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Charles Leppert Files
 General Subject File
 Intelligence - House Select Committee: Report and Recommendations (1)
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WHM, 3/20/84

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.



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94th CONGRESS
2nd SESSION

H. RES. _____

(Original signature of Member)

IN THE HOUSE OF REPRESENTATIVES

Mr. _____ submitted the following resolution; which was
referred to the Committee on _____

RESOLUTION

Resolved, That the Select Committee on Intelligence shall not file its report under section 8 of H. Res. 591 until the House has met in secret session pursuant to section 2 of this resolution.

SEC. 2. Notwithstanding any Rule of the House of Representatives, the House shall meet in secret session on Tuesday, February 3, 1976, for the purpose of determining whether the publication of any proposed sections of the report from the House Select Committee on Intelligence would be contrary to the national security. In secret session debate shall not exceed two hours, with control of debate time equally divided between the Chairman and the Ranking Member of the Rules Committee. At the conclusion

of all debate the question will be put whether the report would disclose 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. If resolved in the affirmative, the Select Committee shall not report until all such portions of its report which would adversely affect foreign intelligence operations are stricken from the report.

SEC. 3. The authority of the Select Committee to report contained in section 8 of H. Res. 591 is extended until February 11, 1976.

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SEC. 3. The authority of the Select Committee to report contained in section 8 of H. Res. 591 is extended until February 11, 1976.

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.

*INTELLIGENCE
File*

I. PRINCIPLES AND POLICY

- A) Goals
- B) Functions and product
- C) Limits and restrictions

II. LEGISLATIVE AND ADMINISTRATIVE POSITIONS

- A) Organization and management
 - 1. Overall direction
 - 2. Organization of community
 - 3. Budgets
 - 4. Program management
 - 5. Intelligence product
- B) Oversight
 - 1. Executive
 - 2. Congressional
 - 3. Public
- C) Secrecy
 - 1. Classification
 - 2. Scope
 - 3. Legal issues



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File

RECOMMENDATION OFFERED BY MR. McCLORY

The Select Committee recommends that any Committee of the House which has access to classified information in pursuit of its legislative and oversight responsibilities be given the authority to discipline any Member which it reasonably believes has disclosed or publicized such information in violation of the rules of confidentiality duly adopted by such Committee. These Committees ought to be delegated authority by the full House to take appropriate disciplinary action against such a Member -- ranging from prohibiting the Member from attending Executive Sessions and from inspecting Committee files containing classified or Executive Session materials to expulsion of the Member from the Committee. Such disciplinary action to be effective only by a vote of a majority of the Majority Members and a majority of the Minority Members of the Committee; and any Member against whom such disciplinary action is taken, shall have a right of appeal to the full House.



RECOMMENDATION OFFERED BY MR. McCLORY

Under heading "C. Covert Action," strike Number 2 and insert in lieu thereof the following:

"2. The Select Committee recommends that appropriate legislation be enacted to require prior approval by the House Committee on Intelligence for all military and paramilitary covert actions proposed by the U. S. Government, including those actions in which arms or funds for arms would be provided; and further, that as to all other covert actions of a significant size or involving significant risk, the Director of Central Intelligence be required, within 48 hours of initial implementation, to notify the Committee in writing and in detail of the nature, extent, purpose, and costs of the operation."



RECOMMENDATION OFFERED BY MR. McCLORY

The Select Committee recommends that the Rules of the House be revised to provide that any Member who violates the confidentiality of any Executive Session of any House Committee may be censured or expelled by a two-thirds vote of the House.



A. A HOUSE COMMITTEE ON INTELLIGENCE

FILE

1. The Select Committee recommends that there be formed a standing Committee on Intelligence of the House of Representatives.

a. The Committee Membership should reflect a broad representation of political and philosophical views.

b. The Committee should consist of not more than 13 or less than nine Members, designated by the Speaker in consultation with the Minority Leader, representing approximately the same political ratio as the House of Representatives.

c. No Member of the Committee may serve more than three consecutive terms on the Committee, and no member of the staff may serve more than six years.

d. Any past or current member of the Committee staff who shall release, without authorization of the Committee, materials or information obtained by the Committee shall be immediately terminated from employment and shall be fully subject to criminal and civil action, notwithstanding legislative immunity.

e. The Committee shall be vested with subpoena power and shall have the right to enforce by a proceeding for civil contempt its subpoenas in the United States District Court for the District of Columbia or any other court of competent



jurisdiction, without authorization from the House, provided the Committee has so designated by resolution. The Committee staff shall be given statutory standing to represent the Committee in any proceeding arising from the issuance of a subpoena.

f. The Committee's jurisdiction shall include all legislative and oversight functions relating to all United States agencies and departments engaged in foreign or domestic intelligence. The Committee shall have exclusive jurisdiction for budget authorization for all intelligence activities and exclusive jurisdiction for all covert action operations. All remaining oversight functions may be concurrent with other Committees of the House.

B. RELEASE OF INFORMATION

1. The Select Committee recommends that Rule XI.2 (e) (2) of the House Rules is amended to read as follows:

"Each committee shall keep a complete record of all committee action which shall include a copy of all reports, statements, and testimony of witnesses whether received in open or in executive session."

2. The Committee shall have the right to release any information or documents in its possession or control by a vote of a majority of the Members of the Committee under such terms and conditions as the Committee shall deem advisable. The Committee, in making the decision whether or not to release



such information, shall have the right, but not the duty, to consult with other agencies of the government within the intelligence community or executive branch with regard to any decision relating to the release of such heretofore secret information.

3. In the event of a negative vote by the Committee on the release of certain classified information, a Member of the Committee may apprise the other Members of the House that the Committee possesses information which he believes ought to be made public. Other Members of the House would then be authorized to have access to that information, provided they sign an agreement not to divulge the information. If these other Members agree that this information ought to be made public, they will sign a petition attesting to that. Upon obtaining the signatures of one-fifth of the House, the House shall convene in secret session for the purpose of advising the entire Membership of the House of that information. The House may then vote to release the information to the public.

4. The Select Committee recommends that the Rules of the House be revised to provide that any Member who reveals any classified information which jeopardizes the national security of the United States may be censured or expelled by a two-thirds vote of the House.

C. COVERT ACTION

1. The Select Committee recommends that all activities involving direct or indirect attempts to assassinate any individual and all paramilitary activities shall be prohibited except in time of war.

2. The Select Committee recommends that as to other covert action by any U.S. intelligence component, the following shall be required within 48 hours of initial approval.

a. The Director of Central Intelligence shall notify the Committee in writing, stating in detail the nature, extent, purpose, risks, likelihood of success, and costs of the operation.

b. The President shall certify in writing to the Committee that such covert action operation is required to protect the national security of the United States.

c. The Committee shall be provided with duplicate originals of the written recommendations of each member of the 40 Committee or its successor.

3. All covert action operations shall be terminated no later than 12 months from the date of affirmative recommendation by the 40 Committee or its successor.

D. NSA AS AN INDEPENDENT AGENCY

1. The Select Committee recommends that the existence of the National Security Agency should be recognized by specific legislation and that such legislation provide for civilian control of NSA. Further, it is recommended that



such legislation specifically define the role of NSA with reference to the monitoring of communications of Americans.

E. DISCLOSURE OF BUDGET TOTALS

1. The Select Committee recommends that all intelligence related items be included as intelligence expenditures in the President's budget, and that there be disclosure of the total single sum budgeted for each agency involved in intelligence, or if such an item is a part or portion of the budget of another agency or department that it be separately identified as a single item.

F. PROHIBITION OF FUND TRANSFERS

1. The Select Committee recommends there be appropriate legislation to prohibit any significant transfer of funds between agencies or departments in connection with intelligence activities.

2. The Select Committee recommends there be appropriate legislation to prohibit any significant reprogramming of funds within agencies or departments in connection with intelligence activities without the specific approval of the Intelligence Committee and appropriate Committees of Congress.

3. The Select Committee recommends there be appropriate legislation to prohibit any significant expenditures of reserve or contingency funds in connection with intelligence activities without specific approval of the Intelligence Committee and appropriate Committees of Congress.

G. DIRECTOR OF CENTRAL INTELLIGENCE

1. The Select Committee recommends that a Director of Central Intelligence shall be created, separate from any of the operating or analytic intelligence agencies for the purpose of coordinating and overseeing the entire foreign intelligence community with a view to eliminating duplication in collection and promoting competition in analysis. The DCI shall be nominated by the President with the advice and consent of the Senate. This office shall have the following powers and duties:

a. The DCI shall be the chief foreign intelligence officer of the United States, and shall be responsible for the supervision and control of all agencies of the United States engaged in foreign intelligence.

b. The DCI shall be a Member of the National Security Council.

c. The DCI may not hold a position or title with respect to any other agencies of government.

d. The DCI shall, along with such other duties, constitute an Office of Inspector General for all of the foreign intelligence agencies, including other agencies of government or branches of the military which have foreign intelligence functions. Such agencies shall have the obligation to report all instances of misconduct or allegations of misconduct to the DCI. This shall not constitute a limitation upon the respective agencies reporting to the DCI from maintaining their own Inspector General staff or similar body.



e. The DCI shall have an adequate staff for the purposes expressed herein and be responsible for the national intelligence estimates and daily briefings of the President.

f. The DCI shall be responsible for the preparation of the national intelligence estimates and such reports shall be immediately supplied to the appropriate committees of Congress on request.

g. All budget requests shall be prepared by the agencies under the jurisdiction of the DCI. As to those parts of budget of the military services or components of Department of Defense, they shall be submitted as an independent part of such budgets to the DCI.

h. The DCI shall be charged with the functions of coordinating foreign intelligence agencies under its jurisdiction, the elimination of duplication, the periodic evaluation of the performance and efficiency of the agencies in question, and shall report to Congress on the foregoing at least annually.

i. The DCI shall conduct a comprehensive inquiry into the causes of intelligence failures, including: inadequate collection tasking; analytical bias; duplication; unusable technical output; excessive compartmentation; and withholding of information by senior officials, and report to the Committee on Intelligence within one year.

H. FULL GAO AUDIT AUTHORITY

1. The Select Committee recommends that the General Accounting Office be empowered to conduct a full and complete management as well as financial audit of all intelligence agencies. There shall be no limitation on the GAO in the performance of these functions by any executive classification system, and the audit function of GAO shall specifically apply to those funds which presently may be expended on certification of a Director of an Agency alone.

I. INTERNAL FINANCIAL MANAGEMENT

1. The Select Committee recommends that the CIA internal audit staff be increased and given complete access to CIA financial records, and that overseas stations be audited at least annually. It is further recommended that all proprietary and procurement mechanisms be subjected to annual comprehensive review, by the CIA's internal audit staff.

J. FULL DISCLOSURE TO CONGRESS

1. The Select Committee recommends that existing legislation (National Security Act of 1947, Sec. 102 (d) (3)) restricting the Directors and heads of foreign intelligence agencies from providing full information to Congress should be amended to exclude Committees of Congress having appropriate jurisdiction.

K. NEW FOREIGN OPERATIONS SUBCOMMITTEE OF NSC

1. The Select Committee recommends that the National Security Act of 1947 be amended to provide for the establishment of a



permanent Foreign Operations Subcommittee of the National Security Council. The Subcommittee's jurisdiction, function and composition shall be as follows:

a. The Subcommittee shall have jurisdiction over all authorized activities of U.S. foreign intelligence agencies except those solely related to the gathering of intelligence.

b. The Subcommittee shall advise the President on all proposed covert or clandestine activities and on hazardous collecting activities.

c. Each member of the Subcommittee shall be required by law to submit his individual assessments of each proposal to the President in writing. The assessment should cover such matters as the likelihood of success, the benefits of success, the damage resulting from failure or exposure, the risks against the potential benefits and alternate ways of accomplishing the goal.

d. The Subcommittee shall be chaired by the Assistant to the President for National Security Affairs and shall be composed of:

Assistant to the President for National Security Affairs;

Director of Central Intelligence;

Secretary of State;

Secretary of Defense;

Deputy Director for Intelligence of CIA;

Chairman of the Joint Chiefs of Staff;

The ambassador(s), if there is one, and assistant secretaries of state for the affected countries and areas.

P. MEDIA

1. The Select Committee recommends that United States intelligence agencies not covertly provide money or other valuable consideration to persons associated with religious or educational institutions, or to employees or representatives of any journal or electronic media with general circulation in the United States or use such institutions or individuals for purposes of cover. The foregoing prohibitions are intended to apply to American citizens and institutions.

2. The Select Committee further recommends that United States intelligence agencies not covertly publish books, or plant or suppress stories in any journals or electronic media with general circulation in the United States.

Q. RESTRICTIONS ON MILITARY INTELLIGENCE

1. The Select Committee recommends that the intelligence components of the Armed Services of the United States be prohibited from engaging in covert action within the United States. It is further recommended that clandestine activities against non-military United States citizens abroad be proscribed.

R. CLASSIFICATION

1. The Select Committee recommends that the Classification of Information be the subject of the enactment of specific legislation; and further, as an adjunct to such legislation there be provided a method of regular declassification.



S. DOMESTIC

1. The Select Committee recommends that judicial warrant must issue, on probable cause, before an informant or any other agent of the FBI may infiltrate any domestic group or association, when investigation of such group or association or its members is based solely on Title 18 USC § 2383, 2384, 2385.

2. The Select Committee recommends that the Director of the FBI have a term of office no longer than two presidential terms.

3. The Select Committee recommends that the Internal Security Branch of the Intelligence Division be abolished and that the Counter-intelligence Branch be reorganized to constitute a full division named the Counter-Intelligence Division; that the mission of this Division be limited to investigating and countering the efforts of foreign directed groups and individuals against the United States.

4. The Select Committee recommends the transfer of all investigations of alleged criminal activity by domestic groups or individual members thereof to the General Investigative Division.

5. The Select Committee recommends that regulations be promulgated that tie the investigation of activities of terrorist groups closely to specific violations of criminal law within the investigative jurisdiction of the FBI and that charge the Department of Justice with determining when a domestic political action group may be appropriately targeted for investigation of terrorist activities.



T. INSPECTOR GENERAL FOR INTELLIGENCE

1. The Select Committee recommends the establishment of an independent Office of the Inspector General for Intelligence, who shall have full authority to investigate any possible or potential misconduct on the part of the various intelligence agencies or the personnel therein. The IGI shall be appointed by the President, with the approval of the Senate, for a term of 10 years and shall not be permitted to succeed himself. The IGI shall have full access on demand to all records and personnel of the intelligence agencies for the purpose of pursuing his investigations. He shall make an annual report to the Congress of his activities and make such additional reports to the intelligence committees or other appropriate oversight committees as he may choose or the committees may direct.

File

RECOMMENDATION OFFERED BY MR. McCLORY

The Select Committee recommends that any Committee of the House which has access to classified information in pursuit of its legislative and oversight responsibilities be given the authority to discipline any Member which it reasonably believes has disclosed or publicized such information in violation of the rules of confidentiality duly adopted by such Committee. These Committees ought to be delegated authority by the full House to take appropriate disciplinary action against such a Member -- ranging from prohibiting the Member from attending Executive Sessions and from inspecting Committee files containing classified or Executive Session materials to expulsion of the Member from the Committee. Such disciplinary action to be effective only by a vote of a majority of the Majority Members and a majority of the Minority Members of the Committee; and any Member against whom such disciplinary action is taken, shall have a right of appeal to the full House.



Five

RECOMMENDATION OFFERED BY MR. McCLORY

Under heading "A. A House Committee on Intelligence," strike subparagraph "a." and insert in lieu thereof the following:

"a. The Committee shall consist of 5 Members composed of one Member from each of the following committees: (a) Appropriations, (b) Armed Services, (c) International Relations, (d) Judiciary, and (e) Government Operations, no more than 3 of whom shall be Members of the same political party. No committee Member shall serve more than 6 consecutive years."



COMPLETE SET OF PASSED AND AMENDED RECOMMENDATIONS



III. RECOMMENDATIONS

A. A HOUSE COMMITTEE ON INTELLIGENCE

1. The Select Committee recommends that there be formed a standing Committee on Intelligence of the House of Representatives.

a. The Committee Membership should reflect a broad representation of political and philosophical views.

b. The Committee should consist of not more than 13 or less than nine Members, designated by the Speaker in consultation with the Minority Leader, representing approximately the same political ratio as the House of Representatives.

c. No Member of the Committee may serve more than three consecutive terms on the Committee, and no member of the staff may serve more than six years.

d. Any past or current member of the Committee staff who shall release, without authorization of the Committee, materials or information obtained by the Committee shall be immediately terminated from employment and shall be fully subject to criminal and civil action, notwithstanding legislative immunity.

e. The Committee shall be vested with subpoena power and shall have the right to enforce its subpoenas in the United States District Court for the District of Columbia or any other court of competent jurisdiction, without authorization



from the House, provided the Committee has so designated by resolution. The Committee staff shall be given statutory standing to represent the Committee in any proceeding arising from the issuance of a subpoena.

f. The Committee's jurisdiction shall include all legislative and oversight functions relating to all United States agencies and departments engaged in foreign or domestic intelligence. The Committee shall have exclusive jurisdiction for budget authorization for all intelligence activities and exclusive jurisdiction for all covert action operations. All remaining oversight functions may be concurrent with other Committees of the House.



B. RELEASE OF INFORMATION

1. The Select Committee recommends that Rule XI.2 (e) (2) of the House Rules is amended to read as follows:

"All committee hearings, records, data, charts and files...shall be the property of the House and all Members of the House shall have access thereto and that access shall not be limited by the provisions of clause 2 (k) (7) of this Rule."

2. The Committee shall have the right to release any information or documents in its possession or control by a vote of a majority of the Members of the Committee under such terms and conditions as the Committee shall deem advisable. The Committee, in making the decision whether or not to release such information, shall have the right, but not the duty, to consult with other agencies of the government within the intelligence community or executive branch with regard to any decision relating to the release of such heretofore secret information.

3. In the event of a negative vote by the Committee on the release of certain classified information, a Member of the Committee may apprise the other Members of the House that the Committee possesses information which he believes ought to be made public. Other Members of the House would then be authorized to have access to that information, provided they sign an agreement not to divulge the information. If these other Members agree that this information ought to be made public, they will sign a petition attesting to that. Upon obtaining the signatures of one-fifth of the House, the House shall convene



in secret session for the purpose of advising the entire Membership of the House of that information. The House may then vote to release the information to the public.

4. The Select Committee recommends that the Rules of the House be revised to provide that any Member who reveals any classified information which jeopardizes the national security of the United States may be censured or expelled by a two-thirds vote of the House.



C. COVERT ACTION

1. The Select Committee recommends that all activities involving direct or indirect attempts to assassinate any individual and all paramilitary activities shall be prohibited except in time of war.

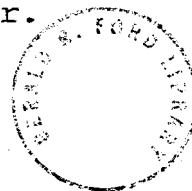
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a. The Director of Central Intelligence shall notify the Committee in writing, stating in detail the nature, extent, purpose, risks, likelihood of success, and costs of the operation.

b. The President shall certify in writing to the Committee that such covert action operation is required to protect the national security of the United States.

c. The Committee shall be provided with duplicate originals of the written recommendations of each member of the 40 Committee or its successor.

3. All covert action operations shall be terminated no later than 12 months from the date of affirmative recommendation by the 40 Committee or its successor.



D. NSA AS AN INDEPENDENT AGENCY

1. The Select Committee recommends that the existence of the National Security Agency should be recognized by specific legislation and that such legislation provide for civilian control of NSA. Further, it is recommended that such legislation specifically define the role of NSA with reference to the monitoring of communications of Americans.

E. DISCLOSURE OF BUDGET TOTALS

1. The Select Committee recommends that all intelligence related items be included as intelligence expenditures in the President's budget, and that there be disclosure of the total single sum budgeted for each agency involved in intelligence, or if such an item is a part of portion of the budget of another agency or department that it be separately identified as a single item.

F. PROHIBITION OF FUND TRANSFERS

1. The Select Committee recommends there be appropriate legislation to prohibit any significant transfer of funds between agencies or departments in connection with intelligence activities.

2. The Select Committee recommends there be appropriate legislation to prohibit any significant reprogramming of funds within agencies or departments in connection with intelligence activities without the specific approval of the Intelligence Committee and appropriate Committees of Congress.



3. The Select Committee recommends there be appropriate legislation to prohibit any significant expenditures of reserve or contingency funds in connection with intelligence activities without specific approval of the Intelligence Committee and appropriate Committees of Congress.

G. DCI AS CABINET RANK

1. The Select Committee recommends that a Director of Central Intelligence shall be created, separate from any of the operating of analytic intelligence agencies for the purpose of coordinating and overseeing the entire foreign

intelligence community with a view to eliminating duplication in collection and promoting competition in analysis. The DCI shall be nominated by the President with the advice and consent of the Senate. This office shall have the following powers and duties:

a. The DCI shall be the chief foreign intelligence officer of the United States, and shall be responsible for the supervision and control of all agencies of the United States engaged in foreign intelligence.

b. The DCI shall be a Member of the National Security Council.

c. The DCI may not hold a position or title with respect to any other agencies of government.

d. The DCI shall, along with such other duties, constitute an Office of Inspector General for all of the



of government or branches of the military which have foreign intelligence functions. Such agencies shall have the obligation to report all instances of misconduct or allegations of misconduct to the DCI. This shall not constitute a limitation upon the respective agencies reporting to the DCI from maintaining their own Inspector General staff or similar body.

e. The DCI shall have an adequate staff for the purposes expressed herein and be responsible for the national intelligence estimates and daily briefings of the President.

f. The DCI shall be responsible for the preparation of the national intelligence estimates and such reports shall be immediately supplied to the appropriate committees of Congress on request.

g. All budget requests shall be prepared by the agencies under the jurisdiction of the DCI. As to those parts of budget of the military services or components of Department of Defense, they shall be submitted as an independent part of such budgets to the DCI.

h. The DCI shall be charged with the functions of coordinating foreign intelligence agencies under its jurisdiction, the elimination of duplication, the periodic evaluation of the performance and efficiency of the agencies in question, and shall report to Congress on the foregoing at least annually.

i. The DCI shall conduct a comprehensive inquiry into the causes of intelligence failures, including: inadequate collection tasking; analytical bias; duplication;



unusable technical output; excessive compartmentation; and withholding of information by senior officials, and report to the Committee on Intelligence within one year.

H. FULL GAO AUDIT AUTHORITY

1. The Select Committee recommends that the General Accounting Office be empowered to conduct a full and complete management as well as financial audit of all intelligence agencies. There shall be no limitation on the GAO in the performance of these functions by any executive classification system, and the audit function of GAO shall specifically apply to those funds which presently may be expended on certification of a Director of an Agency alone.



I. INTERNAL FINANCIAL MANAGEMENT

1. The Select Committee recommends that the CIA internal audit staff be increased and given complete access to CIA financial records, and that overseas stations be audited at least annually. It is further recommended that all proprietary and procurement mechanisms be subjected to annual comprehensive review, by the CIA's internal audit staff.

J. FULL DISCLOSURE TO CONGRESS

1. The Select Committee recommends that existing legislation (National Security Act of 1947, Sec. 102 (d) (3)) restricting the Directors and heads of foreign intelligence agencies from providing full information to Congress should be amended to exclude Committees of Congress having appropriate jurisdiction.

K. NEW FOREIGN OPERATIONS SUBCOMMITTEE OF NSC

1. The Select Committee recommends that the National Security Act of 1947 be amended to provide for the establishment of a permanent Foreign Operations Subcommittee of the National Security Council. The Subcommittee's jurisdiction, function and composition shall be as follows:

a. The Subcommittee shall have jurisdiction over all authorized activities of U.S. foreign intelligence agencies except those solely related to the gathering of intelligence.

b. The Subcommittee shall advise the President on all proposed covert or clandestine activities and on hazardous collecting activities.



c. Each member of the Subcommittee shall be required by law to submit his individual assessments of each proposal to the President in writing. The assessment should cover such matters as the likelihood of success, the benefits of success, the damage resulting from failure or exposure, the risks against the potential benefits and alternate ways of accomplishing the goal.

d. The Subcommittee shall be chaired by the Assistant to the President for National Security Affairs and shall be composed of:

Assistant to the President for National Security Affairs;

Director of Central Intelligence;

Secretary of State;

Secretary of Defense;

Deputy Director for Intelligence of CIA;

Chairman of the Joint Chiefs of Staff;

The ambassador(s), if there is one, and assistant secretaries of state for the affected countries and areas.

L. DEFENSE INTELLIGENCE AGENCY

1. The Select Committee recommends that the Defense Intelligence Agency be abolished and that its functions be transferred to the Assistant Secretary of Defense for Intelligence and the CIA.

M. DETAILEES

1. The Select Committee recommends that intelligence agencies disclose the affiliation of employees on detail to other government agencies or departments to all immediate colleagues and superiors.



N. ASSISTANT FOR NATIONAL SECURITY AFFAIRS

1. The Select Committee recommends that the Assistant to the President for National Security Affairs be prohibited from holding any cabinet-level position.

O. RESTRICTIONS ON POLICE TRAINING AND RELATIONSHIPS

1. The Select Committee recommends that no agency of the United States engaged principally in foreign or military intelligence, directly or indirectly engage in the training or the supplying of domestic police agencies of the United States, and that contacts between police agencies of the United States and U.S. foreign or military intelligence agencies be limited to those circumstances which shall be required on account of internal security or the normal requirements and functions of such police agencies.



FILE
INTELLIGENCE

COMPLETE SET OF PASSED AND AMENDED RECOMMENDATIONS



III. RECOMMENDATIONS

A. A HOUSE COMMITTEE ON INTELLIGENCE

1. The Select Committee recommends that there be formed a standing Committee on Intelligence of the House of Representatives.

a. The Committee Membership should reflect a broad representation of political and philosophical views.

b. The Committee should consist of not more than 13 or less than nine Members, designated by the Speaker in consultation with the Minority Leader, representing approximately the same political ratio as the House of Representatives.

c. No Member of the Committee may serve more than three consecutive terms on the Committee, and no member of the staff may serve more than six years.

d. Any past or current member of the Committee staff who shall release, without authorization of the Committee, materials or information obtained by the Committee shall be immediately terminated from employment and shall be fully subject to criminal and civil action, notwithstanding legislative immunity.

e. The Committee shall be vested with subpoena power and shall have the right to enforce its subpoenas in the United States District Court for the District of Columbia or any other court of competent jurisdiction, without authorization



from the House, provided the Committee has so designated by resolution. The Committee staff shall be given statutory standing to represent the Committee in any proceeding arising from the issuance of a subpoena.

f. The Committee's jurisdiction shall include all legislative and oversight functions relating to all United States agencies and departments engaged in foreign or domestic intelligence. The Committee shall have exclusive jurisdiction for budget authorization for all intelligence activities and exclusive jurisdiction for all covert action operations. All remaining oversight functions may be concurrent with other Committees of the House.



B. RELEASE OF INFORMATION

1. The Select Committee recommends that Rule XI.2 (e) (2) of the House Rules is amended to read as follows:

"All committee hearings, records, data, charts and files...shall be the property of the House and all Members of the House shall have access thereto and that access shall not be limited by the provisions of clause 2 (k) (7) of this Rule."

2. The Committee shall have the right to release any information or documents in its possession or control by a vote of a majority of the Members of the Committee under such terms and conditions as the Committee shall deem advisable. The Committee, in making the decision whether or not to release such information, shall have the right, but not the duty, to consult with other agencies of the government within the intelligence community or executive branch with regard to any decision relating to the release of such heretofore secret information.

3. In the event of a negative vote by the Committee on the release of certain classified information, a Member of the Committee may apprise the other Members of the House that the Committee possesses information which he believes ought to be made public. Other Members of the House would then be authorized to have access to that information, provided they sign an agreement not to divulge the information. If these other Members agree that this information ought to be made public, they will sign a petition attesting to that. Upon obtaining the signatures of one-fifth of the House, the House shall convene



in secret session for the purpose of advising the entire Membership of the House of that information. The House may then vote to release the information to the public.

4. The Select Committee recommends that the Rules of the House be revised to provide that any Member who reveals any classified information which jeopardizes the national security of the United States may be censured or expelled by a two-thirds vote of the House.



D. NSA AS AN INDEPENDENT AGENCY

1. The Select Committee recommends that the existence of the National Security Agency should be recognized by specific legislation and that such legislation provide for civilian control of NSA. Further, it is recommended that such legislation specifically define the role of NSA with reference to the monitoring of communications of Americans.

E. DISCLOSURE OF BUDGET TOTALS

1. The Select Committee recommends that all intelligence related items be included as intelligence expenditures in the President's budget, and that there be disclosure of the total single sum budgeted for each agency involved in intelligence, or if such an item is a part of portion of the budget of another agency or department that it be separately identified as a single item.

F. PROHIBITION OF FUND TRANSFERS

1. The Select Committee recommends there be appropriate legislation to prohibit any significant transfer of funds between agencies or departments in connection with intelligence activities.

2. The Select Committee recommends there be appropriate legislation to prohibit any significant reprogramming of funds within agencies or departments in connection with intelligence activities without the specific approval of the Intelligence Committee and appropriate Committees of Congress.



3. The Select Committee recommends there be appropriate legislation to prohibit any significant expenditures of reserve or contingency funds in connection with intelligence activities without specific approval of the Intelligence Committee and appropriate Committees of Congress.

G. DCI AS CABINET RANK

1. The Select Committee recommends that a Director of Central Intelligence shall be created, separate from any of the operating of analytic intelligence agencies for the purpose of coordinating and overseeing the entire foreign intelligence community with a view to eliminating duplication in collection and promoting competition in analysis. The DCI shall be nominated by the President with the advice and consent of the Senate. This office shall have the following powers and duties:

a. The DCI shall be the chief foreign intelligence officer of the United States, and shall be responsible for the supervision and control of all agencies of the United States engaged in foreign intelligence.

b. The DCI shall be a Member of the National Security Council.

c. The DCI may not hold a position or title with respect to any other agencies of government.

d. The DCI shall, along with such other duties, constitute an Office of Inspector General for all of the



of government or branches of the military which have foreign intelligence functions. Such agencies shall have the obligation to report all instances of misconduct or allegations of misconduct to the DCI. This shall not constitute a limitation upon the respective agencies reporting to the DCI from maintaining their own Inspector General staff or similar body.

e. The DCI shall have an adequate staff for the purposes expressed herein and be responsible for the national intelligence estimates and daily briefings of the President.

f. The DCI shall be responsible for the preparation of the national intelligence estimates and such reports shall be immediately supplied to the appropriate committees of Congress on request.

g. All budget requests shall be prepared by the agencies under the jurisdiction of the DCI. As to those parts of budget of the military services or components of Department of Defense, they shall be submitted as an independent part of such budgets to the DCI.

h. The DCI shall be charged with the functions of coordinating foreign intelligence agencies under its jurisdiction, the elimination of duplication, the periodic evaluation of the performance and efficiency of the agencies in question, and shall report to Congress on the foregoing at least annually.

i. The DCI shall conduct a comprehensive inquiry into the causes of intelligence failures, including: inadequate collection tasking; analytical bias; duplication;



unusable technical output; excessive compartmentation; and withholding of information by senior officials, and report to the Committee on Intelligence within one year.

H. FULL GAO AUDIT AUTHORITY

1. The Select Committee recommends that the General Accounting Office be empowered to conduct a full and complete management as well as financial audit of all intelligence agencies. There shall be no limitation on the GAO in the performance of these functions by any executive classification system, and the audit function of GAO shall specifically apply to those funds which presently may be expended on certification of a Director of an Agency alone.



I. INTERNAL FINANCIAL MANAGEMENT

1. The Select Committee recommends that the CIA internal audit staff be increased and given complete access to CIA financial records, and that overseas stations be audited at least annually. It is further recommended that all proprietary and procurement mechanisms be subjected to annual comprehensive review, by the CIA's internal audit staff.

J. FULL DISCLOSURE TO CONGRESS

1. The Select Committee recommends that existing legislation (National Security Act of 1947, Sec. 102 (d) (3)) restricting the Directors and heads of foreign intelligence agencies from providing full information to Congress should be amended to exclude Committees of Congress having appropriate jurisdiction.

K. NEW FOREIGN OPERATIONS SUBCOMMITTEE OF NSC

1. The Select Committee recommends that the National Security Act of 1947 be amended to provide for the establishment of a permanent Foreign Operations Subcommittee of the National Security Council. The Subcommittee's jurisdiction, function and composition shall be as follows:

a. The Subcommittee shall have jurisdiction over all authorized activities of U.S. foreign intelligence agencies except those solely related to the gathering of intelligence.

b. The Subcommittee shall advise the President on all proposed covert or clandestine activities and on hazardous collecting activities.



c. Each member of the Subcommittee shall be required by law to submit his individual assessments of each proposal to the President in writing. The assessment should cover such matters as the likelihood of success, the benefits of success, the damage resulting from failure or exposure, the risks against the potential benefits and alternate ways of accomplishing the goal.

d. The Subcommittee shall be chaired by the Assistant to the President for National Security Affairs and shall be composed of:

Assistant to the President for National Security Affairs;

Director of Central Intelligence;

Secretary of State;

Secretary of Defense;

Deputy Director for Intelligence of CIA;

Chairman of the Joint Chiefs of Staff;

The ambassador(s), if there is one, and assistant secretaries of state for the affected countries and areas.

L. DEFENSE INTELLIGENCE AGENCY

1. The Select Committee recommends that the Defense Intelligence Agency be abolished and that its functions be transferred to the Assistant Secretary of Defense for Intelligence and the CIA.

M. DETAILEES

1. The Select Committee recommends that intelligence agencies disclose the affiliation of employees on detail to other government agencies or departments to all immediate colleagues and superiors.



1. The Select Committee recommends that the Assistant to the President for National Security Affairs be prohibited from holding any cabinet-level position.

O. RESTRICTIONS ON POLICE TRAINING AND RELATIONSHIPS

1. The Select Committee recommends that no agency of the United States engaged principally in foreign or military intelligence, directly or indirectly engage in the training or the supplying of domestic police agencies of the United States, and that contacts between police agencies of the United States and U.S. foreign or military intelligence agencies be limited to those circumstances which shall be required on account of internal security or the normal requirements and functions of such police agencies.



C. COVERT ACTION

1. The Select Committee recommends that all activities involving direct or indirect attempts to assassinate any individual and all paramilitary activities shall be prohibited except in time of war.

2. The Select Committee recommends that as to other covert action by any U.S. intelligence component, the following shall be required within 48 hours of initial approval.

a. The Director of Central Intelligence shall notify the Committee in writing, stating in detail the nature, extent, purpose, risks, likelihood of success, and costs of the operation.

b. The President shall certify in writing to the Committee that such covert action operation is required to protect the national security of the United States.

c. The Committee shall be provided with duplicate originals of the written recommendations of each member of the 40 Committee or its successor.

3. All covert action operations shall be terminated no later than 12 months from the date of affirmative recommendation by the 40 Committee or its successor.



DRAFT
10 Dec 1975

*File's
Intelligence
File*
Information Memorandum

ANALYSIS OF ISSUES

I. PRINCIPLES AND POLICY

A. Goals

There is widespread agreement with the statement that the intelligence gathering activities of the United States should provide for national defense needs and should assist achieving foreign policy objectives. In the words of the Murphy Commission Report "the maintenance of intelligence capabilities of the highest competence is essential to the national security and to the effective conduct of U.S. foreign policy." Similarly, the Rockefeller Commission concluded: "During the period of the Commission's inquiry, there have been public allegations that a democracy does not need an intelligence apparatus. The Commission does not share this view. Intelligence is information gathered for policy makers in government which illuminates the ranges and choices available to them and enables them to exercise judgment." The public agrees; by a 78 to 12% majority, it believes "it is very important that the United States have the best foreign intelligence agency in the world, even if it does make some mistakes."



There are specific goals which must be met:

- . We must be able to predict "Pearl Harbors" with sufficient time to anticipate and react.
- . The government must be able to identify and assess the threats to the United States from whatever source they may come.
- . There is clearly a need for timely military intelligence provided to the military command during times of war and in preparing to meet military threats.
- . The intelligence community must be able to prevent the loss of the effectiveness of our national defense and the intelligence resources through loss of secrecy.
- . We should assist friendly governments and allies to meet their own national defense needs through intelligence resources.
- . The understanding of issues, plans and developments and personalities of world leaders is important for policy making.
- . We must meet the economic, commercial and even natural resource intelligence needs.



The most controversial area is the degree to which the United States should take actions or assist in actions which have the effect of hindering unfriendly governments and adversaries. The types of action which can be taken are numerous, ranging from the merely inconvenience to the extreme acts of assassination, paramilitary operations, and covert actions such as sabotage. Your directives to the community with regard to extreme actions such as assassination are clear, but other areas along the spectrum of activities have not yet been defined.

In elaborating the problem of organization of the intelligence community, the Murphy Commission identified three standards of performance:

- (a) It must respond to the evolving needs of national security and foreign policy decision makers: its estimates and analyses must address the issues of real concern, and do so at high levels of competence and integrity.
- (b) Economy. Intelligence is a necessity, and some forms of intelligence gathering are extraordinarily expensive. Where unavoidable, such costs must be borne, where necessary they must be avoided.



- (c) The U. S. Intelligence Community must operate in such a manner as to command public confidence.

The community must maintain foreign respect for its intelligence resources and capabilities. The community must also have the resources to develop new technologies, skills and capabilities.

B. Functions and Product

1. Intelligence Collection

There seems to be little disagreement that the community should continue to collect intelligence from foreign sources, both governmental and private, using human and technical means. The degree to which the foreign service and overt sources are used or can be used for collection to limit the activities of clandestine services is a matter you should address. There is also the related issue of collecting information from private organizations such as banks, companies and cooperatives. The very expensive technical means of collection (satellites, electronics and under-water sensors used to intercept messages and locate various foreign sources such as radar screens, missiles emissions, missile-related telemetry, and other electronic sources, as well as straight photographic image reconnaissance) are examined continually through the budget process



and the normal coordination mechanisms within the community itself. There is, however, a feeling that coordination, particularly on budget preparation, will become more important as we intend to rely more on these technical means. The 1971 Schlesinger and PFIAB studies (reported earlier) saw this question as primary, and the Nixon November '71 order (which you have reaffirmed) attempted to strengthen the coordination mechanisms under the leadership of the Director of Central Intelligence. There remains, however, a question as to the effectiveness of these mechanisms.

Domestic collection activities by the community have been examined intensely in the past year by the Rockefeller Commission, the Select Committees and the Attorney General. These include entry to foreign embassies in the United States, electronic eavesdropping both by the FBI and by other agencies, mail opening, surveillance, etc. The Attorney General is in the process of formulating guidelines for FBI behavior. There is also under review within the Executive an Executive Order more broadly stating restrictions on certain types of activities. This area is being dealt with now, but only in bits and pieces. It is advisable to state clearly Administration policy in response to the findings of these various investigations.



2. Analysis and Intelligence Production

There is little disagreement that the intelligence community should continue to analyze and produce finished intelligence for a variety of users. In the traditional view, the highest form of intelligence is "national intelligence" produced for the President and his advisers, including Cabinet Officers. This is augmented by a continual flow of routine intelligence reports and special studies of somewhat greater relevance to senior analysts, such as those on the National Security Council staff.

The military command specifies, through the services, the Joint Chiefs and DIA, its own requirements. This leads to a separate conception of "tactical intelligence": knowing where the enemy is and what strength is immediately opposing a field commander. The distinction between tactical and national intelligence is blurred, depending on questions of definition to a large extent.

There is a third generalized area of intelligence meeting specialized governmental needs, such as those of economic policy-making. Economic users can be found in most every Department and their interests range from the central questions, such as the pricing intentions of the OPEC countries, to the more routine reporting of ordinary commercial transactions



between, say, Eastern Europe and third world countries. In recent years, economic issues have become increasingly important and thus intelligence has been in great demand in the Departments. A problem remains, however, as to determining how much of the intelligence communities resources should be devoted to economic and other specialized issues; to put it another way, would we maintain the CIA and the National Security Agency merely to collect economic intelligence? To what degree are additional resources employed for collecting this information, and how good is it?

3. Paramilitary and Covert Action

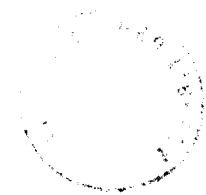
Perhaps the most troublesome area in the Congressional investigations and the public press has been the conduct of paramilitary and covert operations. At one extreme there is stated the opinion that these actions are not only necessary but desirable as a part of our foreign policy. At the other extreme are the assertions that such activities should not only be banned domestically and overseas against enemies, but under any circumstances and at all times. The birth of OSS and the CIA reflected a fascination with these activities, carrying through Iran, Cuba and Laos;



this is not today considered appropriate. Specific types of covert action, such as assassination attempts, have been subjected to minute scrutiny and your instructions to the intelligence community - that you find these actions abhorrent - are clear on this subject. Further, it is unlikely that large-scale paramilitary operations (of the kind planned for Cuba and carried out in Laos) could be conducted today without public exposure and direct attribution to the President. Enough is now known about the process of mounting such operations that any objector could assert a plausible linkage to the Presidency.

4. Counterintelligence

Dating from a general understanding between the CIA and the FBI after World War II and the terms of the National Security Act of 1947, the FBI has had no overseas intelligence or counterintelligence responsibilities. The CIA has had no domestic responsibilities beyond protection of its own facilities, operations and personnel; these were explicitly recognized by the Rockefeller Commission. The conception becomes blurred in specific cases. To what extent, for example, should the Director of Central



Intelligence be allowed to use resources directly under his control (the CIA) to carry out his statutory-required responsibility of protecting intelligence sources and methods? To the extent he conducts surveillance of U. S. citizens in the United States is he either infringing on their rights or transgressing on the responsibilities of the FBI? It is recognized that in the community that some clarification of responsibilities and authority in this area is required as well as better guidelines for the FBI's own activities.

C. Limits and Restrictions



II. LEGISLATIVE AND ADMINISTRATIVE POSITIONS

As a result of the Murphy and Rockefeller Commission reports, a plethora of books and articles on the community, two major Congressional investigations, you will be asked to take positions on a number of specific legislative and administrative issues dealing with:

- . Organization and Management - the proper organizational structures and authorities required to manage resources, including personnel, materiel, budgets, and intelligence product. From an examination of the experience under the Nov. 1971 Presidential Directive, the missions of the intelligence community, and the existing structure, it is clear that improvements can be made.
- . Oversight of the Intelligence Community - much of the Congressional interest and the public concern focus on the question of appropriate oversight by those outside the Community, - legal advisers and Inspectors General within the intelligence agencies, the President, Presidential agents, committees within the Executive Office, others in the Executive Branch, Congressional Committees, the General Accounting Office and perhaps completely independent public bodies.



- . Secrecy and its protection - there is concern about the basis for and misuse of the classification system, the powers and sanctions of those charged with protecting classified information, the special problems of those protecting intelligence sources and methods, and the relationship of all of these questions to other developing standards of law with regard to the rights of individuals.

A. Organization and Management

1. Overall Direction

The President necessarily must accept responsibility for the activities of the intelligence community; "plausible deniability" is no longer possible as a result of numerous revelations and admissions. In delegating that responsibility, you must assure:

- . accomplishment of particular missions is essential, primarily a matter internal to the intelligence community;
- . effectiveness of intelligence and its usefulness to policy-makers, the consumers of intelligence;
- . compliance with laws and standards which are established primarily by those outside the intelligence community.

By Presidential Directive in November 5, 1971, the leadership of the community was vested in the Director of Central Intelligence. Although



he chairs the community's coordinating committees, the leadership role has not been spelled out in detail nor made effective through other administrative changes.

2. Organization of the Community

Of critical importance to the management of the community (and being examined in detail by the NSC/OMB study group) is the question of the appropriate organizational structure to deal with these issues. Central to that consideration is the continuing validity of the leadership role of the DCI. Various alternatives to the organizational structure are being examined from a highly centralized structure (which would include the CIA and the Defense Department Intelligence Components in one new agency) to even more decentralized services than today. Various criteria can be used to judge the effectiveness of various solutions, such as effectiveness, degree of control provided, etc.

3. Budgets

A more specific form of resource management comes through the budget. Since the budget controls dollars directly, it controls indirectly programs, manpower and materiel. The effectiveness of previous budgetary decisions is evaluated, first, in the agencies,



and second, in the Office of Management and Budget (with some assistance from the Director of Central Intelligence). While the DCI does have impact on decision-making by the agencies, and thus can affect budget submissions to the Executive Office, he has little or no role in the decision-making process within the Executive Office.

A related issue is budget presentation, disclosure and public release. At the present time, intelligence budgets are contained within other budget line items, primarily within the Defense Department. There is, however, a great deal of misinformation circulating about the amount spent on intelligence, and arguments for its continued secrecy are being reexamined.

4. Program Management

There has been little public examination of intelligence program management. Some review of program management is conducted through the Office of Management and Budget and the DCI's intelligence community staff. (The President's Foreign Intelligence Advisory Board conducts ad hoc studies on particular issues.) These program management reviews must have continued and strengthened access to program data, the mechanisms and tools for analysis and evaluation, and means to exercise control. If, for example, the Director of Central Intelligence is to be given a leadership



role, then some consideration must be given to his ability to control budgets and programs as well to maintain and improve quality.

5. Intelligence Product

The last element which must be considered in management is the dissemination of intelligence product within the community, to the users, to the Congress and to the public. On the one hand, it is unobjectionable that more product should be made publicly available. On the other hand, there are extremely sensitive items which cannot and should not be known outside very small circles. The present classification systems represent one way to strike a balance between these competing concerns, but one may ask the broader question of who makes future decisions, and how are specific cases dealt with to build public confidence.

B. Oversight

1. Executive

One of the findings emerging from the Rockefeller Report was the need for increased oversight both by Congress and the Executive Office. We can expect similar findings from the Senate and House



Select Committees. There seems to be no question that the public has already concluded that increased oversight is necessary: in September 1975, Harris found 41% of those surveyed believe "the trouble with the CIA is that it got out of control of civilian authority" (with 21% disagreeing) and that 66% believe "in the future, the CIA must be monitored more closely by Congress and the White House" (18% disagreeing). Thus the question of accountability to the public, the Congress and to civilian authority is posed, and the issue is to what degree will the Administration respond.

The Rockefeller Commission examined the degree to which "internal" controls (within the CIA) can be strengthened. It noted problems the legal advisers and the Inspectors General have affecting CIA operations, and it proposed changes which have been implemented by CIA. Similar problems could be found, no doubt, in other Departments outside the Rockefeller Commission's scope of examination.

There is a concern that civilian control has not been properly exercised within the Executive Branch. It may be that visible and fundamental improvements will have to be made to strengthen the



authority of Presidential agents, Committees, and non-participating departments, such as the Justice Department, in overseeing intelligence community operations. The PFIAB is already charged with oversight responsibilities and these have been strengthened in the proposed Executive Order now before you.

2. Congressional

The area of greatest concern will be the degree to which Congress oversees the community and participates in making decisions about its activities, ranging from approval of specific covert operations (as proposed by some select Committee staff) to a more generalized oversight through periodic reporting. The number and jurisdictions of committees is also being considered. A parallel issue is the degree to which the General Accounting Office becomes involved in examining CIA activities, a function it has not had since the early 1960's.



3. Public

Lastly, the role of the press and the interested public in understanding and appraising community activities is inextricably mixed with questions of secrecy dealt with in the following section. With the passage of the Freedom of Information Act, the Privacy Act, and a general opening up of intelligence activities to public scrutiny, there may be less concern today for access (even though such access poses significant security and workload problems for the community). Yet confidence cannot be maintained without some appreciation for the public's right to know. Some balance must be worked out, perhaps to be addressed publicly by the President.

C. Secrecy

1. Classification

The public accepts the need for secrecy; the Harris Survey showed that a majority (71%) feels that "any successful foreign intelligence agency must be operated in secrecy" (13% disagreed). Classification was not directly addressed in the Rockefeller Commission Report. The



Murphy Commission recommended certain improvements, including a statutory basis for classification. It is, however, an issue which has been of long-standing interest to critics of the intelligence community and more recently an issue of operational significance to the Select Committees of the House and Senate. But the public is worried (52% to 28%) that "so many secrets of the CIA have been made public that the future ability of the CIA to operate well has now been threatened."

The existing basis for classification (Executive Order No. 11652 issued by President Nixon on March 10, 1972) is criticized both within and outside the Executive. There is some feeling that the Executive Order still makes too many documents subject to the security classification and the definitions have proved to be essentially unworkable. Suggestions are made from time to time that Congress enact classification system. The community feels the existing system of "compartmentation" (special clearances giving access to information only on a need to know basis) poses operational problems. Whatever mechanisms are used, however, there must be some continuing attention given to the standards of the classification.



2. Scope

A second issue arises as to the scope of protection to be given to that information. The criminal law reform pending Bill S.1 would establish new standards and penalties, but these are proving controversial. A separate but closely related issue is the extent of protection of intelligence sources and methods. The National Security Act of 1947 vests the responsibility for such protection in the Director of Central Intelligence, but does not provide him any authority or sanctions, except over CIA employees in a limited fashion. Whether specific legislation is required to protect sources and methods is being examined by your Intelligence Coordinating Group.

3. Legal Issues

Finally, the question of secrecy can not be considered out of the Constitutional context in which it most often arises - disputes with Congress and the Courts over Executive Privilege and legal determinations on the relevance of the Fourth Amendment. Executive Privilege disputes are not now effectively resolved except through negotiation. Courts are increasingly interested in examining the reasons for



classification of information and the necessity for intelligence activities, particularly where individual liberties and civil rights may be infringed. The Rockefeller Commission devoted considerable attention to this series of problems and its recommendations are now being reviewed by all Executive Agencies for appropriate solution.

