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## NATIONAL ARCHIVES AND RECORDS SERVICE

## WITHDRAWAL SHEET (PRESIDENTIAL LIBRARIES)

FORM OF DOCUMENT	CORRESPONDENTS OR TITLE	DATE	RESTRICTION
	1. <u>Paper beginning "The attached concerns ...", undated</u>		
1a. List	List of classification problems (1 p.)	Undated	A
<del>2. Memo</del> Letter	John Marsh to Aaron Donner re publication of a NSC Directive (2 pp.) <i>declassified wt 4/98</i>	Undated (ca. <del>11/75</del> 1/15/76)	A
<del>3. Letter</del>	GRF to Otis G. Pike re documents on covert action (1 p.) <i>declassified wt 4/98</i>	1/15/76	A
	4. <u>Leppert to McClory, 1/22/76</u>		
<del>4a. letter</del>	Copy of item 3 (1 p.) <i>declassified 4/98 wt.</i>	1/15/76	A
<del>4b. letter</del>	Copy of item 2 (2 pp.) <i>declassified wt 4/98.</i>	<del>Undated</del> 1/15/76	A

## FILE LOCATION

Charles Leppert Files  
 General Subject File  
 Intelligence - House Select Committee: Handling and Release of Classified Documents  
 Box 14

## RESTRICTION CODES

- (A) Closed by Executive Order 12065 governing access to national security information.  
 (B) Closed by statute or by the agency which originated the document.  
 (C) Closed in accordance with restrictions contained in the donor's deed of gift.

WHM, 3/20/84

(a) Whoever knowingly and willfully communicates, furnishes, transmits, or otherwise makes available to an unauthorized person, or publishes, or uses in any manner prejudicial to the safety or interest of the United States or for the benefit of any foreign government to the detriment of the United States any classified information—

(1) concerning the nature, preparation, or use of any code, cipher, or cryptographic system of the United States or any foreign government; or

(2) concerning the design, construction, use, maintenance, or repair of any device, apparatus, or appliance used or prepared or planned for use by the United States or any foreign government for cryptographic or communication intelligence purposes; or

(3) concerning the communication intelligence activities of the United States or any foreign government; or

(4) obtained by the processes of communication intelligence from the communications of any foreign government, knowing the same to have been obtained by such processes—

Shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

(b) As used in subsection (a) of this section—

The term "classified information" means information which, at the time of a violation of this section, is, for reasons of national se-

curity, specifically designated by a United States Government Agency for limited or restricted dissemination or distribution;

The terms "code," "cipher," and "cryptographic system" include in their meanings, in addition to their usual meanings, any method of secret writing and any mechanical or electrical device or method used for the purpose of disguising or concealing the contents, significance, or meanings of communications;

The term "foreign government" includes in its meaning any person or persons acting or purporting to act for or on behalf of any faction, party, department, agency, bureau, or military force of or within a foreign country, or for or on behalf of any government or any person or persons purporting to act as a government within a foreign country, whether or not such government is recognized by the United States;

The term "communication intelligence" means all procedures and methods used in the interception of communications and the obtaining of information from such communications by other than the intended recipients;

The term "unauthorized person" means any person who, or agency which, is not authorized to receive information of the categories set forth in subsection (a) of this section, by the President, or by the head of a department or agency of the United States Government which is expressly designated by the President to engage in communication intelligence activities for the United States.

(c) Nothing in this section shall prohibit the furnishing, upon lawful demand, of information to any regularly constituted committee of the Senate or House of Representatives of the United States of America, or joint committee thereof.

Added Oct. 31, 1951, c. 655, § 24(a), 65 Stat. 719.

<sup>1</sup> So enacted. See second section 793 enacted on June 29, 1953, set out below.



18 USC § 798. Disclosure of classified information<sup>1</sup>

(a) Whoever knowingly and willfully communicates, furnishes, transmits, or otherwise makes available to an unauthorized person, or publishes, or uses in any manner prejudicial to the safety or interest of the United States or for the benefit of any foreign government to the detriment of the United States any classified information—

(1) concerning the nature, preparation, or use of any code, cipher, or cryptographic system of the United States or any foreign government; or

(2) concerning the design, construction, use, maintenance, or repair of any device, apparatus, or appliance used or prepared or planned for use by the United States or any foreign government for cryptographic or communication intelligence purposes; or

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Added Oct. 31, 1951, c. 655, § 24(a), 65 Stat. 719.

<sup>1</sup> So enacted. See second section 795 enacted on June 29, 1953, set out below.



Mr. Chairman, I move that this Committee begin the process for the release of classified information; specifically, I move that the House Select Committee on Intelligence undertake the appropriate procedures for release to the public of the facts and information relating to certain covert actions undertaken by the United States in foreign nations. That the information and details relating to such covert activity be made public on the grounds that this activity was undertaken in possible violation of the Constitution and of the laws of the United States by the exercise of arbitrary power of a president and that these activities involved the United States in a conflict in another nation; and that there are substantial questions as to the legality, propriety, and basic morality of these actions; and that the American people have a right to know when their government commits their resources and name in an armed conflict or a paramilitary operation in another nation.

For this purpose and the consideration of other questions which may be appropriate, I move that this Committee go into Executive Session.



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Pursuant to the Administration offer to the Pike Committee regarding access to 40 Committee material: the following is the procedure --

(1) Any Committee member may with such staff assistance as he desires inspect the documents at any time if he gives 24-hour notice.

(2) Either Mr. Field or Mr. Donner or both may inspect the documents with such other staff as the ranking majority or minority member certifies is necessary at any time if staff counsel gives 24-hours notice.

(3) All deletions of text from documents open to inspection will not relate to the approval of covert actions, but a statement of general content will be inserted to indicate general nature of deletion.

(4) General discussion concerning operations approved will be included but specific suggestions, as opposed to the initiatives for the operation, will have the identity of the suggestor deleted.

(5) Names of individuals will be deleted unless necessary to an understanding of the operation.

(6) All deletions will be subject to verification by either the ranking majority or minority members upon a request 24 hours in advance.

(7) If material deleted is determined by either the ranking majority or minority members to be necessary to the Committee's investigation, a request for that material may be made and prompt consideration will be given to the request.



NOTE-TAKING FROM 40 COMMITTEE RECORDS OF ACTION  
AND MINUTES

1. Committee Staff members may take unlimited notes as long as the notes are kept in the NSC offices and the work based on them is done in those offices.

2. They may take from the NSC offices only those statistical, not substantive, notes necessary to report the following information:

...total number of covert action approvals

...total number initiated by the President  
by the Assistant to the President  
by the State Department  
by an Ambassador in the field  
by CIA  
by another agency

...total number approved by telephonic vote

...total number approved in 40 Committee meetings

...total dollar amounts

3. These statistics may be broken down as desired by the Committee in the following agreed categories:

Middle East/Persian Gulf

Sub-Saharan Africa

Paramilitary operations

4. Unacceptable categories suggested by the Committee staff are "Elections" and "Operations in Major Allied Countries".

5. There will be no note-taking on on-going operations, except for those maintained in NSC offices.





6. The NSC Staff will reserve the right to spot-check those notes being removed from the building in a manner comparable to that agreed upon for verification by the Committee Staff (through Mr. Scalia) of the correctness of the deletions made by the NSC Staff in the 40 Committee material.
7. Once the statistical information for the various categories has been assembled, the Committee Staff may select one illustrative program in each category, that selection to be approved by the NSC. The Committee Staff may then explore in depth these illustrative programs and may take back to their offices substantive notes to permit this exploration.
8. These notes will be classified Top Secret/Codeword and will be subject to the same agreement regarding publication as are the documents furnished to the Committee.
9. All notes taken by the Committee Staff including those maintained in NSC offices and those removed to Committee offices will be burned upon completion of the illustrative projects.



THE ATTACHED CONCERNS HAVE BEEN BROUGHT TO THE ATTENTION OF THE HSC STAFF AND SEVERAL OF ITS COMMITTEE WORKERS BOTH VERBALLY AND IN WRITING. THEY REPRESENT ONLY A FEW OF THE CLASSIFICATION PROBLEMS BUT, WITH ONE EXCEPTION, ARE AMONG THE MOST TROUBLE-SOME. THAT EXCEPTION IS THE DETAILED REFERENCE TO THREE COVERT OPERATIONS, ALL OF WHICH HAVE -- IN AN OFFICIAL GOVERNMENT PUBLICATION -- EXTENSIVE SHORT-TERM DIPLOMATIC AND LONG-TERM FOREIGN POLICY IMPLICATIONS.



GERALD R. FORD LIBRARY

This form marks the file location of item number 1a as listed on the pink form (GSA form 7122, Withdrawal Sheet) at the front of the folder.

## DISCUSSION DRAFT

### Materials\* to be Supplied

Provided the Committee agrees to publication procedures as set out below, the Executive Branch will supply intelligence-related materials requested with the following narrow exceptions:

1. Identities of secret agents, sources and persons and organizations involved in operations which, if disclosed, would be subject to personal physical danger, or to extreme harrassment, or to economic or other reprisals; as well as material provided confidentially by cooperating foreign intelligence services; diplomatic exchanges or other material the disclosure of which would be embarrassing to foreign governments and damaging to the foreign relations of the United States; and
2. Specific details of sensitive intelligence methods and techniques of collection.

These exceptions will not be used to withhold materials concerning alleged impropriety by an Executive agency or alleged criminal activity. Such materials will be furnished under arrangements appropriate to the particular situation.

Verification procedures will continue to be available in case of Committee questions concerning matters deleted by the Executive agency.

Other matters, the complete confidentiality of which the President personally certifies is essential to the effective discharge of Presidential powers, may be withheld.

### Publication

If the Committee desires to publish any classified material and the appropriate Executive agency objects, the following procedure would apply:

1. The appropriate Executive agency will be given notice and reasonable opportunity to make its case to the Committee, in executive session, as to whether the material may be made public.

\*This procedure applies to interviews, depositions and testimony as well as documents.



2. If agreement is impossible, the Committee will see to it that disputed materials are given to a special review board, made up of Congressional leaders. If the review board agrees with the Executive agency, the materials shall not be published. If the

leadership board disagrees with the Executive agency and concurs in the Committee judgment that the material should ~~not~~ be published, then they will so advise the President.

3. The materials will not be published if publication would, in the opinion of the President, be prejudicial to the national security of the United States.

At this point, Congress can still exercise its right to subpoena the materials and litigate the issue in court. As a technical matter to facilitate litigation, the document in dispute will be considered as loaned to the Committee, and it will be returned to the appropriate Executive agency in order to become subject to the Congressional subpoena.

SPECIAL NOTE: These procedures do not, of course, apply to the ongoing work product of attorneys in connection with criminal prosecution and civil litigation.





# Department of Justice

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STATEMENT

OF

REX E. LEE  
ASSISTANT ATTORNEY GENERAL  
CIVIL DIVISION

Before  
the

HOUSE SELECT COMMITTEE ON INTELLIGENCE

FRIDAY, SEPTEMBER 12, 1975



My name is Rex E. Lee. I am an Assistant Attorney General, and I appear this morning on behalf of the Executive Branch.

We understand that this Committee yesterday, acting in executive session and over the protests of representatives of the Department of State, the Department of Defense, and the Central Intelligence Agency, voted to declassify and release to the public, and did in fact subsequently make available to the public, materials properly classified under law. These materials had been provided to the Committee as classified documents pursuant to its requests. The materials released by the Select Committee concerned, among other things, certain foreign communication intelligence activities of the United States Government.

The Committee Chairman also advised the representatives of State, Defense, and the CIA that it was his position that the Select Committee possessed the inherent right to declassify any materials classified by the Executive Branch and that the Select Committee would continue to exercise that asserted inherent right in its sole discretion.

We object strongly to the unilateral and unprecedented action of the Committee in declassifying sensitive information furnished to the Committee by the Executive Branch. The successful and efficient conduct of the work of several



congressional committees depends upon the receipt by those committees of classified information, which has consistently been delivered to those committees on the understanding that the integrity of the classification would be maintained. The action of this Committee yesterday stands as a sharp departure from the traditional manner of handling classified information to accommodate the respective constitutional responsibilities of the Executive and Legislative branches. In addition, the release of classified information such as the Committee has done, and has stated it will continue to do, causes serious and irreparable harm to the national security and foreign relations of the United States. Finally, the Committee's action is contrary to the express policies of Congress concerning the handling of classified information. I refer to the Case Act (1 U.S.C. Sect. 112b) and the Freedom of Information Act (5 U.S.C. Sect. 552). The Committee's action is also inconsistent with the purposes and policies of several statutes enacted by the Congress to prevent and penalize disclosure of properly classified information except as authorized by the Executive Branch.

The constitutional question raised by the Committee's action is a most serious one. The Executive Branch has endeavored, in a spirit of comity and cooperation, to





work with the Select Committee on Intelligence, but it cannot accept this unprecedented action, which in our view is an unconstitutional act.

The Congress is vested with the powers to legislate and to oversee the administration of the laws passed by it, but this action of the Committee is not a legislative act nor is it oversight. It is a vote by a single Committee to review and overturn an Executive act and, therefore, beyond any power vested in it.

In view of the position expressed by the Committee to our representatives yesterday, the President's responsibilities for the national security and foreign relations of the United States leave him no alternative but to request the immediate return of all classified materials heretofore provided by any department or agency of the Executive Branch and direct all departments and agencies of the Executive Branch respectfully to decline to provide the Select Committee with classified materials, including testimony and interviews which disclose such materials, until the Committee satisfactorily alters its position.

We regret the Committee's action and the consequent necessity for this response. We would prefer the relationship of constitutional accommodation and cooperation that exists between the Executive Branch and other congressional committees.





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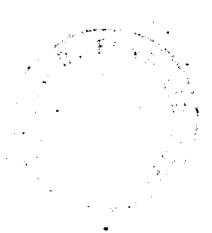
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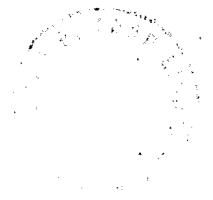
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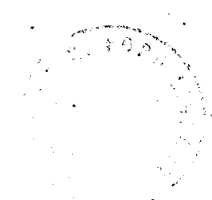


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ROBERT MCCLORY  
13TH DISTRICT, ILLINOIS

ROOM 2482  
RAYBURN HOUSE OFFICE BUILDING  
(202) 225-5221

JUDICIARY COMMITTEE

SELECT COMMITTEE ON  
INTELLIGENCE

U.S. INTERPARLIAMENTARY  
UNION DELEGATION

**Congress of the United States**  
**House of Representatives**  
**Washington, D.C. 20515**

September 15, 1975

DISTRICT OFFICES  
KANE COUNTY  
MUNICIPAL BUILDING  
150 DEXTER COURT  
ELGIN, ILLINOIS 60120  
(312) 697-5005

LAKE COUNTY  
POST OFFICE BUILDING  
326 NORTH GENESEE STREET  
WAUKEGAN, ILLINOIS 60085  
(312) 336-4534

MCHEMRY COUNTY  
MCHEMRY COUNTY COURTHOUSE  
2200 SEMINARY ROAD  
WOODSTOCK, ILLINOIS 60096  
(815) 338-2040

The Honorable  
Otis G. Pike  
Chairman  
Select Committee on Intelligence  
U. S. House of Representatives  
Washington, D. C. 20515

Dear Otis:

The controversy which appears to have arisen between the Committee and the Executive Branch requires immediate solution.

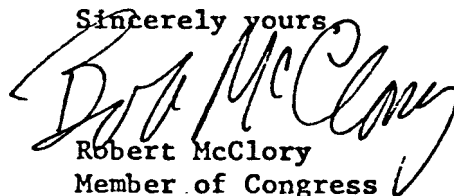
After conferring with Counsel for the President I would strongly recommend that the Executive Branch should be urged to provide full cooperation with our Committee in the furnishing of classified information and material essential to the conduct of our inquiry.

In this connection, we should adopt a policy of giving assurances that such information and materials will be received in Executive Session and declassified or otherwise released to the public only after appropriate Committee action.

It is my opinion that specific notice should be given in advance of a Session at which declassification may be voted and that an opportunity should be presented to Counsel for the President and such representatives of the intelligence community might be knowledgeable of the material to comment before the Committee with respect to the effect of any such declassification.

It is my hope that adoption of such a policy would result in full cooperation on the part of the intelligence agencies and all executive department officers who may be affected by our inquiry.

Sincerely yours

  
Robert McClory  
Member of Congress



RMcC:lr

THE WHITE HOUSE

WASHINGTON

September 16, 1975

MEMORANDUM FOR: Jack Marsh  
Max Friedersdorf  
Bob Wolthius  
Bill Kendall  
Charlie Leppert ✓

FROM:

Phil Buchen

P.W.B.

Attached is the CIA's Fact Sheet on the Pike Committee action last week, together with a copy of 18 U.S.C. 798, concerning disclosure of classified information, including "communication intelligence."

Attachments



Fact Sheet on Sequence of Events Leading  
to the President's Decision on 12 September  
1975 to Suspend Provision of Classified  
Materials to the House Select Committee  
on Intelligence

At an open hearing of the House Select Committee on Intelligence (HSC) on September 12, 1975, Assistant Attorney General Rex E. Lee, speaking on behalf of the entire Executive Branch, read a statement to the Chairman of the HSC, Representative Otis Pike, which contained the following statement:

"...the President's responsibilities for the national security and foreign relations of the United States leave him no alternative but to direct all departments and agencies of the Executive Branch respectfully to decline to provide the Select Committee with classified materials; including testimony and interviews which disclose such materials, until the Committee satisfactorily alters its position."

As background, it should be noted that from the moment of the establishment of the HSC, as well as the Senate Select Committee on Intelligence, guidelines for the transmittal, processing, utilization and storage of classified materials provided the HSC by CIA and other intelligence agencies have been in effect. Director Colby included these guidelines in a letter dated



3 September 1975 to Chairman Pike. The pertinent portion of this letter reads as follows:

"With respect to the documents to be made available to the Committee, there are certain sensitive materials that must be protected not only from exposure but even the risk of exposure. Included in this sensitive category are:

- identities of agents and sources;
- identities of persons involved in Agency operations who would be subject to personal, physical danger, to extreme harassment or to economic or other reprisals if their names were to be publicly identified;
- material provided confidentially by cooperating foreign intelligence services;
- details that would reveal the nature of sensitive intelligence methods and techniques of collection, by technical and human means;
- identities of cooperating Americans and American organizations and contacts to whom we have a confidential relationship.

In making such deletions, our staff has been instructed to describe the deletion, e.g., as a CIA officer or a source, in order to place the material in context. Where your staff believes that a particular name or detail is critical to their inquiry, this then should be brought to the attention of our staff and the matter can be negotiated. I believe this procedure is consistent with your statement to me that the Committee is not interested in our sources and methods, or in the names of agents as such."

Other important reference points are House Resolution 591, July 11, 1975, which established the HSC and



Rules and Security Regulations of the HSC itself. House Resolution 591, Section 6.(a) states:

"The select committee shall institute and carry out such rules and procedures as it may deem necessary to prevent (1) the disclosure, outside the select committee, of any information relating to the activities of the Central Intelligence Agency or any other department or agency of the Federal Government engaged in intelligence activities, obtained by the select committee during the course of its study and investigation, not authorized by the select committee to be disclosed; and (2) the disclosure, outside the select committee, of any information which would adversely affect the intelligence activities of the Central Intelligence Agency in foreign countries or the intelligence activities in foreign countries of any other department or agency of the Federal Government." (Emphasis added.)

Rule 7 (Protection of Papers and Documents) of the Rules and Security Regulations of the HSC states:

"7.3 Until such time as the committee has submitted its final report to the House, classified or other sensitive information in the committee records and files shall not be made available or disclosed to other than the committee membership and the committee staff, except as may be otherwise determined by the committee." (Emphasis added.)

The sequence of events that brought this issue to a head is as follows:

- a. Late on Monday, 8 September, the CIA and other members of the intelligence community were advised by the HSC staff that the HSC would hold





open sessions on the intelligence postmortems concerning the Arab-Israeli war of 1973 and the Greek/Cyprus/Turkish events of July 1974 on Thursday, September 11, and Friday, September 12, respectively. This countermanded previous advice that these hearings would deal with a different subject. The Committee had requested and received on 18 August, the key document, and the one from which the HSC released excerpts: a postmortem of the Arab-Israeli 1973 war conducted by the intelligence community itself.

b. On Tuesday, 9 September, a letter was received by CIA asking for other CIA documents pertaining to the Middle East war and Cyprus. This letter was responded to by CIA on that same day and a substantial number of documents were delivered to the HSC that evening. Additional materials were promised for the following day, Wednesday, 10 September.

c. A subpoena from the HSC Chairman was delivered to CIA during the afternoon of Wednesday, 10 September, requesting additional material, some of it duplicative of the materials already



intended for delivery that day to the HSC. This material and the documents requested in the subpoena were hurriedly assembled and delivered to the HSC staff late that night.

d. On Wednesday, 10 September, the HSC Staff Director urgently requested that six pages containing the principal conclusions and recommendations of the Middle East postmortem be declassified so that they could be read into the record during the open hearing the following day. The Director of Central Intelligence acceded to this request with the understanding on the part of the HSC Staff Director that certain deletions would be made to protect sources and methods. Nothing was said or implied by the HSC Staff Director at that time or by the Chairman of the HSC in a telephone conversation with Director Colby late Wednesday afternoon that indicated an intention by the HSC to vote to declassify and publish any material over the Director's objections.

e. Prior to the opening of the hearing on the morning of Thursday, 11 September, the HSC Staff Director asked that the CIA area specialist read the declassified portion of approximately



six pages of the Middle East postmortem into the record. When this was completed, Chairman Pike insisted on the reinstatement of five deleted passages and indicated that the Committee would vote in Executive Session on their declassification.

f. Director Colby was reached on the phone, and, to accommodate the Chairman, he reluctantly agreed to reinstate these passages subject to the continued deletion of four short phrases which he regarded as being of continuing high sensitivity because of the impact abroad should these items be published. During the ensuing executive session, the Chairman rejected repeated requests by the Director's Special Counsel to postpone the Committee vote until experts in the field of communications intelligence could be consulted or could appear to testify before the Committee. In the votes that followed, the Committee did agree to the deletion of three of the four phrases, but insisted on retaining the one that all intelligence community representatives at the hearing stressed was the most important and most sensitive of the



four. The passage which contained the phrase reads as follows:

"Egypt - The current large-scale mobilization exercise may be an effort to soothe internal problems as much as to improve military capabilities. Mobilization of some personnel, increased readiness of isolated units, and greater communications security are all assessed as parts of the exercise routine....there are still not military or political indicators of Egyptian intentions or preparations to resume hostilities with Israel." (DIA Intelligence Summary, 6 October 1973.)

The intelligence representatives argue that the context of the passage would indicate to other nations an American capability to monitor and analyze foreign communications and derive information from them.

This specific knowledge of time and location would alert other nations to reexamine and tighten their communications security procedures and thereby impair the ability of the U.S. to obtain communications intelligence. Despite these entreaties and over the strenuous objections of the intelligence representatives present, the HSC voted to declassify the phrase and Chairman Pike, immediately following the executive session, held



a press conference at which he described what had transpired.

g. On the following morning, Friday, 12 September, after Assistant Attorney General Lee had read the Presidential message to the HSC, the Chairman, still in open hearing, had the Staff Director read into the public record the five passages referred to above, including the disputed phrase which the HSC had voted to declassify.

In Summary:

a. This incident does not question Congress' access to classified material, large quantities of which were provided to the Committee.

b. It does question the unilateral action of one committee to release such material over the objections of the Executive representatives present, without hearing the views of those technically qualified to describe the significance of the material and without due consultation with responsible senior officials of the Executive.

c. If the Committee's position were to remain unchanged, large amounts of sensitive intelligence and other types of material would be



subject to release without notice, which would require a responsible Executive to restrict the provision of such information to the Committee.

d. A resolution of the problem can be obtained by a return to the previous understanding that the classification of material provided will be respected pending full consultation and negotiation in good faith with respect to the form of its possible public release.



§ 798. Disclosure of classified information<sup>1</sup>

(a) Whoever knowingly and willfully communicates, furnishes, transmits, or otherwise makes available to an unauthorized person, or publishes, or uses in any manner prejudicial to the safety or interest of the United States or for the benefit of any foreign government to the detriment of the United States any classified information—

(1) concerning the nature, preparation, or use of any code, cipher, or cryptographic system of the United States or any foreign government; or

(2) concerning the design, construction, use, maintenance, or repair of any device, apparatus, or appliance used or prepared or planned for use by the United States or any foreign government for cryptographic or communication intelligence purposes; or

(3) concerning the communication intelligence activities of the United States or any foreign government; or

(4) obtained by the processes of communication intelligence from the communications of any foreign government, knowing the same to have been obtained by such processes—

Shall be fined not more than \$10,000 or imprisoned not more than ten years, or both.

(b) As used in subsection (a) of this section—

The term "classified information" means information which, at the time of a violation of this section, is, for reasons of national se-

curity, specifically designated by a United States Government Agency for limited or restricted dissemination or distribution;

The terms "code," "cipher," and "cryptographic system" include in their meanings, in addition to their usual meanings, any method of secret writing and any mechanical or electrical device or method used for the purpose of disguising or concealing the contents, significance, or meanings of communications;

The term "foreign government" includes in its meaning any person or persons acting or purporting to act for or on behalf of any faction, party, department, agency, bureau, or military force of or within a foreign country, or for or on behalf of any government or any person or persons purporting to act as a government within a foreign country, whether or not such government is recognized by the United States;

The term "communication intelligence" means all procedures and methods used in the interception of communications and the obtaining of information from such communications by other than the intended recipients;

The term "unauthorized person" means any person who, or agency which, is not authorized to receive information of the categories set forth in subsection (a) of this section, by the President, or by the head of a department or agency of the United States Government which is expressly designated by the President to engage in communication intelligence activities for the United States.

(c) Nothing in this section shall prohibit the furnishing, upon lawful demand, of information to any regularly constituted committee of the Senate or House of Representatives of the United States of America, or joint committee thereof.

Added Oct. 31, 1951, c. 655, § 24(a), 65 Stat. 719.

<sup>1</sup>So enacted. See second section 795 enacted on June 30, 1953, set out below.



THE WHITE HOUSE

WASHINGTON

September 17, 1975

MEMORANDUM FOR: JACK MARSH  
FROM: CHARLIE LEPPERT *CLJ.*  
SUBJECT: Representative Bob McClory

I met with Bob McClory at 5:00 p. m. this date and went over what the Select Committee agreed to in it's afternoon meeting with Otis Pike. McClory dictated his notes. The following points ~~which~~ were agreed to:

1. The Committee will not return the classified material received.
2. In describing the Administration response to the materials subpoenaed on the Tet offensive, the Committee agrees to the omission of the names of agents or informers. The Committee does want to know what information is screened and requests that all sensitive information words or phrases be circled or underlined.
3. Procedures. The Committee agrees that:
  - a. They will not release information to the public without 24 hours notice to the Executive Branch and the opportunity for the Executive to comment or the Committee to receive comments from the Executive. If a person is necessary to testify in this regard and is not available or must be brought in from some distance, the Committee will not release information until that person can be heard or responsible alternative agreed upon.
4. In the event the Chairman feels matters should be declassified he is to give notice to the Committee members that a meeting is being called for the purpose of declassifying information or documents.





ROBERT N. GIAIMO, CONN.  
 JAMES V. STANTON, OHIO  
 RONALD V. DELLUMS, CALIF.  
 MORGAN F. MURPHY, ILL.  
 LES ASPIN, WIS.  
 DALE MILFORD, TEX.  
 PHILIP H. HAYES, IND.  
 WILLIAM LEHMAN, FLA.

ROBERT MCCLORY, ILL.  
 DAVID C. TREEN, LA.  
 JAMES P. JOHNSON, COLO.  
 ROBERT W. KASTEN, JR., WIS.

Select Committee on Intelligence  
 U.S. House of Representatives  
 Washington, D.C. 20515

September 17, 1975

The President  
 White House  
 Washington, D. C.

Dear Mr. President:

It is my understanding that because of an alleged breach of security you would like me to provide you with all secret documents in my possession pertaining to the House's investigation of the intelligence community. I have only one such document. It is in the form of a red-covered notebook containing three pages stamped "Secret Sensitive" -- two letters dated July 28, 1975, from Mr. William E. Colby to me, one letter dated July 28, 1975, from me to Mr. Colby in response to those letters, and some newspaper clippings which do not appear to be classified. It is transmitted herewith.

I, frankly, am glad to get rid of it for it does in my judgment, represent a grave breach of security, and I am delighted to be able to present it to you and make a clean breast of the whole sorry affair.

This red folder containing this highly sensitive material, was lost on or about July 29, 1975, by a staff member working on the investigation. It was left in a public place. Happily, it was found by a good and loyal American who brought it to me. The contents have, I fear, been read.

It is my personal feeling that the staff member who lost it -- having shown such carelessness and indifference to our national security -- should be summarily dismissed, but it is not within my power to fire him. He is on your staff, not mine. While I detest informers, the gravity of the situation and the seriousness of the offense compel me to give you a hint with which I suspect the F.B.I. will be able to track him down. He is the husband of a member of your Cabinet.

With best personal regards,

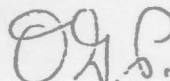
Cordially,

  
 OTIS G. PIKE

OGP:o

P.S. If he loses it again, it's O.K., I have a copy.





OTIS G. PIKE, N. Y., CHAIRMAN  
ROBERT N. GIAMBO, CONN.  
JAMES V. STANTON, OHIO  
RONALD V. DELLUMS, CALIF.  
MORGAN F. MURPHY, ILL.  
LES ASPIN, WIS.  
DALE MILFORD, TEX.  
PHILIP H. HAYES, IND.  
WILLIAM LEHMAN, FLA.  
ROBERT MC CLORY, ILL.  
DAVID C. TREEN, LA.  
JAMES F. JOHNSON, COLO.  
ROBERT W. KASTEN, JR., WIS.

A. BEARLE FIELD, STAFF DIRECTOR  
AARON B. DONNER, COUNSEL  
TELEPHONE: (202) 225-9731

Select Committee on Intelligence  
U.S. House of Representatives  
Washington, D.C. 20515

September 17, 1975

The President  
White House  
Washington, D. C.

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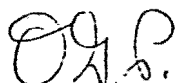
With best personal regards,

Cordially,

  
OTIS G. PIKE

OGP:o

P.S. If he loses it again, it's O.K., I have a copy.





September 30, 1975

STATEMENT AT THE BEGINNING OF TESTIMONY  
IN EXECUTIVE SESSION

Mr. Chairman and members of the Committee, I would like to read to the Committee the following statement.

My testimony before the Committee in Executive Session is respectfully offered subject to the following provision;

Because some responses I give may involve classified material, the transcript of my testimony will be reviewed by my department prior to release or publication, with an opportunity to be heard before the Committee on any portions thereof which the Committee desires to publish. In the event differences over continued classification cannot be resolved, then the items in disagreement shall be referred to the President for his review, and if he personally determines and certifies in writing that the items in disagreement would, if disclosed, be detrimental to the national security, then such material will not be published by the Committee. Such determination by



the President shall not in any way prejudice the rights of the  
Committee for recourse to the courts.

# # # #



October 1, 1975

MEMORANDUM FOR:

DON RUMSFELD

THRU:

JACK MARSH

FROM:

CHARLES LEPPERT, JR.

SUBJECT:

House Select Committee on Intelligence

The House Select Committee on Intelligence this morning by a vote of 10 - 3 agreed to accept the materials from the CIA in accordance with the conditions set forth in the accompanying letter from Director Colby to Chairman Pike.

On the motion made by Rep. McClery "that the Committee accept the materials from the CIA under the conditions stated in the Colby letter" the roll call vote was as follows:

YEAS

Otis Pike (D-NY)  
J. V. Stanton (D-Ohio)  
Morgan Murphy (D-Ill)  
Phil Sharp (D-Ind.)  
Bill Lehman (D-Fla.)

Bob McClery (R-Ill)  
Dave Treen (R-La.)  
Bob Kasten (R-Wis.)  
Jim Johnston (R-Cole)

NAYS

Bob Glaine (D-Conn) (by proxy)  
Ron Dellums (D-Calif)  
Les Aspin (D-Wis)

cc: Max Friedlander



D R A F T

October 2, 1975

MEMORANDUM FOR THE PRESIDENT

FROM: Intelligence Coordinating Group

SUBJECT: Decision Paper for the President on Release of Classified  
Information to Standing Committees

BACKGROUND

Executive Agencies have for many years been supplying various Congressional Committees with classified information. Procedures to each Committee by each Agency have differed. There has been no policy within the Executive Branch to coordinate the extent to which classified information could be supplied, the persons who would receive classified information or the degree of sensitivity of the information to be supplied.

New procedures to provide classified information to Select Committees have recently evolved. As you know, you waived Executive Privilege in supplying details of the Executive decision-making process for the Church Committee's investigation into the alleged assassination plots. The Intelligence Coordinating Group which you



appointed is in the process of completing the agreement with the House Select Committee which will govern the extent to which they receive and publish classified information. This agreement represents the first comprehensive approach to providing classified information to Congress and, according to the Central Intelligence Agency, it is considerably more liberal in its provisions than the standard procedures which they have used. In the wake of so-called revelations about intelligence, however, many of the other Standing Committees and Subcommittees of Congress have begun to request intelligence information (primarily from the Central Intelligence Agency) which would fall under their own charters of investigation for legislation. The Kennedy Subcommittee is requesting information on drugs and drug-related issues concerning the Central Intelligence Agency. The Abzug Subcommittee is requesting original documents, undeleted and unsanitized, which might compromise the agent network and procedures used by the Central Intelligence Agency.

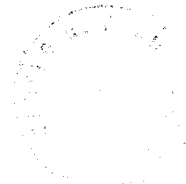
## ISSUE

The issue for Presidential Decision is whether the standards developed in the compromise with the House Select Committee on Intelligence should be applied to the provision of classified information to Standing Committees of Congress.

Option 1. Extend the Compromise Agreement reached with the House Select Committee to apply to all other committees and subcommittees of Congress. Arguments in favor of this approach are the following:

(1) It would establish order in the provision of classified information by the Intelligence Agencies to the Congress for the first time. The Agencies and Committees would have set guidelines on the provision and receipt of classified information.

(2) It would allow the Executive Branch to seize the initiative in sharing information with Congress. It might also be the tool for obtaining legislative agreement to measures designed to protect the security of classified information.





Arguments opposed:

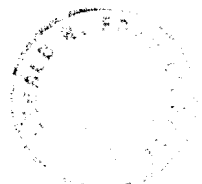
(1) Such an agreement would be extremely difficult to negotiate.

An agreement with the Pike Committee is not yet finalized. In addition, there has been no agreement with the Senate Select Committee on such a plan. Further, such a compromise would violate the long-term understandings which various Executive Department Agencies had with their Committees and appear to be an affront to those Committees.

(2) Such an agreement would substantially broaden the access to highly classified information among members of Congress and their staffs, thus making provision for its security that much more difficult.

Option 2. Maintain the compromise with the Pike Committee, but make no effort to broaden it; deal with other Committees on an ad hoc basis or make whatever limited agreements currently exist with each Committee. Arguments in favor of this approach are:

(1) Limits the access of the Congressional Committees and staffs to classified information to the maximum extent possible, both at the present time and precedentially.



(2) Holds open the possibility of reaching a more comprehensive agreement with the Committees at some future time.

(3) Maintains limited White House visibility in the release of classified information by the Agencies to the Congressional Committees.

Arguments Against Option 2 are the following:

(1) Continuance of ad hoc arrangements may result in prolonging the Congressional investigations of our intelligence system and eventually in greater disclosures of classified information.

(2) The Executive Branch will continue to be on the defensive and to appear overly protective in releasing information alleged to be vital to Congress in its legitimate areas of inquiry.

Option 3 . Extend the comprehensive agreement to other Committees currently investigating the intelligence agencies, but not to Standing Committees concerned with, for example, Foreign Affairs or the Armed Services. The advantages of Option 3 are:

(1) It enables the Executive Branch to take the lead in making available that information deemed vital to Congress's right of inquiry.

(2) Presents the same degree of detail to all committees and subcommittees presently investigating the intelligence agencies.

Prevents the Committees and Subcommittees from piece-mealing classified information to the various Committees. Leaves open the option of expanding the agreement to more comprehensive coverage at some future time.

Disadvantages of this Option are:

- (1) It would still be difficult to implement.
- (2) Results in greater disclosure of classified information.
- (3) Will undercut the investigative role of the Select Committee on Intelligence.

(4) May generate proliferation of requests from various Committees for sensitive intelligence data.

#### DECISION

Option 1. Extend agreement to all Committees.

Approve

Disapprove

Option 2. Do not extend agreement. Resolve difficulties with other Committees on an ad hoc basis.

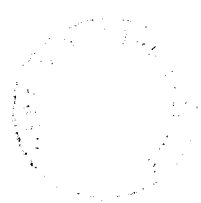
Approve

Disapprove

Option 3. Extend agreement to cover other Committees involved with investigating intelligence, but no other Standing Committees.

Approve

Disapprove



## THE WHITE HOUSE

WASHINGTON

January 15, 1976

Dear Mr. Chairman:

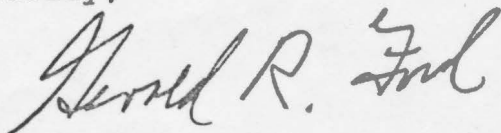
In reply to your letter of December 22 and in keeping with our agreement, I have reviewed the House Select Committee documents on covert action. I have concluded that the publication at this time of these documents would be detrimental to the national security.

It would be damaging to the effective conduct of foreign affairs if one branch of the United States Government officially and formally acknowledged a program that was conceived of and executed as a covert effort. To establish the practice of revealing such operations would lead to a situation where they are effectively precluded in the future, if only because no group or government would have any confidence in collaborating with the United States in clandestine programs -- many of which have been generally endorsed by the Congress and have proceeded for many years without serious criticism or objection.

The question of whether the U.S. should, in fact, engage in covert action can be debated, but it should not be resolved by a systematic exposure of past and current programs. The fact that many details of the two programs in question have appeared in the press does not alter the principle involved. There still is a serious difference between press speculation, however informed, and a Report issued by a Congressional Committee.

I believe that the fact that the Committee has had access to considerable documentation on covert operations as well as expert testimony, should enable the Committee to draw up an informed, final report without revealing the existence of, or details concerning, programs that should, in the national interest, remain unacknowledged.

Sincerely,



The Honorable Otis G. Pike  
Chairman  
Select Committee on Intelligence  
U.S. House of Representatives  
Washington, D.C. 20515

DECLASSIFIED  
E.O. 12958 Sec. 3.6



SECRET

MR 91-38, #36; NSC 111/1 2/25/98

By lt NARA, Date 4/13/98

[1/15/76]

THE WHITE HOUSE  
WASHINGTON

~~CONFIDENTIAL~~

Dear Aaron:

We have carefully reviewed with the agencies involved your letter of November 17 concerning publication of National Security Council Intelligence Directive No. 6.

As a result of this review, undertaken by the National Security Council staff, it is considered that NSCID 6 is properly classified "Top Secret" and should not be released to the public. We believe that the unauthorized disclosure of this material could reasonably be expected to cause exceptionally grave damage to the national security.

NSCID 6 covers the conduct and coordination of signals intelligence activities. It goes into great detail concerning the organization, role and responsibilities of the National Security Agency and details the methods by which the United States conducts some of its most sensitive and important intelligence activities. As you know, this information is specifically protected by law against unauthorized disclosure. This protection, which is found in 18 U. S. C. 798, Public Law 86-36, and Executive Order 11652, is evidence of how critical this type of information is to the national security in the view of both the Congress and the Executive.

Release of the details in NSCID 6 would provide potential adversaries with valuable new information. I am advised that this information could be used to interfere with current intelligence activities, thereby limiting the effectiveness of these activities and jeopardizing our national security. In addition, the public disclosure of some of these programs would seriously damage their usefulness.

DECLASSIFIED  
E.O. 12958 Sec. 3.6



10691-31#35, NSCID 6 2/25/98.

~~CONFIDENTIAL~~

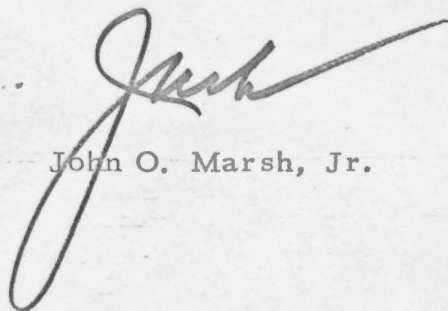
By lit NARA, Date 4/13/98

CONFIDENTIAL

-2-

I hope you and the Committee will carefully consider the above points. We believe that NSCID 6 is properly classified "Top Secret" and, given the details contained therein, should remain so.

Sincerely,

A handwritten signature in dark ink, appearing to read "John O. Marsh, Jr.", with a large, stylized loop at the end of the name.

John O. Marsh, Jr.

Mr. Aaron Donner  
General Counsel  
House Select Committee  
on Intelligence  
U. S. House of Representatives  
Washington, D. C. 20515

CONFIDENTIAL



GERALD R. FORD LIBRARY

This form marks the file location of item number ~~100~~-3 as listed  
on the pink form (GSA form 7122, Withdrawal Sheet) at the front of the folder.

**January 22, 1976**

**Dear Bob:**

**Attached per your request is a historical documentation of the Agreement with the House Select Committee on Intelligence concerning the publication of classified information.**

**Sincerely,**

**Charles Leppert, Jr.  
Special Assistant  
for Legislative Affairs**

**Honorable Robert McClary  
House of Representatives  
Washington, D. C. 20515**

**Enclosure: History of Agreement with Pike Comte on Publication of Classified Information.**

**CL:nb**





THE WHITE HOUSE

WASHINGTON

January 21, 1976

MEMORANDUM FOR CHARLES LEPPERT

FROM: TIM HARDY AND MASON CARGILL

SUBJECT: History of Agreement with Pike  
Committee on Publication of  
Classified Information

On September 11, the Pike Committee released a portion of a document related to intelligence performance prior to the Yom Kippur War which dealt with communications intelligence. In doing so, it ignored the objections of the Executive Branch. The next day the Administration imposed an embargo on the supply of any classified information to the Committee. (A short history of these events is at Tab A.)

This embargo was ended when a compromise was reached in which Congressman Pike agreed to notify the President of any intent of the Committee to publish any classified information. If the President were then to certify that the release of the information would be detrimental to the national security, the Committee would not reveal the information. This agreement is embodied in a September 30 letter to Pike from Colby. (Tab B).

The issue of this agreement was apparently acquiesced in by the Committee during the hearing in which Mr. Boyatt testified. (A transcript of this meeting is at Tab C.)

Documents were subsequently transmitted to the Committee under the terms of the agreement. An example of such a transmittal is at Tab D.

The Committee subsequently acted in accordance with the agreement in informing the President of its intention to publish certain documents, citing the agreement. The President replied, also citing the agreement, and made the requisite certification. (A copy of this correspondence is at Tab E.)



TAB A



Fact Sheet on Sequence of Events Leading  
to the President's Decision on 12 September  
1975 to Suspend Provision of Classified  
Materials to the House Select Committee  
on Intelligence

At an open hearing of the House Select Committee on Intelligence (HSC) on September 12, 1975, Assistant Attorney General Rex E. Lee, speaking on behalf of the entire Executive Branch, read a statement to the Chairman of the HSC, Representative Otis Pike, which contained the following statement:

"...the President's responsibilities for the national security and foreign relations of the United States leave him no alternative but to direct all departments and agencies of the Executive Branch respectfully to decline to provide the Select Committee with classified materials, including testimony and interviews which disclose such materials, until the Committee satisfactorily alters its position."

As background, it should be noted that from the moment of the establishment of the HSC, as well as the Senate Select Committee on Intelligence, guidelines for the transmittal, processing, utilization and storage of classified materials provided the HSC by CIA and other intelligence agencies have been in effect. Director Colby included these guidelines in a letter dated



3 September 1975 to Chairman Pike. The pertinent

portion of this letter reads as follows:

"With respect to the documents to be made available to the Committee, there are certain sensitive materials that must be protected not only from exposure but even the risk of exposure. Included in this sensitive category are:

- identities of agents and sources;
- identities of persons involved in Agency operations who would be subject to personal, physical danger, to extreme harassment or to economic or other reprisals if their names were to be publicly identified;
- material provided confidentially by cooperating foreign intelligence services;
- details that would reveal the nature of sensitive intelligence methods and techniques of collection, by technical and human means;
- identities of cooperating Americans and American organizations and contacts to whom we have a confidential relationship.

In making such deletions, our staff has been instructed to describe the deletion, e.g., as a CIA officer or a source, in order to place the material in context. Where your staff believes that a particular name or detail is critical to their inquiry, this then should be brought to the attention of our staff and the matter can be negotiated. I believe this procedure is consistent with your statement to me that the Committee is not interested in our sources and methods, or in the names of agents as such."

Other important reference points are House Resolution 591, July 11, 1975, which established the HSC and



Rules and Security Regulations of the HSC itself. House Resolution 591, Section 6.(a) states:

"The select committee shall institute and carry out such rules and procedures as it may deem necessary to prevent (1) the disclosure, outside the select committee, of any information relating to the activities of the Central Intelligence Agency or any other department or agency of the Federal Government engaged in intelligence activities, obtained by the select committee during the course of its study and investigation, not authorized by the select committee to be disclosed; and (2) the disclosure, outside the select committee, of any information which would adversely affect the intelligence activities of the Central Intelligence Agency in foreign countries or the intelligence activities in foreign countries of any other department or agency of the Federal Government." (Emphasis added.)

Rule 7 (Protection of Papers and Documents) of the Rules and Security Regulations of the HSC states:

"7.3 Until such time as the committee has submitted its final report to the House, classified or other sensitive information in the committee records and files shall not be made available or disclosed to other than the committee membership and the committee staff, except as may be otherwise determined by the committee." (Emphasis added.)

The sequence of events that brought this issue to a head is as follows:

- a. Late on Monday, 8 September, the CIA and other members of the intelligence community were advised by the HSC staff that the HSC would hold



open sessions on the intelligence postmortems concerning the Arab-Israeli war of 1973 and the Greek/Cyprus/Turkish events of July 1974 on Thursday, September 11, and Friday, September 12, respectively. This countermanded previous advice that these hearings would deal with a different subject. The Committee had requested and received on 18 August, the key document, and the one from which the HSC released excerpts: a postmortem of the Arab-Israeli 1973 war conducted by the intelligence community itself.

b. On Tuesday, 9 September, a letter was received by CIA asking for other CIA documents pertaining to the Middle East war and Cyprus. This letter was responded to by CIA on that same day and a substantial number of documents were delivered to the HSC that evening. Additional materials were promised for the following day, Wednesday, 10 September.

c. A subpoena from the HSC Chairman was delivered to CIA during the afternoon of Wednesday, 10 September, requesting additional material, some of it duplicative of the materials already



intended for delivery that day to the HSC. This material and the documents requested in the subpoena were hurriedly assembled and delivered to the HSC staff late that night.

d. On Wednesday, 10 September, the HSC Staff Director urgently requested that six pages containing the principal conclusions and recommendations of the Middle East postmortem be declassified so that they could be read into the record during the open hearing the following day. The Director of Central Intelligence acceded to this request with the understanding on the part of the HSC Staff Director that certain deletions would be made to protect sources and methods. Nothing was said or implied by the HSC Staff Director at that time or by the Chairman of the HSC in a telephone conversation with Director Colby late Wednesday afternoon that indicated an intention by the HSC to vote to declassify and publish any material over the Director's objections.

e. Prior to the opening of the hearing on the morning of Thursday, 11 September, the HSC Staff Director asked that the CIA area specialist read the declassified portion of approximately



six pages of the Middle East postmortem into the record. When this was completed, Chairman Pike insisted on the reinstatement of five deleted passages and indicated that the Committee would vote in Executive Session on their declassification.

f. Director Colby was reached on the phone, and, to accommodate the Chairman, he reluctantly agreed to reinstate these passages subject to the continued deletion of four short phrases which he regarded as being of continuing high sensitivity because of the impact abroad should these items be published. During the ensuing executive session, the Chairman rejected repeated requests by the Director's Special Counsel to postpone the Committee vote until experts in the field of communications intelligence could be consulted or could appear to testify before the Committee. In the votes that followed, the Committee did agree to the deletion of three of the four phrases, but insisted on retaining the one that all intelligence community representatives at the hearing stressed was the most important and most sensitive of the





four. The passage which contained the phrase reads as follows:

"Egypt - The current large-scale mobilization exercise may be an effort to soothe internal problems as much as to improve military capabilities. Mobilization of some personnel, increased readiness of isolated units, and greater communications security are all assessed as parts of the exercise routine....there are still not military or political indicators of Egyptian intentions or preparations to resume hostilities with Israel." (DIA Intelligence Summary, 6 October 1973.)

The intelligence representatives argue that the context of the passage would indicate to other nations an American capability to monitor and analyze foreign communications and derive information from them.

This specific knowledge of time and location would alert other nations to reexamine and tighten their communications security procedures and thereby impair the ability of the U.S. to obtain communications intelligence. Despite these entreaties and over the strenuous objections of the intelligence representatives present, the HSC voted to declassify the phrase and Chairman Pike, immediately following the executive session, held



a press conference at which he described what had transpired.

g. On the following morning, Friday, 12 September, after Assistant Attorney General Lee had read the Presidential message to the HSC, the Chairman, still in open hearing, had the Staff Director read into the public record the five passages referred to above, including the disputed phrase which the HSC had voted to declassify.

In Summary:

a. This incident does not question Congress' access to classified material, large quantities of which were provided to the Committee.

b. It does question the unilateral action of one committee to release such material over the objections of the Executive representatives present, without hearing the views of those technically qualified to describe the significance of the material and without due consultation with responsible senior officials of the Executive.

c. If the Committee's position were to remain unchanged, large amounts of sensitive intelligence and other types of material would be

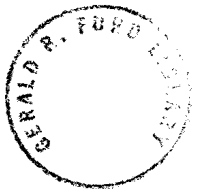


subject to release without notice, which would require a responsible Executive to restrict the provision of such information to the Committee.

d. A resolution of the problem can be obtained by a return to the previous understanding that the classification of material provided will be respected pending full consultation and negotiation in good faith with respect to the form of its possible public release.



TAB B



CENTRAL INTELLIGENCE AGENCY  
WASHINGTON, D.C. 20505

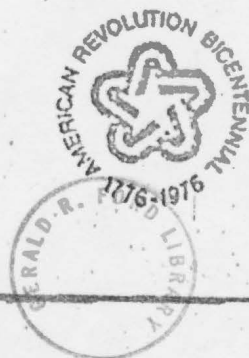
30 September 1975

The Honorable Otis G. Pike, Chairman  
Select Committee on Intelligence  
House of Representatives  
Washington, D. C. 20515

Dear Mr. Chairman:

With the approval of the President, I am forwarding herewith the classified material, additional to the unclassified material forwarded with my letter of 29 September 1975, which is responsive to your subpoena of September 12, 1975. This is forwarded on loan with the understanding that there will be no public disclosure of this classified material (nor of testimony, depositions or interviews concerning it) without a reasonable opportunity for us to consult with respect to it. In the event of disagreement, the matter will be referred to the President. If the President then certifies in writing that the disclosure of the material would be detrimental to the national security of the United States, the matter will not be disclosed by the Committee, except that the Committee would reserve its right to submit the matter to judicial determination.

In some 12 instances in the enclosed classified material, excisions have been made of particularly sensitive matters. In 10 of these instances, they would pinpoint the identity of individuals who would be subject to exposure. In two cases, this would violate an understanding with a foreign government that its cooperation will not be disclosed. In each such case, Mr. Chairman, I am prepared to discuss with you, and the Committee if necessary, the specific basis for this exclusion due to the exceptionally high risk involved, and I am sure that we can come to a mutual understanding with respect to its continued secrecy or a form in which its substance could be made available to the Committee and still give it the high degree of protection it deserves. In case of disagreement, the



matter will be submitted to the President under the procedure outlined above, and the Committee would of course reserve its right to undertake judicial action.

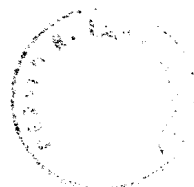
Sincerely,

W. E. Colby  
Director

Enclosures



TAB C



RESTRRAINTS ON INFORMATION FROM STATE  
DEPARTMENT WITNESSES

STATEMENT OF THOMAS B. BOYATT, FOREIGN SERVICE OFFICER,  
DEPARTMENT OF STATE

Chairman PIKE. The committee will please come to order. I would ask everyone except Mr. Boyatt to please leave the room.

Mr. BOYATT. Everyone?

Chairman PIKE. Everyone, including your friends.

Mr. Boyatt, it is my understanding you have a statement to read to the committee before you proceed; is that correct?

Mr. BOYATT. Yes, Mr. Chairman.

Chairman PIKE. Please go ahead.

Mr. BOYATT. Mr. Chairman, this statement was given to me by Mr. Hyland and I would like to read it.

Mr. Chairman and members of the committee, I would like to read to the committee the following statement.

My testimony before the committee in executive session is respectfully offered subject to the following provision: Because some responses I give may involve confidential material the transcript of my testimony will be reviewed by my Department—that is, the Department of State—prior to release or publication, with an opportunity to be heard before the committee on any portions thereof which the committee desires to publish.

In the event differences or continued classification cannot be resolved, then the items in disagreement shall be referred to the President for his review and if he personally determines and certifies in writing that the items in disagreement would, if disclosed, be detrimental to national security, then such material will not be published by the committee. Such determination by the President shall not in any way prejudice the rights of the committee for recourse to the courts.

Chairman PIKE. Now, is there objection from any member of the committee to proceeding under that restriction?

With one little exception that I have a little problem with—but not much of a problem because I think it is inadvertent—the restriction does, as I understand it, more or less state that which I personally agreed to, without binding the committee in any way. I agreed that, if we feel that matters which we have in our possession—either documents or testimony—should be released to the public, we will proceed as follows: We will give the agencies 24 hours' notice of our intention to do so and give them an opportunity to be heard as to their views on the subject. If we cannot then resolve our differences—if there is disagreement between us and the agencies as to what shall be released—it goes to the President of the United States. Then if the President of the United States personally certifies—and the words I find missing are “in writing,” which was a part of our agreement—





Mr. BOYATT. It is here, sir. If he, the President, personally determines and certifies in writing.

Chairman PIKE. Very well. If you read that, I missed it.

Mr. BOYATT. I thought I did.

Chairman PIKE. If he certifies in writing that the release of this material would be—now give us the next key words.

Mr. BOYATT. Detrimental to the national security.

Chairman PIKE. Detrimental to the national security, we will not release it unless we get a court order to do so.

Mr. Aspin?

Mr. ASPIN. Mr. Chairman, I would like to voice my objection to that. I would, if we had a vote, abide by the vote of the committee on the matter, but I do think this is a very important precedent we are establishing.

Chairman PIKE. I agree with you.

Mr. ASPIN. To do it very casually, without thinking what we are doing, I think is to take a very, very serious step.

What we are in effect saying, by agreeing to these ground rules, is that when push comes to shove and there is a real crunch on an issue, the decision is solely the President's.

Chairman PIKE. That is not quite so. We are saying we would not release it if the President certified it were inimical to our national security, unless we got a court order.

Mr. ASPIN. Anyway, it is a very important issue. We as a Congress are groping and struggling with this problem as to who has the right to determine the degree of classification, what is to be classified and what is not to be classified; and I am a little worried about deciding this or making this a precedent for this whole issue. I think this issue that we decide today by accepting these ground rules is going to be one of the most important issues coming out of the Congress and coming out of this CIA investigation.

Chairman PIKE. I can only say we have had a fair amount of discussion about it in your absence. We are not suddenly deciding it today.

Mr. ASPIN. Exactly. But the question I am asking is—I would have two questions about it. No. 1, if we accept these ground rules for this testimony today, does that establish a precedent for what we will decide—

Chairman PIKE. I think there is no question but that it does and I would not attempt to mislead the committee in any manner. I believe it does.

Mr. ASPIN. A second question. Are we being wise in settling or accepting the ground rules on the one question which is the release of information question, when we have not come to any solution on the access question?

Chairman PIKE. A very valid point.

Mr. ASPIN. I am not sure we are not giving away a bargaining point here by settling one part of the thing in a way not unfavorable to the President—

Chairman PIKE. I frankly raised the same issue yesterday.

Mr. ASPIN [continuing]. In a way in which—I mean we may be giving away our bargaining ship without getting any quid pro quo in return.

Mr. HAYES. The ground point, as I understand it, go his testimony?

Chairman PIKE. I don't know. Aspin is correct that we are not going to wish to do so. This is a decision.

Mr. HAYES. On other testimony each time have to have a vote.

Chairman PIKE. I don't know. Established, that is the way it has been. It would be the desire of the Chairman to find witnesses as forthcoming. If the executive branch refuses to do so in open session, obviously and not we who are doing this, I think we are indeed establishing a precedent going to be a committee decision.

Mr. Dellums?

Mr. DELLUMS. Thank you very much. I simply want to deal of time. I simply want to say that Mr. Aspin has already made his point. This gentleman from Wisconsin, I am in agreement with him.

I am in agreement with him that we give them 24 hours. I don't want to set a precedent here of giving away our money and efforts to justify a precedent, and I think that is a bad precedent. However, I concur with the majority of the committee on this. But for the record, I want to say it is bad, and I concur with the majority that it should be done within the time limit. It is piecemeal, in my estimation.

Chairman PIKE. In fairness, that I have had verbal assurance from Mr. Rogovin, that if this procedure is followed, documents, and witnesses—

I do not mean to indicate that I know what the limitation would get more or less information. I simply do not know.

They, as always, promise to do things. I do not know what they will do.

Mr. McCLOY. Mr. Chairman, I have a conviction that this committee should publish material that we are not publishing.

On the other hand, I think it is a cut-and-dried conclusion when it is said the committee has decided that the power is necessary.



Mr. HAYES. The ground rule Mr. Boyatt is discussing at this point, as I understand it, goes only and solely to this meeting and to his testimony?

Chairman PIKE. I don't think that is a fair statement. I think Mr. Aspin is correct that we are in effect establishing a precedent if we wish to do so. This is a decision for the committee.

Mr. HAYES. On other testimony that comes from State, will we at each time have to have a statement like that?

Chairman PIKE. I don't think so. I think once the precedents are established, that is the way we would operate. As always, it would be the desire of the Chair to stay in open session as long as we can, to find witnesses as forthcoming as we can find them; and when the executive branch refuses to provide witnesses who will be forthcoming in open session, obviously it is they who are doing the concealing and not we who are doing the concealing. But I can only say that I think we are indeed establishing a precedent if we do this, and it is going to be a committee decision, that is all.

Mr. Dellums?

Mr. DELLUMS. Thank you, Mr. Chairman. I will not take a great deal of time. I simply want to say I underscore the comments that Mr. Aspin has already made and point out that my reluctance on this matter speaks to why I voted against the amendment by the gentleman from Wisconsin, Mr. Kasten.

I am in agreement with the first part of the statement—that is, that we give them 24 hours to respond—but I think there is a precedent here of giving away our ultimate right, based upon their testimony and efforts to justify not releasing it. It is an extraordinary precedent, and I think that is a power that we should not give away. However, I concur with my colleague, Mr. Aspin. Whatever the majority of the committee decides to do, I obviously have to live with it. But for the record, I want to indicate I think the precedent here is bad, and I concur with you that handling the issue of publication should be done within the framework of the total settlement. To do it piecemeal, in my estimation, weakens our ability to continue.

Chairman PIKE. In fairness to the administration, I want to say that I have had verbal assurances from: (a) Mr. Marsh and (b) Mr. Rogovin, that if this procedure is adopted, the flow of information, documents, and witnesses will resume across the board.

I do not mean to indicate that it would be without limitation. I don't know what the limitation would amount to. I don't know whether we would get more or less information than we have gotten in the past. I simply do not know.

They, as always, promise great things, or lead me to believe great things. I do not know what would happen.

Mr. McCLORY. Mr. Chairman, I wanted to indicate first of all my conviction that this committee is entitled to receive classified information. I further want to subscribe to the view that we have the right to publish material that we may receive in executive session. Classified material.

On the other hand, I think it would be a mistake to assume that that is a cut-and-dried conclusion, or that that is a recognized right. And when it is said the committee has the power to do this, I don't think that the power is necessarily established.

GERALD R.

TAB D



October 8, 1975

Dear Mr. Chairman:

With the approval of the President, I am forwarding herewith copies of materials and documents from the files formerly held by the Commission on CIA Activities Within the United States. The materials and documents transmitted include all files and documents listed in an accompanying notebook that summarizes the holdings of the Commission, with the exception of:

- (1) General correspondence between the public and the Commission (the "Clapper Files");
- (2) Materials dealing with allegations that the CIA participated in conspiracies to assassinate certain foreign leaders (the "Assassination Files"); and
- (3) Fourteen files that deal solely with administrative matters of the Commission (marked with an asterisk in that portion of the notebook devoted to the "Bellin-Gray-Greene files").

These materials are forwarded on loan with the understanding that there will be no public disclosure of any classified information contained within them (nor of testimony, depositions or interviews concerning it) without a reasonable opportunity for the Director of Central Intelligence to consult with respect to it. In the event of disagreement, the matter will be referred to the President. If the President then certifies in writing that the disclosure of the material would be detrimental to the national security of the United States, the matter will not be disclosed by the Committee, except that the Committee would reserve its right to submit the matter to judicial determination.



Finally, I would like to call particular attention to five files and one document received by the Commission from the CIA on a loan basis (marked with an "L" in the notebook). These items are especially sensitive because they contain true names of CIA agents, employees, or contacts. They are being provided to you because they were part of the Commission's records. Obviously, these sensitive matters cannot under any circumstances be disclosed, and I trust that you will take special precautions as to their handling.

Sincerely,



Philip W. Buchen  
Counsel to the President

The Honorable Otis G. Pike  
Chairman  
Select Committee on Intelligence  
House of Representatives  
Washington, D.C. 20515



TAB E



OTIS G. PIKE, N. Y., CHAIRMAN

ROBERT M. GIAMMO, CONN.  
JAMES V. STANTON, OHIO  
RONALD V. DILLON, CALIF.  
MORGAN F. MURPHY, ILL.  
LES ASHBY, WIS.  
DALE MILFORD, TEX.  
PHILIP P. HAYES, IND.  
WILLIAM LEHMAN, FLA.

ROBERT MCCLORY, ILL.  
DAVID C. FREEM, LA.  
JAMES P. JOHNSON, COLO.  
ROBERT W. KASTEN, JR., WIS.

A. STANLEY FIELD, STAFF  
AARON B. DONNELLY, CLERK

TELEPHONE: (202) 225

Select Committee on Intelligence  
U.S. House of Representatives  
Washington, D.C. 20515

December 22, 1975

*Philip  
Resurrection*

The President  
The White House  
Washington, D. C.

Dear Mr. President:

In keeping with the procedures for releasing classified information agreed to by this Committee on October 1, 1975, I am forwarding two documents which the Committee wishes to release.

By an 8-3 vote on December 9, 1975, the Committee decided to begin the release process. On Monday, December 15, 1975, the Intelligence Community was given copies of the two documents and was put on notice that it would have an opportunity to respond on Thursday, December 18, 1975. Representative of the Community did so appear on Thursday and Friday, December 18 and 19, 1975. The Committee thereupon voted, by 8-5 and 8-4 respectively, to forward both documents to you for a determination as to whether release of the documents would be detrimental to the national security.

We would appreciate your response in writing at an early date, as we are in the process of assembling our final report and will include our evaluation of the release arrangement therein.

Cordially,

*Otis G. Pike*

Otis G. Pike  
Chairman

OGP/mas  
Enclosures



~~SECRET~~

THE WHITE HOUSE  
WASHINGTON  
January 15, 1976

Dear Mr. Chairman:

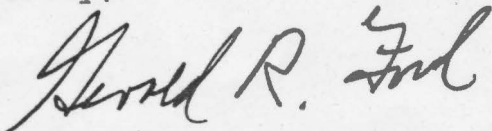
In reply to your letter of December 22 and in keeping with our agreement, I have reviewed the House Select Committee documents on covert action. I have concluded that the publication at this time of these documents would be detrimental to the national security.

It would be damaging to the effective conduct of foreign affairs if one branch of the United States Government officially and formally acknowledged a program that was conceived of and executed as a covert effort. To establish the practice of revealing such operations would lead to a situation where they are effectively precluded in the future, if only because no group or government would have any confidence in collaborating with the United States in clandestine programs -- many of which have been generally endorsed by the Congress and have proceeded for many years without serious criticism or objection.

The question of whether the U.S. should, in fact, engage in covert action can be debated, but it should not be resolved by a systematic exposure of past and current programs. The fact that many details of the two programs in question have appeared in the press does not alter the principle involved. There still is a serious difference between press speculation, however informed, and a Report issued by a Congressional Committee.

I believe that the fact that the Committee has had access to considerable documentation on covert operations as well as expert testimony, should enable the Committee to draw up an informed, final report without revealing the existence of, or details concerning, programs that should, in the national interest, remain unacknowledged.

Sincerely,



The Honorable Otis G. Pike  
Chairman  
Select Committee on Intelligence  
U.S. House of Representatives  
Washington, D.C. 20515

DECLASSIFIED  
E.O. 12958 Sec. 3.6



~~SECRET~~ MR 91-31, #36; NSC 64/A 2/25/98

By WT NARA, Date 4/13/98



SELECT COMMITTEE ON INTELLIGENCE  
U.S. HOUSE OF REPRESENTATIVES  
WASHINGTON, D.C. 20515

17 November 1975

Mr. John O. Marsh, Jr.  
Counsellor to the President  
The White House  
Washington, D. C.

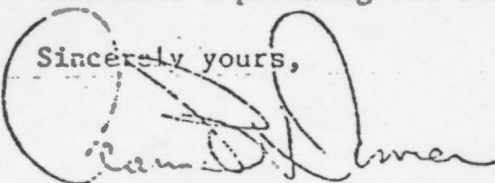
Dear Mr. Marsh:

The Committee is considering the possibility of including National Security Council Directive No. 6 as part of its published record.

As you know, this Committee has agreed that it will not release any classified document without first soliciting the views of the appropriate executive agency and, if necessary, the President, whose judgment the Committee will accept as conclusive for the purposes of this investigation.

Consistent with this arrangement, I am writing to solicit any comments you may have concerning the publication of NSCID #6. If the executive branch has any objections to the public release of all or parts of this classified document, please provide the Committee with a written statement explaining the reasons for such objections.

Sincerely yours,

  
Aaron B. Donner  
General Counsel



THE WHITE HOUSE

WASHINGTON

JAN 15 1976

CONFIDENTIAL

Dear Aaron:

We have carefully reviewed with the agencies involved your letter of November 17 concerning publication of National Security Council Intelligence Directive No. 6.

As a result of this review, undertaken by the National Security Council staff, it is considered that NSCID 6 is properly classified "Top Secret" and should not be released to the public. We believe that the unauthorized disclosure of this material could reasonably be expected to cause exceptionally grave damage to the national security.

NSCID 6 covers the conduct and coordination of signals intelligence activities. It goes into great detail concerning the organization, role and responsibilities of the National Security Agency and details the methods by which the United States conducts some of its most sensitive and important intelligence activities. As you know, this information is specifically protected by law against unauthorized disclosure. This protection, which is found in 18 U. S. C. 798, Public Law 86-36, and Executive Order 11652, is evidence of how critical this type of information is to the national security in the view of both the Congress and the Executive.

Release of the details in NSCID 6 would provide potential adversaries with valuable new information. I am advised that this information could be used to interfere with current intelligence activities, thereby limiting the effectiveness of these activities and jeopardizing our national security. In addition, the public disclosure of some of these programs would seriously damage their usefulness.

DECLASSIFIED  
E.O. 12958 Sec. 3.6

MR 91-31, #35; NSCID 6 2/25/98

CONFIDENTIAL

By WJ NARA, Date 4/13/98

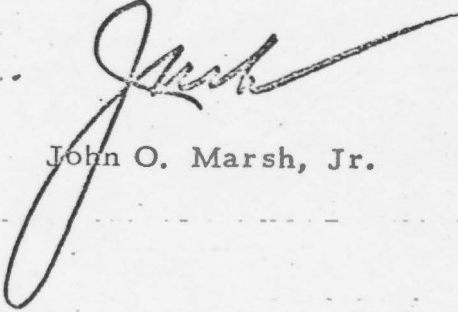


CONFIDENTIAL

-2-

I hope you and the Committee will carefully consider the above points. We believe that NSCID 6 is properly classified "Top Secret" and, given the details contained therein, should remain so.

Sincerely,



John O. Marsh, Jr.

Mr. Aaron Donner  
General Counsel  
House Select Committee  
on Intelligence  
U. S. House of Representatives  
Washington, D. C. 20515

CONFIDENTIAL



FILE  
INTERVIEW

Review Staff: 76/0132  
22 January 1976

MEMORANDUM FOR: Mitchell Rogovin  
SC/DCI

SUBJECT : Handling of HSC and SSC Investigative Materials

Representatives of the Department of State, Department of Defense, Department of Justice, the National Security Council Staff, and the Central Intelligence Agency have considered alternative ways for storing and handling the materials gathered by the Senate and House Select Committees in their current study of the intelligence activities of the government.

The key objectives were those of physically secure storage, with proper controls over access to the materials, the ultimate decision on normal declassification remaining with the departments, agencies or organizations that originated the materials.

Two main alternatives were developed for where the materials should be stored. These were the National Security Agency (NSA) and the National Archives and Records Service (NARS), the preference being for the former. The NSC Staff, in preferring storage at NSA, specified additional handling provisions for certain of its materials.

Attached are alternative draft resolutions, providing for storage at NSA or at NARS. Also attached is the NSC staff proposal for modification of the proposal for storage at NSA, providing for special handling there of certain NSC materials. These are intended to provide a basis for discussions with SSC and HSC personnel.

It is requested that this report be submitted to the ICG. It is noted that time has become an essential consideration, in view of the imminent conclusion of the HSC investigation.

*S. D. Breckinridge*

S. D. Breckinridge

Attachment: a/s



Resolved, that all records, including books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by the Select Committee to Study Governmental Operations With Respect to Intelligence Activities, established under Senate Resolution 21 of the 94th Congress, shall be transferred upon the termination of the Select Committee's mandate to the National Security Agency, there to be held in secure storage as described below in Section 2, with their use being limited to those persons or organizations authorized in the manner described below in Section 3.

Section 2. All records transferred to the National Security Agency for secure storage by the Senate Select Committee shall be stored in a secure area or areas separate and discrete from all other areas in which records are stored by the National Security Agency. This secure storage shall meet the security specifications designated in Executive Branch standards for appropriate storage of classified and/or unclassified material. The National Security Agency personnel with access to the records will be appropriately cleared and briefed for records requiring special clearance.

Section 3. Use of the records transferred by the Senate Select Committee to the National Security Agency shall be limited to persons cleared and briefed for the classifications and controls of the materials involved, and shall be further limited to those persons and members of organizations authorized in the specific manner described below:

Section 3(a). Use of the records containing information originated by the Senate Select Committee shall be limited to (1) current members of the acting, duly established Senate Legislative Oversight Committee or Committees, (2) appropriate staff members of the acting, duly established Senate Legislative Oversight Committee or Committees, as duly authorized by the Chairman of such Committee in writing. Use of such stored records, developed by the Senate Select Committee from the testimony, depositions or affidavits of the employees or of former employees of the various departments, agencies or organizations shall be subject to the requirements of Section 3(b) below, as though furnished by them.

Section 3(b). Records furnished or information provided to the Senate Select Committee shall be available for use by persons, agencies, departments, or organization, or by congressional committee or bodies other than the duly designated Senate Legislative Oversight Committee or Committees, only with the prior concurrence of the originating department, agency, organization, or its successor.



Section 3(c). Any requests for records or information delivered to the National Security Agency by the Senate Select Committee under this Resolution, other than requests from the duly established Senate Legislative Oversight Committee or Committees (as provided in Section 3(a), supra) shall be made in writing by a representative designated by the department, agency or organization that originated said information. The designated official shall be responsible for ensuring that the proper clearances exist for the requestor.

Section 3(d). The records shall be treated as legislative records for all purposes relating to their availability in litigation or upon request by any person pursuant to law.

Section 4. Eventual downgrading or declassification of classified records transferred by the Senate Select Committee to the National Security Agency shall be carried out by the originating departments, agencies and organizations, or their successors, in accordance with applicable statutes and Executive Orders.



Resolved, that all records, including books, papers, maps, photographs, or other documentary materials, regardless of physical form or characteristics, made or received by the Select Committee To Study Governmental Operations With Respect To Intelligence Activities, established under Senate Resolution 21 of the 94th Congress, shall be transferred upon the termination of the Select Committee's mandate to the National Archives and Records Service as a trustee for and agent of the Congress, there to be held in secure storage as described below in Section 2, with their use being limited to those persons or organizations authorized in the manner described below in Section 3.

Section 2. All records transferred to the National Archives and Records Service for secure storage by the Senate Select Committee shall be stored in a secure area or areas separate and discrete from all other areas in which records are stored by the National Archives and Records Service. This secure storage shall meet the security specifications designated in Executive Branch standards for appropriate storage of classified and/or unclassified material. The Central Intelligence Agency, acting in behalf of the Executive Branch, will conduct a physical security survey to ensure that the storage facilities meet those standards. National Archives and Records Service personnel with access to the records will be appropriately cleared and briefed for records requiring special clearance.

Section 3. Use of the records transferred by the Senate Select Committee to the National Archives and Records Service shall be limited to persons cleared and briefed for the classifications and controls of the materials involved, and shall be further limited to those persons and members of organizations authorized in the specific manner described below:

Section 3(a). Use of the records containing information originated by the Senate Select Committee shall be limited to (1) current members of the acting, duly established Senate Legislative Oversight Committee or Committees, (2) appropriate staff members of the acting duly established



Senate Legislative Oversight Committee or Committees, as duly authorized by the Chairman of such Committee in writing. Use of such stored records, developed by the Senate Select Committee from the testimony, depositions or affidavits of the employees or of former employees of the various departments, agencies or organizations shall be subject to the requirements of Section 3(b), below, as though furnished by them.

Section 3(b). Records furnished or information provided to the Senate Select Committee shall be available for use by persons, agencies, departments, or organization, or by congressional committees or bodies other than the duly designated Senate Legislative Oversight Committee or Committees, only with the prior concurrence of the originating department, agency, organization, or its successor.

Section 3(c). Any requests for records or information delivered to the National Archives and Records Service by the Senate Select Committee under this Resolution, other than requests from the duly established Senate Legislative Oversight Committee or Committees (as provided in Section 3(a), supra) shall be made in writing by a representative designated by the department, agency or organization that originated said information. The designated official shall be responsible for ensuring that the requestor has the proper clearances or approvals necessary for access to the requested materials.

Section 4. Eventual downgrading or declassification of classified records transferred by the Senate Select Committee to the National Archives and Records Service shall be carried out by the originating departments, agencies and organizations, or their successors, in accordance with applicable statutes and Executive Orders.

Section 5. Should any request under the authority of 5 U.S.C Section 552 be received for records held by the National Archives and Records Service hereunder, the National Archives and Records Service shall advise any person making such request that the records are not subject to the provisions of 5 U.S.C. Section 552.





Section 2(a): Certain particularly sensitive material supplied to the Select Committee by the White House or the NSC shall be maintained in a separate safe in the secure storage area. Access to the material in this safe will be controlled by the NSC rather than by NSA. The provisions of Section 3 below will apply to the material in this safe in the same manner as to the other material in the secure storage area.



MR. CHAIRMAN,

I APPRECIATE THE HONOR AND PRIVILEGE OF APPEARING  
BEFORE THIS DISTINGUISHED COMMITTEE.

I DO NOT APPEAR HERE TO OPPOSE H. RES. 982, BUT I DO  
PLEAD WITH THE COMMITTEE FOR AN AMENDMENT TO THE RESOLUTION  
THAT WOULD PREVENT THE "SELECT COMMITTEE ON INTELLIGENCE"  
FROM PUBLICLY RELEASING CERTAIN NATIONAL SECURITY SECRETS  
AND OTHER CLASSIFIED MATTERS THAT WILL BE SERIOUSLY  
DAMAGING TO OUR FOREIGN RELATIONS.

MR. CHAIRMAN, I WOULD DIRECT THE COMMITTEE'S ATTENTION  
TO H. RES. 591, THE RESOLUTION THAT GAVE THE "SELECT COMMITTEE  
ON INTELLIGENCE" BIRTH AND DIRECTION. LET ME READ SEC. 6,  
FROM THAT RESOLUTION:

SEC. 6. (a) THE SELECT COMMITTEE SHALL INSTITUTE AND  
CARRY OUT SUCH RULES AND PROCEDURES AS IT MAY DEEM  
NECESSARY TO PREVENT (1) THE DISCLOSURE, OUTSIDE THE  
SELECT COMMITTEE, OF ANY INFORMATION RELATING TO THE  
ACTIVITIES OF THE CENTRAL INTELLIGENCE AGENCY OR ANY OTHER  
DEPARTMENT OR AGENCY OF THE FEDERAL GOVERNMENT ENGAGED IN  
INTELLIGENCE ACTIVITIES, OBTAINED BY THE SELECT COMMITTEE  
DURING THE COURSE OF ITS STUDY AND INVESTIGATION, NOT  
AUTHORIZED BY THE SELECT COMMITTEE TO BE DISCLOSED:  
AND (2) THE DISCLOSURE, OUTSIDE THE SELECT COMMITTEE,  
OF ANY INFORMATION WHICH WOULD ADVERSELY AFFECT THE  
INTELLIGENCE ACTIVITIES OF THE CENTRAL INTELLIGENCE  
AGENCY IN FOREIGN COUNTRIES OR THE INTELLIGENCE ACTIVITIES  
IN FOREIGN COUNTRIES OF ANY OTHER DEPARTMENT OR AGENCY  
OF THE FEDERAL GOVERNMENT.

MR. CHAIRMAN, IT IS A KNOWN FACT THAT THE SELECT COMMITTEE ON INTELLIGENCE HAS ACTED UNILATERALLY TO DE-CLASSIFY CERTAIN SECURITY INFORMATION AND DATA. FURTHER, IT IS KNOWN THAT THE SUBJECT REPORT IN H. RES. 982 CONTAINS THIS UNILATERALLY DE-CLASSIFIED INFORMATION.

IT IS MY CONTENTION THAT THE SELECT COMMITTEE, NOT ONLY DOES NOT HAVE AUTHORITY TO UNILATERALLY DE-CLASSIFY SECURITY INFORMATION, BUT IS IN VIOLATION OF SEC. 6 IN H. RES. 591 IF IT RELEASES ANY CLASSIFIED INFORMATION TO THE PUBLIC -- OF ANY KIND OR SORT.

MR. CHAIRMAN, IT IS NOT MY INTENTION TO "GAG" THE SELECT COMMITTEE ON INTELLIGENCE. IF THE COMMITTEE, IN ITS WISDOM, FEELS THAT CERTAIN DATA AND INFORMATION SHOULD BE DE-CLASSIFIED, I FEEL THAT THEY SHOULD BE ABLE TO BRING THIS MATTER TO THE ATTENTION OF THE FULL HOUSE.

HOWEVER, SINCE THE HOUSE HAS NOT GIVEN THAT COMMITTEE AUTHORITY TO ACT AS A DE-CLASSIFICATION BOARD, AND SINCE THAT COMMITTEE DOES NOT HAVE THE EXPERTISE OF THE "INTERNATIONAL RELATIONS COMMITTEE", THE "ARMED SERVICES COMMITTEE" AND OTHER COMMITTEES WHOSE JURISDICTIONS ARE INVOLVED; I DO NOT THINK IT IS WISE TO PUBLISH THE DATA AND INFORMATION AND THEN POSSIBLY 'WEEP IN SORROW AFTER IT IS TOO LATE'.

THE SELECT COMMITTEE ON INTELLIGENCE MAY PUBLISH ANY REPORT THAT THE COMMITTEE DEEMS NECESSARY. I DO NOT QUESTION THIS. I SIMPLY INSIST THAT, IF THE REPORT CONTAINS CLASSIFIED INFORMATION, IT MUST BE PUBLISHED, HANDLED AND DISTRIBUTED IN ACCORDANCE WITH LAWS AND REGULATIONS PERTAINING TO THE SUBJECT MATTER INVOLVED.



THERE IS NOTHING TO PREVENT THE SELECT COMMITTEE FROM PUBLISHING A "SECRET" REPORT OR EVEN A "TOP SECRET" REPORT. SUCH A REPORT CAN BE CIRCULATED TO ALL MEMBERS OF THE HOUSE. IN SUCH A REPORT, THE COMMITTEE CAN MAKE ANY ARGUMENT THAT IT MIGHT CHOOSE TO MAKE. IF, IN THE WISDOM OF THE FULL HOUSE, SUCH CLASSIFIED INFORMATION SHOULD BE MADE PUBLIC, A SIMPLE RESOLUTION WILL DO THE JOB.

MR. CHAIRMAN, AGAIN, I AM NOT TRYING TO GAG THE COMMITTEE NOR PROHIBIT IT FROM PUBLISHING ITS REPORT. I CONTEND THAT 9 MEMBERS OF CONGRESS (THE MAJORITY OF THE COMMITTEE THAT VOTED TO DECLASSIFY THE INFORMATION) SHOULD NOT BE ALLOWED TO ACT FOR THE ENTIRE MEMBERSHIP OF THE HOUSE -- PARTICULARLY WHEN THESE MEMBERS WERE NOT EMPOWERED BY THE HOUSE TO ACT IN THAT MANNER.

SINCE H. RES. 591, THE RESOLUTION THAT GAVE BIRTH AND DIRECTION TO THE SELECT COMMITTEE ON INTELLIGENCE, ORIGINATED IN THE RULES COMMITTEE, YOU THEN HAVE JURISDICTION TO AMEND MATTERS CONCERNING THE SELECT COMMITTEE ON INTELLIGENCE.

MR. CHAIRMAN, I ASK THIS COMMITTEE TO AMEND H. RES 982 BY ADDING A SECOND PARAGRAPH THAT WOULD PROHIBIT THE SELECT COMMITTEE ON INTELLIGENCE FROM RELEASING ANY REPORT CONTAINING MATERIALS, INFORMATION, DATA OR SUBJECTS THAT PRESENTLY BEAR SECURITY CLASSIFICATIONS, UNLESS AND UNTIL SUCH REPORTS ARE PUBLISHED WITH APPROPRIATE SECURITY MARKINGS AND DISTRIBUTED ONLY TO PERSONS AUTHORIZED TO RECEIVE SUCH SECURITY INFORMATION.

THE WHITE HOUSE  
WASHINGTON

January 29, 1976

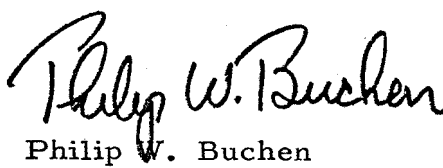
Dear Congressman Young:

In response to your request, I am sending you a copy of the communication from the President to Chairman Pike indicating the President's views on the publication of certain documents presented to him for review by the House Select Committee on Intelligence.

The principal reason for the classification of the President's letter is that when read in connection with the two highly sensitive reports which he reviewed, it would constitute a confirmation of the matters in question.

I hope this will be helpful to you.

Sincerely,

A handwritten signature in cursive script that reads "Philip W. Buchen". The signature is written in dark ink and is positioned above the typed name and title.

Philip W. Buchen  
Counsel for the President

The Honorable John Young  
House of Representatives  
Washington, D. C. 20515

## RESOLUTION

RESOLVED, that the Select Committee on Intelligence has until midnight Friday, January 30, 1976 to file its report pursuant to Section 8 of the House Resolution 591 and that the Select Committee on Intelligence has until midnight Wednesday, February 11, 1976 to file a supplemental report containing the Select Committee recommendations.

### AMENDMENT

RESOLVED, further that the Select Committee on Intelligence shall not release any report containing materials, information, data, or subjects that presently bear security classification unless and until such reports are published with appropriate security markings and distributed only to persons authorized to receive such classified information, or until the report has been certified by the President as not containing information which would adversely affect the intelligence activities of the CIA in foreign countries or intelligence activities in foreign countries of any other department or agency of the Federal government.

MATHENY ←

777  
FILE  
INTELLIGENCE

THE WHITE HOUSE  
WASHINGTON

February 9, 1976

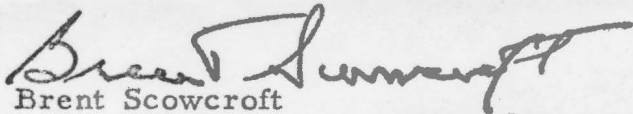
Dear Chairman Pike:

In reference to the letter sent you by Director Bush concerning the disposition of classified documents made available to the HSC, I should like to request specifically that the Presidential and National Security Council documents furnished the Committee be returned to the NSC at your earliest convenience. We will keep this material separate and intact and will provide complete access to it at any time to Congressional Committees authorized to have such access.

We believe it prudent to store this classified material in the NSC, especially since much of the material made available to your Committee by the NSC is of such a nature that it would not normally be retired to the National Archives until several years hence.

We will be glad to discuss this matter with you or any member of your Committee or its staff which you designate. I am confident we can make arrangements which will meet congressional requirements for prompt access to this material.

Sincerely,

  
Brent Scowcroft

The Honorable Otis G. Pike  
Chairman  
Select Committee on Intelligence  
U.S. House of Representatives  
Washington, D.C. 20515



CENTRAL INTELLIGENCE AGENCY  
WASHINGTON, D.C. 20505

FILE  
(INTELLIGENCE)

6 February 1976

The Honorable Otis Pike, Chairman  
Select Committee on Intelligence  
House of Representatives  
Washington, D. C. 20515

Dear Chairman Pike:

With the investigative work of the House Select Committee on Intelligence having been completed, I would like to raise two questions relating to the disposition of classified documents sent to the HSC. I raise this issue with you as spokesman for the Intelligence Community.

During the investigation, certain highly sensitive documents were sent on a loan basis with the understanding that they would be returned to originating agency once the immediate need for them had passed. I would hope that we can arrange for the return of these documents at your earliest convenience.

A larger question concerns permanent safe storage of the other documents. Obviously, each agency would be happy to serve as the custodian of these documents and if this meets the Committee's needs, we can arrange for the storage of such classified material in a fully acceptable fashion.

Alternatively, you may wish to store the materials in some other acceptable institution such as the National Archives and Records Services. To this end, our essential concerns are three-fold:

- a) The documents should be separately and securely stored
- b) Access to the documents should be carefully controlled





- c) Any future declassification of the documents should be conducted in concert with the organizations originating the documents, and in accordance with appropriate statutes and Executive Orders.

One additional request concerns classified material sent to your office by the National Security Council. It is requested that this material be placed in a separate safe, and that special rules for access to this material be worked out with the National Security Council.

Please be assured that we will extend any aid and assistance necessary to your staff to insure that the documents now in your possession are safely transferred and stored in a manner which will make them readily available to future Congressional Committees authorized to have such access.

Sincerely,

/s/ George Bush

George Bush  
Director

