or destroyed in accordance with IRM 1(15)59, when the Congressional investigations specified in Section 3.01 are concluded.

.03 Directly tax related documents (defined in Section 4) remaining after the review specified in Section 3.02 shall be maintained in accordance with the provisions of these guidelines.

Distribution:
IRM 1(15)59, 4100, 4200, 4500, 5100, 5(12)00, 6100, 7100, 9100, 9300, 9400

Section 4. Definitions

.01 The term "directly tax related information" means only documents, statements, facts and testimony which reasonably relate to or aid in determining the correct tax liability of the taxpayer. Noncompliance may be indicated by such information as:

- 1 Personal expenditures or investments not commensurate with known income and assets;
- 2 Receipt of unreported income;
- 3 Overstatement of itemized deductions, business expenses, cost of sales, tax credits, etc.;
- 4 Improper deduction of capital or personal and living expenses;
- 5 Failure to file required returns or pay tax due;
- 6 Omission of assets or improper deduction or exclusion of items from estate and gift tax returns;
- 7 Violations of conditions and requirements relating to tax exempt status of organizations;
- 8 Improper operation of a qualified employee plan and trust; or
- 9 Other actions substantially similar to 1-8 above.

.02 The above factors do not stand alone, but should be considered in light of the taxpayer's occupation, prior accumulation of wealth and data shown on tax returns and the results of prior examinations or investigations. Prudent judgment must be exercised in making the decision whether types of information in 4.011-4.019 are directly tax related.

.03 Documents and data relating to agents' daily activities, time reports and other case management and internal management documents are not considered to be background material or taxpayer related information and may be retained for management purposes.

.04 The following definitions of other terms apply to these guidelines:

1 A "case" is an accumulation of facts concerning a taxpayer, which are segregated and associated with the taxpayer's name and evaluated for potential assignment to an employee for appropriate action.

2 An "assigned case" is a case that has been assigned to an employee or group of employees for action and that is subject to a requirement for a written report or an entry in a log indicating the action taken when the case is completed.

3 A "case file" is the accumulated notes, documentation and information assembled as a result of Service inquiries of and about a taxpayer which contains the taxpayer's name or identifying number or symbol assigned to the taxpayer.

4. An "informant's communication" is a communication from anyone outside the Service, written or oral, voluntarily submitted to the Service identifying one or more taxpayers and providing some information about the taxpayer. The informant may be anonymous.

Section 4 -- Contd.

5 A "project" is a study, survey or canvassing activity involving a limited number of taxpayers within such categories as an occupation, an industry, a geographic area or those involved in a specific economic activity, undertaken to identify noncompliance with the tax laws.

Section 5. Broad Service Guidelines Governing All Functions (Except Inspection)

.01 District employees are encouraged to continue to be alert for indications of tax noncompliance which come to their attention. Audit, Collection, EP/EO and Intelligence employees will report such information as provided in their respective sections of this Supplement. All other employees will report such information via memorandum through channels to the Chief, Intelligence Staff at the appropriate Service Center.

.02 Indications of noncompliance identified by Service Center, Regional and National Office employees will be forwarded to the Chief, Intelligence Staff at the appropriate Service Center.

.03 Information received by Service employees, which indicates a violation of a Federal law enforced by another agency, will be forwarded through channels to the Director, Intelligence Division, for forwarding subject to disclosure provisions, to the appropriate agency. (Reference IRM 9382.4).

.04 No employee shall maintain background or historical files on taxpayers except where such files are an integral part of the case file pertaining to a currently assigned case, unless specifically authorized to gather information as provided in Section 8.03.

.05 Employees assigned to a project involving information gathering must ensure that all information received is included within the project files.

.06 Employees assigned to projects or individual information gathering may obtain information from sources outside the Service for purposes of verifying the filing of required returns, payment of tax, exempt status, proper reporting of income, deductions or credits, or otherwise determining compliance with the tax laws. However, the information obtained must be directly tax related and necessary to the administration of the tax laws. (See Sections 4.01 and 4.02).

.07 The Information Index System will be used whenever it is necessary to index information.

.08 Any employee who receives information concerning Service employee misconduct will forward the information directly to Inspection.

.09 Informants' communications will be forwarded to the Chief, Intelligence Division for transmittal to the Chief, Intelligence Staff at the appropriate Service Center. The informants' communications will be evaluated by appropriate personnel at the Service Centers.

.10 Informants' communications concerning violations of other Federal laws will be forwarded by the Chief, Intelligence Staff, subject to disclosure provisions, to the appropriate agency.

.11 Information received which is not directly tax related and does not indicate a violation of other Federal laws will be segregated and stored, as provided in Section 3, for disposition when instructions are issued.

Section 6. Responsibilities

.01 Assistant Commissioners will provide for an annual review of each region's information gathering activities as a part of the National Office Review Program (NORP) to ensure compliance with Service policy and these guidelines.

.02 Regional Commissioners will provide for a review of each district's information gathering activities in their semi-annual visitations to the districts to ensure compliance with Service policy and these guidelines.

.03 District Directors are responsible for the approval of all district information gathering projects. While the Chief, Intelligence Division may authorize information gathering on specific taxpayers outside the scope of projects as and to the extent provided in Section 8.03, the District Director shall provide for quarterly reviews of all information gathering activities on projects and specific taxpayers, to ensure compliance with Service policy and these guidelines.

.04 Each employee is responsible, in the interest of safeguarding taxpayer privacy, for ensuring that information other than that necessary for the administration or enforcement of the tax laws is not solicited, indexed or associated with the name or other identifying symbol of a taxpayer. (See Section 3.02 for the disposition of any such information described therein as may be or may have been received.)

Section 7. Initiation of Projects to Determine Taxpayer Compliance

.01 Projects, as defined in Section 4.045, must be authorized in writing by the Assistant Commissioner, Regional Commissioner or the District Director. Authority to initiate projects may not be redelegated.

.02 Authorizations for projects must state the purposes and define the scope of the project. Project activities may include obtaining and analyzing data from sources outside the Service, but only information meeting the requirement of Section 4 may be sought, obtained, indexed and analyzed. Authorizations must also specify the estimated life of the project and specifically state what type of information is to be indexed.

Section 8. Intelligence Division Procedures

.01 The Intelligence Information Gathering and Retrieval System (IRM 9390) is discontinued. All districts will utilize the Information Index System, which will be described in a separate Manual Transmittal, to file and index directly tax related information. Such tax related information now in the discontinued Information Gathering and Retrieval System may be retained in district files and indexed only if it relates to a taxpayer included in an authorized project or for whom the Chief, Intelligence Division, has authorized information gathering.

.02 Where authorized by an Assistant Commissioner, a Regional Commissioner, or a District Director, projects, as defined in Section 4.045, may be initiated for the purpose of identifying taxpayers involved in tax evasion or other criminal violations of the Internal Revenue Code. The authorization for a project may identify one or more taxpayers at the outset for information gathering activity and additional taxpayers may be identified as the project progresses. Immediately upon termination of the information gathering phase of the project any information not associated with the case file of a taxpayer must be removed from the Information Index System and destroyed unless it relates to a taxpayer for whom information gathering has been specifically authorized by the Chief as provided in Section 8.03. (Note, however, that Section 3.01 prohibits destruction pending the completion of certain inquiries. Information removed will be stored in the district until this suspension is released.)

Section 8 -- Contd.

.03 In addition to project information gathering, the Chief, Intelligence Division, may authorize individual employees to obtain information on a specific taxpayer who is or appears to be involved in activities which have tax significance for purposes of making a decision as to whether or not to initiate an investigation. This authority may not be redelegated. The Chief's authorization must be made in advance of the information gathering activity. Only information or data directly related to administration of the tax laws which the Service is authorized and directed to enforce will be solicited or indexed, as specified in Sections 4.01 and 4.02. The Chief, Intelligence Division, may authorize only information gathering activities which relate to a taxpayer of interest to that district. The district's interest may be the result of the taxpayer filing returns in the district, residing in the district or having a principal business or other economic activity in the district. In the event the interest of another district becomes apparent, the Chief will coordinate with the other district or districts to establish which district has the principal interest. That district will, thereafter, control information gathered and coordinate information gathering activity relating to that taxpayer.

.04 When the Chief, Intelligence Division, approves the gathering of information relative to a specific taxpayer (described in Section 8.03) the Information Index System will be used to index the information. The authorization of the Chief must be in writing and must specify the known or assumed identity of the taxpayer and the reason information gathering has been authorized. The written authorization will be indexed.

.05 Information gathered pursuant to Section 8.03 will be maintained at the location specified by the Chief, Intelligence Division. The information may be maintained in the custody of the employee authorized to gather the information. The employee will be responsible for preparing the necessary forms to enter the authorization and each item of information gathered in the index.

.06 The Chief, Intelligence Division or Assistant Chief will conduct quarterly reviews of samples of information gathered and entered into the Information Index System to ensure that only directly tax related information is being retained and indexed and that information no longer needed by the Service is being removed from the Information Index System to be destroyed or retired to the Federal Records Centers. A written record of the quarterly reviews will be submitted to the District Director who will review them.

.07 Information obtained during the course of an assigned project or investigation indicating a violation of a Federal law enforced by another agency will be forwarded to the Director, Intelligence Division for transmittal to the appropriate agency in accordance with the disclosure provisions (Reference IRM 9382.4) and the Privacy Act when effective.

.08 Information in the Information Index System may not be retained in the System for a period longer than six years except that, with the approval of the Chief, Intelligence Division, specific information may be retained for a longer period if it has continuing material significance to a taxpayer's tax affairs. Information in the System will be removed and associated with the taxpayer's case file when a case is assigned. All other information removed from the System will either be destroyed, or retired to the Federal Records Center, in accordance with the provisions of IRM 1(15)59, Records Control Schedule 207, Intelligence-Regional and District offices when the restrictions in Section 3 have been rescinded.

.09 Intelligence employees who learn of indications of tax noncompliance will report information on Form 3949 or, if authorization to gather information is being requested, by memorandum, through appropriate management channels, to the Chief, Intelligence Division.

.10 Special Enforcement files are eliminated. The National Register is discontinued and Forms 4860, National Register Input Form, will no longer be prepared.

Section 9. Audit Division Procedures

.01 All Audit employees will be alert for indications of noncompliance with the tax laws. They will continue to seek facts and evidence necessary to resolve issues in assigned cases and projects; however, care must be taken to ensure that only directly tax related information is sought. Employees will not maintain any individual files or background information on taxpayers other than project files which they have been specifically authorized to maintain by the District Director.

.02 If potential fraud is discovered relating to a taxpayer upon whom the employee has an assigned case, the matter will be referred to the Chief, Intelligence Division on Form 2797, Referral Report.

.03 All other information received which may involve potential fraud and all informants' communications received by Audit employees will be recorded on Form 3949 and forwarded through channels to the Chief, Intelligence Division. All other directly tax related information received by Audit employees will be forwarded with Form 4298, Audit Requisition and Information Report, to the Returns Program Manager for processing. Group Managers will ensure that only directly tax related information is forwarded. Information indicating a violation of a Federal law enforced by another agency will be forwarded through channels to the Director, Intelligence Division for transmittal to the appropriate agency subject to disclosure provisions.

.04 All Forms 4298 not selected by the RPM will be batched and sent to the Service Center Files Management Unit for association with the returns. All Forms 4298 selected by the RPM will be handled as provided in IRM 4175 and will remain with the tax return upon disposition by Audit.

.05 Information received indicating noncompliance by a large number of taxpayers should be forwarded through channels to the Chief, Audit Division, and as appropriate, to the District Director, the Assistant Regional Commissioner (Audit) or Director, Audit Division, for consideration and appropriate action.

.06 Joint Compliance, Coordinated Compliance and similar programs will continue. Projects now in progress will be completed and new projects may be initiated if approved by Assistant Commissioners, Regional Commissioners or the District Director. The provisions of this Supplement do not change program reporting requirements on retention or indexing of information. Care should be exercised to ensure that only directly tax related information is sought.

.07 Information necessary for the determination of comparable sales prices, appropriate intercompany pricing practices, allocation of income and expenses, useful life of assets and similar data necessary to sustain Service positions on valuation and costs allocation matters may be obtained and retained for use as reference material. Such material is to be used by examiners in arriving at timely, fair and reasonable determinations and is not to be indexed and associated with the name or other identifying symbol of a taxpayer.

.08 The historical files used in the Large Case Program are considered a part of the case file.

Section 10. Collection Procedures

.01 The Collection function will continue on-going activities in the Returns Compliance Program area. New programs initiated at the National, regional or local levels will require the approval of the Assistant Commissioner, Regional Commissioner or District Director, respectively. Returns Compliance Programs may involve obtaining lists of tax-

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Section 10 -- Contd.

payers' names and addresses and other general information which identifies groups of taxpayers who are probably required to file particular tax returns. Other types of Returns Compliance Programs may involve direct contact with individual taxpayers to assure compliance with specific filing requirements. Employees will not maintain any individual files or background information on taxpayers.

.02 Only directly tax related information will be obtained in the Returns Compliance Program.

.03 Information gathered for the purpose of generating Returns Compliance Program leads is normally retained for a relatively brief period until this purpose has been accomplished, and then destroyed as soon as permitted under Section 3.02.

.04 Returns Compliance leads assigned for field follow up will be considered as "assigned cases" and, as such, come under the exclusions in Section 1.02.

.05 Collection employees who learn of indication of tax noncompliance will report the information to Audit or EP/EO on Form 3449, Referral Report. If potential fraud is indicated, the information will be reported to Intelligence on Form 3949, Intelligence Information Item, unless the referral resulted from an assigned case where Form 3212, Referral Report, will be used. Information alleging other offenses against the United States will be forwarded through channels to the Director, Intelligence Division.

.06 Actions that are deemed necessary to verify the current compliance of previously delinquent taxpayers or taxpayers for whom the Service believes such verification is necessary, will be considered delinquency prevention actions. Such actions will be considered assigned cases and will be documented as outlined in 4.042.

Section 11. Employee Plans and Exempt Organizations Procedures

.01 All EP/EO employees will be alert for indications of noncompliance with the tax laws. They will continue to seek facts and evidence necessary to resolve issues in assigned cases and projects; however, care must be taken to ensure that only directly related information is sought. Employees will not maintain any files or background information on taxpayers or organizations.

.02 If potential fraud is discovered relating to a taxpayer upon whom the employee has an assigned case, the matter will be referred to the Chief, Intelligence Division, on Form 2797, Referral Report.

.03 All other information received which may involve potential fraud and all informants' communications received by EP/EO employees will be recorded on Form 3949 and forwarded through channels to the Chief, Intelligence Division. All other directly tax related information received by EP/EO employees will be forwarded with Form 4298 to the Chief, EP/EO Division, for processing. Group Managers will ensure that only directly tax related information is forwarded. Any information alleging other offenses against the United States will be forwarded through channels to the Director, Intelligence Division for appropriate disposition pursuant to Section 5.

.04 The Chief, EP/EO Division, or an appropriate designee, will promptly screen all Forms 3949 and 4298 received. Forms 4298 not involving exempt organizations, exempt status of an organization or employee plans will be forwarded to the Returns Program Manager, Audit Division, for the district office servicing the principal place of business of the taxpayer. If it is determined an exempt organization or employee plan return is to be secured, the return will be requested from the service center and the information associated with the return. If the return does not warrant selection for examination because of prior

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Section 11 -- Contd.

year returns, workload capacity or other factors, the Form 4298 and return will be sent back to the service center. However, if the information relates to a taxable period for which no return is due or one for which the organization does not have to file a return, such Form 4298 will be placed in a suspense file until the return is filed and secured, or until the accumulated information warrants compliance action. Any instances of apparent failure to file will be referred to the Collection function.

.05 Projects as defined in Section 4.045 may be initiated when authorized by an Assistant Commissioner, the Regional Commissioner or by the key District Director. Care should be exercised to ensure that only directly tax related information is sought.

.06 Reports, comments or exchanged information required under the Employee Retirement Income Security Act of 1974 (Public Law 93-406) are not considered informants' communications.

.07 The historical files used in National Office Controlled cases in the Exempt Organization Program are considered a part of the case file. Similarly, the administrative files of employee plans and exempt organizations which contain information, such as application for recognition of exempt status, determination letters issued and workpapers from prior examinations, are considered as part of the case file.

Section 12. Effect on Other Documents

.01 This supersedes Manual Supplement 91RDD-7, CR 41RDD-18, 51RDD-20 and 71RDD-1, dated January 31, 1975 and Manual Supplement 93G-148, CR 42G-323, 45G-223, 5(12)G-22 and 71G-3, dated February 20, 1975 and Amendment 1 thereto. Annotations made at IRM 42(14)0, 4568, 5(12)40, 9311, 9330 and 9390 referring to Manual Supplement 93G-148, CR 42G-323, 45G-223, 5(12)G-22 and 71G-3 should be removed.

.02 This amends and supplements IRM 4175, 42(14)0, 4568, 4569, 5(12)40, 6100 (to be issued), 7100 (to be issued), 9311, 9330, and 9413. This "effect" should be annotated by pen and ink beside the text cited with a reference to this Supplement.

.03 This supersedes IRM 9390 which will be revised and reissued as soon as possible.

Donald C. Alexander
Commissioner

Attachment

Attachment to MS 93G-152, CR 1(15)G-91, 41G-105, 42G-328, 45G-231, 51G-118, 5(12)G-25, 61G-3, 71G-9, 91G-33 and 94G-57

P-1-1 (Approved 6-23-75)

Mission of the Service

The mission of the Service is to encourage and achieve the highest possible degree of voluntary compliance with the tax laws and regulations and to conduct itself so as to warrant the highest degree of public confidence in its integrity and efficiency. The Service should advise the public of its rights and responsibilities, determine the extent of compliance and the causes of noncompliance, and do all things needed for proper administration and enforcement of the tax laws.

Programs and facilities to be established to accomplish Service mission

In order to fulfill this mission, the Service must establish programs and facilities for receiving and processing returns, for collecting all taxes due, for auditing, for detecting fraud and delinquency, for hearing and adjudicating appeals, for providing taxpayer assistance and information, for recruiting persons with a professional outlook and maximizing their ability to perform through training in both the ethical and professional aspects of their jobs, for developing evaluation methods designed to measure these aspects, for the uniform interpretation and application of the tax laws, for the preparation of regulations and tax guide materials, for clarification and simplification of tax rules, for maintaining the integrity of the Service and its efficient operation, and for performing such other duties as may be required by laws and regulations.

Taxpayer privacy will be safeguarded in the acquisition and use of information

Since compliance with Internal Revenue laws cannot be determined solely with reference to information on returns and documents filed with the Service, the Service will obtain information from outside sources. However, only information necessary for the enforcement and administration of the tax laws which the Service is authorized and directed to enforce will be sought. To safeguard taxpayer privacy, any information received by the Service, other than that described in this paragraph, will not be indexed or associated with the name or identifying symbol of a taxpayer. No disclosure of information will be made except as provided by law.

Approved by: Daniel C. Abraham
Commissioner

Date: Jun 23, 1975

**Part B.—Letter of September 16, 1975, from IRS to committee
relating to confidentiality of tax returns.**

Department of the Treasury / Internal Revenue Service / Washington, D.C. 20224

Commissioner

SEP 16 1975

Mr. A. Searle Field, Staff Director
Select Committee on Intelligence
U.S. House of Representatives
Washington, D. C. 20515

Dear Mr. Field:

I have your letter of August 26, 1975, asking for my recommendations for amendments to the Internal Revenue Code governing the confidentiality of tax returns.

In 1974, an Administration proposal on the confidentiality of tax information was introduced as H.R. 17285 and S. 4116. I am enclosing a xerox copy of S. 4116, together with a copy of the narrative explanation of the proposal which was printed in the Congressional Record for October 10, 1974. This proposal is now in the process of revision to reflect application of the Privacy Act of 1974 and to effect certain other changes. In the meantime, I think that S. 4116 is a good place to start in considering the vital problem of the proper degree of confidentiality of tax returns and equally--if not more--sensitive material in the possession of the Internal Revenue Service relating to taxpayers' tax affairs. While judgments can and do differ on the degree to which tax information properly should be disclosed under different circumstances, this proposal in the 93rd Congress would have achieved one goal which I have long advocated, which is that tax returns and tax return information should be confidential except as otherwise clearly provided by statute. Another feature of this proposal which is, in my opinion, of primary significance is that the confidentiality safeguards and standards to be provided by statute would have applied, not just to the tax return itself, but to all information

in the Service's possession relating to a taxpayer's past, present, or future liability for any tax imposed by Title 26. This broad coverage is essential to any statutory scheme to provide assurance to the American taxpayer that all of his tax affairs remain confidential except to the extent that Congress determines that disclosure is in the best interests of sound government.

If I can be of further assistance to you or to the Committee, please let me know.

With kind regards,

Sincerely,


Donald C. Alexander

Enclosures

[NOTE.--The materials transmitted with this letter are in the committee files.]

Part C. — Data provided by IRS relating to tax returns.Number of Returns Furnished to the White House ^{1/}

<u>Period</u>	<u>President</u>	<u>Number of Requests</u>	<u>Number of Taxpayers Involved</u>
1963-1968	Mr. Johnson	0	0
1969-1970	Mr. Nixon	13	19
1971-to date	Mr. Nixon	0	0
	Mr. Ford	0	0

^{1/} The table lists requests that were documented in IRS files. There has been testimony in executive session before the Senate Select Committee on Presidential Campaign Activities that oral requests to inspect income tax returns or related investigative files were improperly honored by a former Assistant Commissioner (Inspection); however, we are unable to determine the exact dates or the number of taxpayers involved in such requests.

Our current procedures (attached) instruct Service employees that all White House requests for tax returns or tax return information will be evaluated by the Commissioner. Only the Commissioner, or, in his absence, the Deputy Commissioner, will make tax returns or tax information available to members of the White House Office. Also, President Ford has issued Executive Order 11805 (also attached) which provides that returns shall be delivered to or made available for inspection by the President only upon written request signed by the President personally.

COPY

INFORMATION Number 74-23
NOTICE August 9, 1974

U.S. Treasury Department Internal Revenue Service

Disclosure of Tax Returns and Tax Information
to Members of the White House Staff

This is to inform Service employees of the procedures which should be followed with respect to requests for tax returns and tax information from members of the White House Office. The White House Office comprises the officers and employees of the staff of the President required in the performance of the detailed activities incident to his immediate office. Any officer or employee of the Internal Revenue Service who receives a request for tax returns or tax information from a member of the White House Office shall promptly communicate the contents of the request to the Commissioner through the head of the office in which he serves. The Commissioner will evaluate the request and will ask the Assistant Commissioner (Compliance) to prepare whatever reports may be necessary in the same manner as provided by sections (18) 30 (1)(b) and (3) of IRM 1272, Disclosure of Official Information Handbook. Only the Commissioner, or in the absence of the Commissioner, the Deputy Commissioner, will make the report, the tax returns, or tax information available to the members of the White House Office. These procedures will be made a part of the Disclosure of Official Information Handbook, IRM 1272. The institution of these procedures is intended to include the Special Tax Check Report Program established by Chapter (19)00 of IRM 1272, Disclosure of Official Information Handbook, IRM 1272, the information submitted pursuant to a report under this Program should be limited to whether an individual has filed income tax returns with respect to the immediately preceeding three years, has failed to pay any tax within 10 days after notice and demand, has been under any criminal tax investigation and the result of such investigation, or has been assessed a civil penalty for fraud or negligence.

/s/Donald C. Alexander
Commissioner

COPYInspection of Returns by Other Federal Agencies

(D5) 56

Inspection of Returns by the President and White House Employees

(1) Executive Order 11805 dated September 20, 1974 provides that returns shall be delivered to or made available for inspection by the President only upon written request signed by the President personally. All such requests will be handled in the National Office.

(2) The request, signed by the President personally, shall be addressed to the Secretary of the Treasury or his delegate and shall state:

(a) the name and address of the taxpayer whose return is to be inspected,

(b) the kind of return or returns to be inspected,

(c) the taxable period or periods covered by such return or returns, and

(d) the name of any employee or employees of the White House Office who are authorized on behalf of the President to receive any such return or make such inspection. No disclosure of returns or data therefrom shall be made by such employees except to the President without the written direction of the President.

(3) Any officer or employee of the Internal Revenue Service who receives a request for tax returns or tax information from a member of the White House Office shall promptly communicate the contents of the request to the Commissioner through the head of the office in which he serves. Only the Commissioner, or, in the absence of the Commissioner, the Deputy Commissioner, will make reports, tax returns, or tax information available to the White House Office. The White House Office comprises the officers and employees of the staff of the President required in the performance of the detailed activities incident to his immediate office.

THE PRESIDENT

34261

EXECUTIVE ORDER 11805

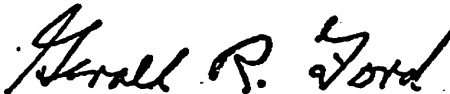
Inspection by President and Certain Designated Employees of the White House Office of Tax Returns Made Under the Internal Revenue Code of 1954

By virtue of the authority vested in me as President of the United States, and in the interest of protecting the right of taxpayers to privacy and confidentiality regarding their tax affairs consistent with proper internal management of the Government, and in the further interest of maintaining the integrity of the self-assessment system of Federal taxation, it is hereby ordered that any return, as defined in Section 301.6103(a)-1 of the Treasury Regulations on Procedure and Administration (26 CFR Part 301) as amended from time to time, made by a taxpayer in respect of any tax described in Section 301.6103(a)-1(a)(2) of such regulations shall be delivered to or open to inspection by the President only upon written request signed by the President personally.

Any such request for delivery or inspection shall be addressed to the Secretary of the Treasury or his delegate and shall state: (i) the name and address of the taxpayer whose return is to be inspected, (ii) the kind of return or returns which are to be inspected, and (iii) the taxable period or periods covered by such return or returns.

In any such request for delivery or inspection, the President may designate by name an employee or employees of the White House Office who are authorized on behalf of the President to receive any such return or make such inspection, provided that the President will not so designate an employee unless such employee is the holder of a Presidential commission whose annual rate of basic pay equals or exceeds the annual rate of basic pay prescribed by 5 U.S.C. 5316. No disclosure of such return, or any data contained therein or derived therefrom shall be made by such employee except to the President, without the written direction of the President.

All persons obtaining access to such return, or any data contained therein or derived therefrom shall in all respects be subject to the provisions of 26 U.S.C. 6103, as amended.



THE WHITE HOUSE,
September 20, 1974.

[FR Doc.74-22293 Filed 9-20-74;4:42 pm]

**Requests for Income Tax Returns by the
Central Intelligence Agency**

A search of Internal Revenue Service files has revealed three requests from the CIA for tax returns or tax information.

The files contain a proper written request made in 1950 for tax returns; however, they do not contain a copy of the response and we can only assume that disclosure was granted.

The files also contain an internal memorandum written in 1962 which authorizes IRS officials to permit disclosure of tax information to CIA representatives concerning an organization, but we have not located either a request or a response relating to this memorandum.

The third case involved an inquiry from the Department of the Treasury in 1966 on behalf of the CIA for information regarding a taxpayer. The Department of the Treasury was advised and limited tax information was given. We do not know what information may have been passed on to CIA by Treasury.

There have been allegations of unauthorized disclosures to the CIA. Our Inspection Service is currently conducting an investigation of these alleged disclosures.

Requests for Inspection of Income Tax Returns by
Congressional Committees
Pursuant to 26 CFR 301.7103(a)-10^{1/}

89th CONGRESS (1965-1966)

<u>UNITED STATES SENATE</u>	<u>Authorizing Executive Order</u>	<u>No. of Requests</u>	<u>No. of Taxpayers</u>
Committee on Rules and Administration	11192	3	9
Committee on Government Operations	11194	9	118
 <u>HOUSE OF REPRESENTATIVES</u>			
Committee on Government Operations	11201	1	5
Committee on Public Works	11204	0	0
Committee on Un-American Activities	11217	3	131
Committee on Banking and Currency	11235	<u>0</u>	<u>0</u>
TOTALS		16	263

90th CONGRESS (1967-1968)

<u>UNITED STATES SENATE</u>	<u>Authorizing Executive Order</u>	<u>No. of Requests</u>	<u>No. of Taxpayers</u>
Committee on Government Operations	11337	8	49
Select Committee on Standards and Conduct	11383	1	5
 <u>HOUSE OF REPRESENTATIVES</u>			
Committee on Government Operations	11332	1	29
Committee on Un-American Activities	11358	2	14
Committee on Public Works	11370	<u>0</u>	<u>0</u>
TOTALS		12	97

^{1/} No record is maintained of returns furnished to the tax-writing committees of Congress (Senate Finance Committee, House Ways and Means Committee, Joint Committee on Internal Revenue Taxation) pursuant to section 6103(d) of the Internal Revenue Code.

91st CONGRESS (1969-1970)

<u>UNITED STATES SENATE</u>	<u>Authorizing Executive Order</u>	<u>No. of Requests</u>	<u>No. of Taxpayers</u>
Committee on Government Operations	11454	12	112
Committee on the Judiciary	11505	0	0
 <u>HOUSE OF REPRESENTATIVES</u>			
Committee on Government Operations	11457	0	0
Committee on Public Works	11461	0	0
Committee on Internal Security	11465	2	43
Select Committee on Crime	11483	1	8
Committee on the Judiciary	11535	<u>2</u>	<u>6</u>
TOTALS		17	169

92nd CONGRESS (1971-1972)

<u>UNITED STATES SENATE</u>	<u>Authorizing Executive Order</u>	<u>No. of Requests</u>	<u>No. of Taxpayers</u>
Committee on Government Operations	11584	10	152
Committee on Commerce	11624	3	139
 <u>HOUSE OF REPRESENTATIVES</u>			
Committee on Internal Security	11611	1	8
Committee on Public Works	11631	0	0
Committee on Government Operations	11655	1	1
Select Committee on Crime	11656	<u>2</u>	<u>60</u>
TOTALS		17	360

93rd CONGRESS (1973-1974)

<u>UNITED STATES SENATE</u>	<u>Authorizing Executive Order</u>	<u>No. of Requests</u>	<u>No. of Taxpayers</u>
Committee on Government Operations	11711	2	8
Committee on Commerce	11720	0	0
 <u>HOUSE OF REPRESENTATIVES</u>			
Committee on the Judiciary	11786*	0	0
Committee on Public Works	11719	0	0
Committee on Internal Security	11722	<u>0</u>	<u>0</u>
TOTALS		2	8

* Executive Order 11786 permitted only release of President Nixon's returns. No request was received.

94th CONGRESS (To Sept. 3, 1975)

<u>UNITED STATES SENATE</u>	<u>Authorizing Executive Order</u>	<u>No. of Requests</u>	<u>No. of Taxpayers</u>
Committee on Government Operations	11859	0	0

Request for Tax Returns by the
Federal Bureau of Investigation

Regulations under 26 CFR 301.6103(a)1(f) provide that requests for copies of income tax returns must be signed by the head of the agency. Since the Federal Bureau of Investigation is not an independent agency, but is a bureau within the Department of Justice, the Director of the Federal Bureau of Investigation does not have authority to request copies of tax returns. Any copies for their use must be requested by the Attorney General, Deputy Attorney General, or an Assistant Attorney General (see table below). Hence, IRS has not officially provided any tax returns directly to the FBI. However, at the request of the Select Committee to study Governmental Operations with respect to Intelligence Activities (Frank Church, Chairman), our Inspection Service is currently investigating the possible unauthorized disclosure of tax information to the FBI.

Requests for Returns or Tax Information
by the Department of Justice

DEPARTMENT OF JUSTICE (Except U.S. Attorneys)

<u>Calendar Year</u>	<u>No. of Requests</u>	<u>No. of Taxpayers</u>	<u>No. of Returns</u>
1966	137	405	1,221
1967	161	473	2,573
1968	163	1,669	2,823
1969	143	2,599	12,132
1970	238	4,204	18,179
1971	351	4,221	12,407
1972	493	6,553	20,214
1973	376	5,043	18,856
1974	384	3,228	10,446

Returns Inspected by U.S. Attorneys

Prior to May 1970, records were not required to be maintained by district offices on U.S. Attorney requests which were made directly to those offices. Therefore, statistics are not available for those years except for the year 1967, when a special study was made. From May 1970 until March 1973 the field offices reported the number of returns furnished. Beginning in March 1973 the regulations were amended to provide that all requests be sent to the National Office. Complete statistics are now being maintained. The following chart shows the information available:

<u>Year</u>	<u>Number of Requests</u>	<u>Number of Taxpayers</u>	<u>Number of Returns</u>
1967	627	1,029	3,758
1970 (8 months)			2,755
1971			4,498
1972			5,711
1973			9,839
1974	1,594	4,448	18,062

The tables which follow show tax returns requested under 26 CFR 301.6103(a)-1 by all Federal agencies for the years 1966 through 1974. No returns were requested by the Federal Housing Administration or the Federal Communications Commission, and that during that nine-year period, the Civil Service Commission made only five requests involving 89 taxpayers and 211 returns, the last request being in 1968. The Veterans Administration made only 16 requests involving 17 taxpayers and 63 returns, during the years 1966 through 1973.

The Civil Service Commission does make a filing record check on prospective government employees. This, however, consists only of a determination as to whether income tax returns were filed, which is public information under Section 6103(f) of the Internal Revenue Code. Some Federal agencies ask for tax checks on prospective employees or high level employees. A tax check report consists only of a brief statement from IRS as to (1) whether tax returns were filed for three years (but no filing dates), (2) whether there are any unpaid taxes, and, if so, for what years (but no amounts), (3) whether the individual is being investigated for a criminal tax violation and the result of such investigations (but no details), and (4) whether any penalties for fraud or negligence were assessed (again, no amounts are given). Copies of returns are not furnished.

During calendar years 1972, 1973, and 1974, the following number of tax checks were requested:

	<u>1972</u>	<u>1973</u>	<u>1974</u>
White House	915	1,081	1,045
Department of Justice	772	999	835
Department of Treasury	393	397	775
Department of Commerce	114	121	106
Department of State	105	113	148
Export-Import Bank	9	14	15
United States Information Agency	<u>0</u>	<u>38</u>	<u>9</u>
TOTAL	2,308	2,763	2,933

In addition to the charts showing copies of returns requested by Federal agencies under 26 CFR 301.6103(a)-1, information furnished by tapes, microfilm, abstracts, etc., to those Federal agencies which have Executive Orders authorizing them to receive such information is provided for the years 1973 and 1974.

FEDERAL AGENCY REQUESTS FOR TAX INFORMATION
CY 74

- Income Tax Information Requested by Federal Agencies
Which was Authorized Under 26 CFR 301.6103(a)-1

<u>Federal Agency</u>	<u>No. of Requests</u>	<u>No. of Taxpayers</u>	<u>No. of Returns</u>
Department of Agriculture	4	14	48
Bureau of Alcohol, Tobacco and Firearms	1	2	2
Department of Commerce	2	7	13
Comptroller of the Currency	1	2	2
U. S. Customs Service	1	3	12
Federal Deposit Insurance Corporation	2	14	16
Federal Home Loan Bank Board	5	50	178
Comptroller General (GAO)	3	1,406	1,406 *
Interstate Commerce Commission	2	9	45
Department of Justice (other than U.S. Attorneys)	384	3,228	10,446
United States Attorneys	1,594	4,448	18,062
Department of Labor	1	2	6
Securities and Exchange Commission	19	95	389
Renegotiation Board	<u>1</u>	<u>11</u>	<u>21</u>
TOTALS	2,020	9,291	30,646

* Returns of 710 taxpayers were not furnished but selected information was extracted from the returns by IRS and furnished to GAO.

**RETURNS OR TAX INFORMATION REQUESTED BY FEDERAL AGENCIES
WHICH WAS AUTHORIZED UNDER 26 CFR 301.6103(a)-1**

CALENDAR YEAR 1973

<u>Federal Agency</u>	<u>No. of Requests</u>	<u>No. of Taxpayers</u>	<u>No. of Returns</u>
Bureau of Alcohol, Tobacco and Firearms	3	7	20
U. S. Customs Service	3	503	2,609
Comptroller of the Currency	1	2	10
Civil Aeronautics Board	3	72	138
Department of Agriculture	3	11	30
Department of Justice (other than U.S. Attorneys)	376	5,043	18,856
U. S. Attorneys	*	*	9,839
Department of Transportation	1	3	3
Federal Deposit Insurance Corp.	5	125	477
Federal Home Loan Bank Board	4	27	149
Federal Trade Commission	1	2	12
Interstate Commerce Commission	2	8	8
Renegotiation Board	4	93	93
Securities & Exchange Commission	17	142	487
Small Business Administration	1	1	3
U. S. Postal Service	2	4	13
Veterans Administration	<u>2</u>	<u>2</u>	<u>7</u>
TOTAL	428	6,045	32,754

* Prior to March 1973 requests from U. S. Attorneys were sent directly to IRS field offices, and the only statistics available are for number of returns furnished. However, during the period July 1 - December 31, 1973, U. S. Attorneys made 699 requests involving 1,580 taxpayers and 5,310 returns.

RETURNS OR TAX INFORMATION REQUESTED BY FEDERAL AGENCIES
WHICH WAS AUTHORIZED UNDER 26 CFR 301.6103(a)-1

CALENDAR YEAR 1972

<u>Federal Agency</u>	<u>No. of Requests</u>	<u>No. of Taxpayers</u>	<u>No. of Returns</u>
Atomic Energy Commission	2	4	44
Bureau of Customs	4	1,070	3,210
Comptroller of the Currency	3	4	28
Bureau of Alcohol, Tobacco and Firearms	4	17	45
Department of Agriculture	2	5	9
Department of Defense	1	11	44
Department of Justice (Except U.S. Attorneys)	405	5,037	15,652
Federal Deposit Insurance Corp.	5	6	17
Federal Home Loan Bank Board	16	164	610
Federal Trade Commission	2	2	6
National Labor Relations Board	2	11	26
Renegotiation Board	5	118	190
Securities & Exchange Commission	23	76	241
Small Business Administration	15	18	32
Tennessee Valley Authority	1	1	6
U. S. Postal Service	1	7	42
Veterans Administration	<u>2</u>	<u>2</u>	<u>12</u>
TOTALS	493	6,553	20,214

RETURNS OR TAX INFORMATION REQUESTED BY FEDERAL AGENCIES
WHICH WAS AUTHORIZED UNDER 26 CFR 301.6103(a)-1

CALENDAR YEAR 1971

<u>Federal Agency</u>	<u>No. of Requests</u>	<u>No. of Taxpayers</u>	<u>No. of Returns</u>
Comptroller of the Currency	3	9	40
Department of Agriculture	3	19	53
Department of Commerce	6	11	66
Department of Defense	3	3	17
Department of Health, Education and Welfare	2	58	58
Department of Justice (Except of U. S. Attorneys)	351	4,221	12,407
Department of Labor	2	1,103	6,609
Federal Communications Commission	1	3	12
Federal Deposit Insurance Corporation	7	13	45
Federal Home Loan Bank Board	5	12	41
Federal Trade Commission	2	4	11
Interstate Commerce Commission	1	16	32
Renegotiation Board	3	127	266
Securities and Exchange Commission	14	128	334
Small Business Administration	11	16	31
Tennessee Valley Authority	1	1	10
Veterans Administration	<u>1</u>	<u>1</u>	<u>6</u>
TOTAL	416	5,745	20,038

RETURNS OR TAX INFORMATION REQUESTED BY FEDERAL AGENCIES
WHICH WAS AUTHORIZED UNDER 26-CFR 301.6103(a)-1

CALENDAR YEAR 1970

<u>Federal Agency</u>	<u>No. of Requests</u>	<u>No. of Taxpayers</u>	<u>No. of Returns</u>
Department of Agriculture	1	9	18
Comptroller of the Currency	1	6	24
Department of Defense	2	2	9
Department of Justice (Except U.S. Attorneys)	238	4,204	18,179
U.S. Attorneys (National Office only)	2	2	2
Department of Labor	3	3	9
Federal Communications Commission	1	3	18
Federal Deposit Insurance Corp.	3	8	24
Federal Home Loan Bank Board	3	22	64
Federal Trade Commission	1	1	1
National Labor Relations Board	1	2	12
Post Office Department	1	2	12
Renegotiation Board	6	172	379
Securities and Exchange Commission	18	110	263
Small Business Administration	19	22	59
Tennessee Valley Authority	1	3	15
Veterans Administration	<u>1</u>	<u>1</u>	<u>3</u>
TOTAL	302	4,572	19,091

RETURNS OR TAX INFORMATION REQUESTED BY FEDERAL AGENCIES
WHICH WAS AUTHORIZED UNDER 26 CFR 301.6103(a)-1

CALENDAR YEAR 1969

<u>Federal Agency</u>	<u>No. of Requests</u>	<u>No. of Taxpayers</u>	<u>No. of Returns</u>
Department of Agriculture	7	613	4,811
Department of Army	1	11	66
Department of Commerce	1	1	4
Department of Health, Education and Welfare	3	5	14
Department of Justice	143	2,599	12,132
Department of Labor	6	31	81
Federal Deposit Insurance Corp.	11	28	105
Federal Home Loan Bank Board	4	45	573
Renegotiation Board	96	96	224
Securities and Exchange Commission	23	153	481
Small Business Administration	64	105	370
Tennessee Valley Authority	2	2	10
Bureau of Customs	1	1	3
Veterans Administration	1	1	3
Office of Economic Opportunity	1	17	0
Treasury Department**	<u>1</u>	<u>**</u>	<u>**</u>
TOTAL	365	3,708	18,877

** No record of incoming request exists, so we cannot identify number of taxpayer and returns.

**RETURNS OR TAX INFORMATION REQUESTED BY FEDERAL AGENCIES
WHICH WAS AUTHORIZED UNDER 26 CFR 301.6103(a)-1**

CALENDAR YEAR 1968

<u>Federal Agency</u>	<u>No. of Requests</u>	<u>No. of Taxpayers</u>	<u>No. of Returns</u>
Department of Agriculture	8	709	729
Department of Commerce	13	58	0
Department of Justice	163	1,669	2,823
Federal Deposit Insurance Corp.	15	436	133
Federal Home Loan Bank Board	6	59	383
Securities & Exchange Commission	31	156	507
Small Business Administration	37	56	156
Comptroller of the Currency	2	56	277
Federal Communication Commission	2	3	7
Department of State	2	4	2
Renegotiation Board	40	40	61
Department of Health, Education, and Welfare	2	2	5
Department of Labor	3	16	116
Tennessee Valley Authority	2	2	14
Department of Army	1	1	6
Veterans Administration	5	5	19
Civil Service Commission	1	29	64
Department of the Air Force	1	15	0
Postmaster General	1	4	14
Secretary of Transportation	1	1	3
Bureau of Accounts	1	1	2
National Selective Service Appeal Board	1	70	140
Post Office Department	<u>1</u>	<u>1</u>	<u>0</u>
TOTAL	339	3,393	5,461

**RETURNS OR TAX INFORMATION REQUESTED BY FEDERAL AGENCIES
WHICH WAS AUTHORIZED UNDER 26 CFR 301.6103(a)-1**

CALENDAR YEAR 1967

<u>Federal Agency</u>	<u>No. of Requests</u>	<u>No. of Taxpayers</u>	<u>No. of Returns</u>
Department of Commerce	15	208	148
Department of Justice	161	473	2,573
National Advisory Commission on Civil Disorders	3	3	3
Renegotiation Board	82	82	221
Securities & Exchange Commission	38	211	506
Small Business Administration	46	77	199
Federal Deposit Insurance Corp.	31	67	193
Department of Agriculture	9	23	1,576
Department of H. E. W.	4	3	21
Department of Housing & Urban Development	1	1	4
National Selective Service Appeal Board	2	18	36
Department of Labor	3	9	32
Department of Navy	1	1	3
Civil Aeronautics Board	1	2	4
Department of Air Force	1	1	0
Interstate Commerce Commission	1	1	0
Civil Service Commission	2	30	87
Department of State	2	2	8
Federal Communication Commission	2	2	6
Federal Trade Commission	2	5	0
Federal Home Loan Bank Board	3	25	142
Bureau of the Budget	1	112	224
Department of Interior	1	5	35
Department of Treasury	7	9	12
National Labor Relations Board	2	6	10
Federal Power Commission	<u>1</u>	<u>1</u>	<u>0</u>
TOTALS	422	1,377	6,043

RETURNS OR TAX INFORMATION REQUESTED BY FEDERAL AGENCIES
WHICH WAS AUTHORIZED UNDER 26 CFR 301.6103(a)-1

CALENDAR YEAR 1966

<u>Federal Agency</u>	<u>No. of Requests</u>	<u>No. of Taxpayers</u>	<u>No. of Returns</u>
Defense Supply Agency	1	1	8
Department of Agriculture	18	42	105
Department of Commerce	12	76	0
Department of Justice	137	405	1,221
Federal Power Commission	5	***	0
National Aeronautics & Space Administration	1	1	0
National Labor Relations Board	2	2	6
Renegotiation Board	45	48	59
Securities & Exchange Commission	25	98	340
Small Business Administration	27	73	205
Veterans Administration	4	5	13
Department of Health, Education and Welfare	5	4	29
Federal Deposit Insurance Corp.	28	67	207
Federal Reserve System	1	?	0
Civil Aeronautics Board	2	6	26
Department of Navy	1	1	0
Department of the Air Force	7	7	27
Department of the Army	1	78	312
Department of Labor	6	10	50
Federal Communication Commission	3	7	23
Federal Home Loan Bank Board	2	27	146
Interstate Commerce Commission	2	1	3
Department of Interior	1	3	0
Department of Treasury	3	26	26
Post Office Department	1	1	0
Federal Trade Commission	1	1	0
Civil Service Commission	2	30	60
Comptroller General of the U.S.	1	168	168
U. S. General Accounting Office	<u>1</u>	<u>73</u>	<u>136</u>
TOTAL	345	1,261	3,170

TAX RETURNS OR INFORMATION FROM RETURNS FURNISHED TO FEDERAL AGENCIES HAVING EXECUTIVE ORDERS TO RECEIVE SUCH INFORMATION

CALENDAR YEAR 1974

AGENCY

REGULATION AND EXECUTIVE ORDER NO.

1. **Social Security Administration** 26 CFR 301.6103(a)-100
E. O. 10619

Reason: For administration of provisions of Title II of the Social Security Act

Number of Returns Inspected: 6,633

2. **Department of Commerce *** 26 CFR 301.6103(a)-104
E. O. 10911

Reason: For purposes of the 1973 Census of Agriculture

Information Furnished (Tapes or Microfilms) - Selected Items from:

- 95,000 - Forms 1065, Partnership Returns
- 7,500 - Forms 1120, Corporation Returns
- 165,000 - Forms 1040, Schedules C and F, Proprietorship Returns
- 12,600,000 - Business Master File Entity File Tape Records
- 9,669,316 - Business Master File Monthly Entity Change Records
- 15,089,124 - Forms 941, Employer's Quarterly Tax Returns
- 460,604 - Forms 943, Employer's Annual Tax Returns for
Agricultural Employees
- 4,439 - Forms 990C, Farmers' Cooperative Records from the
Exempt Organization Master File
- 12,600,000 - Principal Industrial Activity Extracts

Reason: For purposes of updating the Population Migration Study and Revenue Sharing Estimates

Information Furnished (Tapes) - Selected Information from:

79,700,000 - Forms 1040, Individual Tax Returns

Reason: For purposes of the 1972 Survey of Minority Owned Businesses Report

Information Furnished (Tapes) - Selected Information from:

14,000 - Individual Master File Entity Tape File Records

Department of Commerce - (Continued - 1974)

Reason: For use in estimating the national income and product and plant and equipment expenditures

Inspection authorized of:

300 - Transcript-Edit Sheets of Corporation Returns

3. Renegotiation Board *

26 CFR 301.6103(a)-105

E. O. 10907

Reason: For use in administering the Renegotiation Act of 1951, as amended

Information Furnished:

1,803 - Specially prepared abstracts of Corporation Returns

4. Federal Trade Commission *

26 CFR 301.6103(a)-106

E. O. 10908

Reason: For use in the Industrial Financial Reports Program

Information Furnished:

89,000 - Abstracts of Corporation Returns (Transcripts)

43,000 - Abstracts of Corporation Returns (Tapes)

45 - Transcript-Edit Sheets of Corporation Returns

* Regulations provide that any information obtained shall be held confidential and may be published or disclosed in statistical form only, provided such publication does not disclose, directly or indirectly, the name or address of any person filing such a return

TAX RETURNS OR INFORMATION FROM RETURNS FURNISHED TO FEDERAL AGENCIES HAVING EXECUTIVE ORDERS TO RECEIVE SUCH INFORMATION

CALENDAR YEAR 1973

AGENCY

REGULATION AND EXECUTIVE ORDER NO.

1. Social Security Administration

26 CFR 301.6103(a)-100
E. O. 10619

Reason: For administration of provisions of Title II of the Social Security Act

Number of Returns Inspected: 7,114

2. Securities and Exchange Commission*

26 CFR 301.6103(a)-102
E. O. 10814

Reason: For use in statistical and research projects

Information furnished: 400 transcripts - Edit Sheets of corporation returns

3. Department of Commerce*

26 CFR 301.6103(a)-104
E. O. 10911

Reason: For purposes of the 1972 Economic Censuses

Information furnished: (Tapes or films)

972,066 - Forms 1065, Partnership Returns
1,096,410 - Forms 1120, Corporation Returns
9,810,000 - Forms 1040, Schedules C and F, Proprietorship Returns
6,841,000 - Business Master File Monthly Entity Change Records
12,097,000 - Business Master File Entity File Tape Records
4,100,000 - Forms 941, Employer's Quarterly Tax Returns
499 - Forms 1120 (Abstracts)

Reason: For purposes of estimating total money income using Adjusted Gross Income, one of the revenue sharing allocation factors

Information furnished: (Tapes)

269,421 - Forms 1040, Individual Returns from Statistics of Income Samples

Reason: For purposes of updating the Population Migration Study and Revenue Sharing Estimates

Information furnished: (Tapes)

78,216,000 - Forms 1040, Individual Taxpayer Records -- Selected Information

Department of Commerce - (Continued - 1973)

Reason: For purposes of the 1972 Survey of Minority Owned Businesses Report

Information furnished: (Tapes)

1,017,600 - Forms 1065, Partnership Returns -- Selected Information
287,000 - Form 1120S, Small Business Returns -- Selected Information

Reason: For use in estimating the national income and product, plant, and equipment expenditures

Information furnished: (Tapes)

1,671 - Transcripts - Edit Sheets of Corporation Returns
7 - Microfilm copies of Corporation Returns

4. Renegotiation Board*

26 CFR 301.6103(a)-105
E. O. 10907

Reason: For use in administering the Renegotiation Act of 1951, as amended

Information furnished: 860 Corporation and Partnership Abstract Sheets

5. Federal Trade Commission*

26 CFR 301.6103(a)-106
E. O. 10908

Reason: For use in the Industrial Financial Reports Program

Information furnished:

45 - Transcript-Edit Sheets of Corporation Returns
42,915 - Abstracts of Corporation Returns (abstract cards)

* Regulations provide that any information obtained shall be held confidential and may be published or disclosed in statistical form only, provided such publication does not disclose, directly or indirectly, the name or address of any person filing such a return.

Part D.—Explanation of IDRS computer terminals.

I. A Brief Explanation of IDRS

The Integrated Data Retrieval System (IDRS) is a system which enables certain employees in the service centers and districts to have instantaneous visual access to certain taxpayer accounts through the use of display station terminals (small television screens with typewriter keyboard attachments) and a computer. This is done by using the keyboard to request the desired information to which the computer responds by displaying the information on the TV screen.

There are 3,174 display station terminals located in service centers and district offices. All terminals within a service center jurisdiction are tied into the computer of that service center by dedicated telephone lines. The 3,174 terminals are distributed among the service centers as shown here.

<u>Service Center</u>	<u>Number of Terminals</u>
Andover	296
Atlanta	371
Austin	340
Brookhaven	327
Cincinnati	281
Fresno	306
Kansas City	336
Memphis	314
Ogden	300
Philadelphia	303
	<u>3,174</u>

Tax data is extracted from the National Computer Center master file and sent by magnetic tape to the IDRS computer located in the service center having jurisdiction over the taxpayer's address. The data for IDRS does not contain all taxpayers' files or most of the tax return information of any taxpayer. It is limited to the specific tax information for which there is an anticipated need by IRS employees responding to taxpayer contacts regarding their account (such as inquiries about refunds or responses to IRS-initiated notices) or for internal processing purposes (such as adjustments or undelivered refund checks). All accounts with credit or debit balances are maintained on IDRS, but this is only about 14% of the accounts in the Individual Master File.

Tax account information on the IDRS data base is updated each week by subsequent postings and analyses performed at the master file. In addition, changes initiated by service center or district employees are posted instantaneously through IDRS terminals.

II. Profile Requirements for Access to IDRS

Only employees of the Internal Revenue Service are authorized access to IDRS.

An employee must have access to the offices where the terminals are housed. That requires a badge or other official identification.

An employee must be assigned a password to identify him as an authorized user of the IDRS computer's security programs.

An employee must have been individually authorized to perform the particular type of action. For example, only those employees specifically given adjustment capabilities can use IDRS to make adjustments to taxpayer accounts. Other employees may be authorized only research inquiry capabilities.

Each IDRS user is assigned a computerized profile of authorized capabilities. The assignment is done by personnel designated as IDRS security supervisors. Employees are authorized only those capabilities needed to perform their duties.

In addition, the IDRS terminal, through which the actions are taken, must also be cleared for the particular type of action. Each terminal has a profile of authorized capabilities.

A permanent record of all terminal inputs is retained on magnetic tape, for audit trail purpose.

III. IDRS Security System

The IDRS Security System contains the identification and authorization for each terminal and employee in the system. The command code profiles permit access to the system only when the employee and terminal profiles are compatible.

The Security System contains two files:

1. Employee Profile Security File (EPSF)
 - a. Last Name and First Initial
 - b. Social Security Number
 - c. Employee Number
 - d. Password
 - e. Command Code Profile
2. Terminal Profile Security File (TPSF)
 - a. Terminal Identification Number
 - b. Time On Air
 - c. Time Off Air
 - d. Command Code Profile

Before an employee can perform any action via IDRS, he must check into the system. He does this by inputting his Command Code so that the machine can verify that he is an authorized IDRS user. When an employee has been recognized as an authorized user, the computer generates a unique entry code to each user. This entry code is then used to gain access to the system. At this time the computer also establishes a combined employee/terminal profile of authorized command codes, which is recorded in the Code Storage Terminal Table (CSTT).

The Core Storage Terminal Table retains:

- a. Terminal identification
- b. Terminal/Employee CC profile
- c. Time off the air
- d. Count of security, or procedural, violations (such as an incorrectly inserted command code)
- e. Entry code
- f. Production training indicator
- g. Employee number

The IDRS Security System does the following:

- a. Validates each entry into the system
- b. Generates program locks on the terminal when three consecutive procedural violations occur. (No information would have been given in response to the first two violations. This ensures that no one can enter the system through "trial and error.")
- c. Produces daily Security Report for security locks, excessive security violations, attempted access to a restricted account, employee SSN match, EPSF update (when an employee is added or a new password is assigned).
- d. Retains pertinent data to produce an Audit Trail (on magnetic tape) for every access to the system.

FBI FUNCTIONAL ORGANIZATION CHART

FIELD OFFICES		
ALBANY	CHARLOTTE	HOUSTON
ALBUQUERQUE	CHICAGO	INDIANAPOLIS
ALEXANDRIA	CINCINNATI	JACKSON
ANCHORAGE	CLEVELAND	JACKSONVILLE
ATLANTA	COLUMBIA	KANSAS CITY
BALTIMORE	DALLAS	KNOXVILLE
BIRMINGHAM	DENVER	LAS VEGAS
BOSTON	DETROIT	LITTLE ROCK
BUFFALO	EL PASO	LOS ANGELES
BUTTE	HONOLULU	LOUISVILLE

FIELD OFFICES		
MEMPHIS	OKLAHOMA CITY	SAN ANTONIO
MIAMI	OMAHA	SAN DIEGO
MILWAUKEE	PHILADELPHIA	SAN FRANCISCO
MINNEAPOLIS	PHOENIX	SAN JUAN
MOBILE	PITTSBURGH	SAVANNAH
NEWARK	PORTLAND	SEATTLE
NEW HAVEN	RICHMOND	SPRINGFIELD
NEW ORLEANS	SACRAMENTO	TAMPA
NEW YORK	ST. LOUIS	WASHINGTON, D.C.
NORFOLK	SALT LAKE CITY	TOTAL 59

