

**The original documents are located in Box 15, folder “Intelligence - Reorganization (2)” of the Loen and Leppert Files at the Gerald R. Ford Presidential Library.**

### **Copyright Notice**

The copyright law of the United States (Title 17, United States Code) governs the making of photocopies or other reproductions of copyrighted material. Gerald Ford donated to the United States of America his copyrights in all of his unpublished writings in National Archives collections. Works prepared by U.S. Government employees as part of their official duties are in the public domain. The copyrights to materials written by other individuals or organizations are presumed to remain with them. If you think any of the information displayed in the PDF is subject to a valid copyright claim, please contact the Gerald R. Ford Presidential Library.

EMBARGOED FOR RELEASE  
UNTIL 12 P.M. (EST)  
WEDNESDAY, FEBRUARY 18, 1976

February 18, 1976

Office of the White House Press Secretary

-----  
THE WHITE HOUSE

EXECUTIVE ORDER  
-----

UNITED STATES FOREIGN INTELLIGENCE ACTIVITIES

By virtue of the authority vested in me by the Constitution and statutes of the United States, including the National Security Act of 1947, as amended, and as President of the United States of America, it is hereby ordered as follows:

TABLE OF CONTENTS

Section	Description	Page
1	PURPOSE.....	2
2	DEFINITIONS.....	2
3	CONTROL AND DIRECTION OF INTELLIGENCE ORGANIZATIONS.....	4
	(a) National Security Council-----	4
	(b) Committee on Foreign Intelligence	5
	(c) Operations Advisory Group-----	6
	(d) Director of Central Intelligence-	7
4	RESPONSIBILITIES AND DUTIES OF THE INTELLIGENCE COMMUNITY.....	11
	(a) Senior Official of Each Organization of the Intelligence Community-----	12
	(b) Central Intelligence Agency-----	14
	(c) Department of State-----	16
	(d) Department of the Treasury-----	17
	(e) Department of Defense-----	18
	(f) Energy Research and Development Administration-----	21
	(g) Federal Bureau of Investigation--	22
5	RESTRICTIONS ON INTELLIGENCE ACTIVITIES	23
6	OVERSIGHT OF INTELLIGENCE ORGANIZATIONS	31
7	SECREC Y PROTECTION.....	35
8	ENABLING DATA.....	35



Section 1. Purpose. The purpose of this Order is to establish policies to improve the quality of intelligence needed for national security, to clarify the authority and responsibilities of the intelligence departments and agencies, and to establish effective oversight to assure compliance with law in the management and direction of intelligence agencies and departments of the national government.

Sec. 2. Definitions. For the purpose of this Order, unless otherwise indicated, the following terms shall have these meanings:

(a) Intelligence means:

(1) Foreign intelligence which means information, other than foreign counterintelligence, on the capabilities, intentions and activities of foreign powers, organizations or their agents; and

(2) Foreign counterintelligence which means activities conducted to protect the United States and United States citizens from foreign espionage, sabotage, subversion, assassination or terrorism.

(b) Intelligence Community refers to the following organizations:

- (1) Central Intelligence Agency;
- (2) National Security Agency;
- (3) Defense Intelligence Agency;



- (4) Special offices within the Department of Defense for the collection of specialized intelligence through reconnaissance programs;
- (5) Intelligence elements of the military services;
- (6) Intelligence element of the Federal Bureau of Investigation;
- (7) Intelligence element of the Department of State;
- (8) Intelligence element of the Department of the Treasury; and
- (9) Intelligence element of the Energy Resources and Development Administration.

(c) Special activities in support of national foreign policy objectives means activities, other than the collection and production of intelligence and related support functions, designed to further official United States programs and policies abroad which are planned and executed so that the role of the United States Government is not apparent or publicly acknowledged.

(d) National Foreign Intelligence Program means the programs of the Central Intelligence Agency and the special offices within the Department of Defense for the collection of specialized intelligence through reconnaissance programs, the Consolidated Cryptologic Program, and those elements of the General Defense Intelligence Program and other programs of the departments and agencies, not including tactical intelligence, designated by the Committee on Foreign Intelligence as part of the Program.

Sec. 3. Control and Direction of National Intelligence Organizations.

(a) National Security Council.

(1) The National Security Council was established by the National Security Act of 1947 to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security. Statutory members of the National Security Council are the President, the Vice President, the Secretary of State, and the Secretary of Defense.

(2) Among its responsibilities, the National Security Council shall provide guidance and direction to the development and formulation of national intelligence activities.

(3) The National Security Council shall conduct a semi-annual review of intelligence policies and of ongoing special activities in support of national Foreign policy objectives. These reviews shall consider the needs of users of intelligence and the timeliness and quality of intelligence products and the continued appropriateness of special activities in support of national Foreign policy objectives. The National Security Council shall consult with the Secretary of the Treasury and such other users of intelligence as designated by the President as part of these reviews.

(b) Committee on Foreign Intelligence.

(1) There is established the Committee on Foreign Intelligence (hereinafter referred to as the CFI), which shall be composed of the Director of Central Intelligence, hereinafter referred to as the DCI, who shall be the Chairman; the Deputy Secretary of Defense for Intelligence; and the Deputy Assistant to the President for National Security Affairs. The CFI shall report directly to the National Security Council.

(2) The CFI shall (i) control budget preparation and resource allocation for the National Foreign Intelligence Program.

(A) The CFI shall, prior to submission to the Office of Management and Budget, review, and amend as it deems appropriate, the budget for the National Foreign Intelligence Program.

(B) The CFI shall also adopt rules governing the reprogramming of funds within this budget. Such rules may require that reprogrammings of certain types or amounts be given prior approval by the CFI.

(ii) Establish policy priorities for the collection and production of national intelligence.

(iii) Establish policy for the management of the National Foreign Intelligence Program.

(iv) Provide guidance on the relationship between tactical and national intelligence; however, neither the DCI nor the CFI shall have responsibility for tactical intelligence.

(v) Provide continuing guidance to the Intelligence Community in order to ensure compliance with policy directions of the NSC.

(3) The CFI shall be supported by the Intelligence Community staff headed by the Deputy to the Director of Central Intelligence for the Intelligence Community.

(4) The CFI shall establish such subcommittees as it deems appropriate to ensure consultation with members of the Intelligence Community on policies and guidance issued by the CFI.

(5) Decisions of the CFI may be reviewed by the National Security Council upon appeal by the Director of Central Intelligence or any member of the National Security Council.

(c) The Operations Advisory Group.

(1) There is established the Operations Advisory Group (hereinafter referred to as the Operations Group), which shall be composed of the Assistant to the President for National Security Affairs; the Secretaries of State and Defense; the Chairman of the Joint Chiefs of Staff; and the Director of Central Intelligence. The Chairman shall be designated by the President. The Attorney General and the Director

of the Office of Management and Budget or their representatives, and others who may be designated by the President, shall attend all meetings as observers.

(2) The Operations Group shall (i) consider and develop a policy recommendation, including any dissents, for the President prior to his decision on each special activity in support of national foreign policy objectives.

(ii) Conduct periodic reviews of programs previously considered by the Operations Group.

(iii) Give approval for specific sensitive intelligence collection operations as designated by the Operations Group.

(iv) Conduct periodic reviews of ongoing sensitive intelligence collection operations.

(3) The Operations Group shall discharge the responsibilities assigned by subparagraphs (c) (2) (i) and (c) (2) (iii) of this section only after consideration in a formal meeting attended by all members and observers; or, in unusual circumstances when any member or observer is unavailable, when a designated representative of the member or observer attends.

(4) The staff of the National Security Council shall provide support to the Operations Group.

(d) Director of Central Intelligence.

(1) The Director of Central Intelligence,



pursuant to the National Security Act of 1947, shall be responsible directly to the National Security Council and the President. He shall:

- (i) Chair the CFI.
- (ii) Act as executive head of the CIA and Intelligence Community staff.
- (iii) Ensure the development and submission of a budget for the National Foreign Intelligence Program to the CFI.
- (iv) Act as the President's primary adviser on foreign intelligence and provide him and other officials in the Executive branch with foreign intelligence, including National Intelligence Estimates; develop national intelligence requirements and priorities; and supervise production and dissemination of national intelligence.
- (v) Ensure appropriate implementation of special activities in support of national foreign policy objectives.
- (vi) Establish procedures to ensure the propriety of requests, and responses thereto, from the White House Staff or other Executive departments and agencies to the Intelligence Community.
- (vii) Ensure that appropriate programs are developed which properly protect intelligence sources, methods and analytical procedures. His responsibility within the United States shall be limited to:

(A) Protection by lawful means against disclosure by present or former employees of the Central Intelligence Agency or persons, or employees of persons or organizations, presently or formerly under contract with the Agency;

(B) providing leadership, guidance and technical assistance to other government departments and agencies performing foreign intelligence activities; and

(C) in cases involving serious or continuing security violations, recommending to the Attorney General that the case be referred to the Federal Bureau of Investigation for further investigation.

(viii) Establish a vigorous program to downgrade and declassify foreign intelligence information as appropriate and consistent with Executive Order No. 11652.

(ix) Ensure the existence of strong Inspector General capabilities in all elements of the Intelligence Community and that each Inspector General submits quarterly to the Intelligence Oversight Board a report which sets forth any questionable activities in which that intelligence organization has engaged or is engaged.

(x) Ensure the establishment, by the Intelligence Community, of common security standards for managing and handling foreign intelligence systems, information and products, and for granting access thereto.

(xi) Act as the principal spokesman to the Congress for the Intelligence Community and facilitate the use of foreign intelligence products by Congress.

(xii) Promote the development and maintenance by the Central Intelligence Agency of services of common concern to the Intelligence Community organizations, including multi-discipline analysis, national level intelligence products, and a national level current intelligence publication.

(xiii) Establish uniform criteria for the identification, selection, and designation of relative priorities for the transmission of critical intelligence, and provide the Secretary of Defense with continuing guidance as to the communications requirements of the Intelligence Community for the transmission of such intelligence.

(xiv) Establish such committees of collectors, producers and users of intelligence to assist in his conduct of his responsibilities as he deems appropriate.

(xv) Consult with users and producers of intelligence, including the Departments of State, Treasury, and Defense, the military services, the Federal Bureau of Investigation, the Energy Resources and Development Administration, and the Council of Economic Advisors, to ensure the timeliness, relevancy and quality of the intelligence product.

(2) To assist the Director of Central Intelligence in the supervision and direction of the Intelligence Community, the position of Deputy to the Director of Central Intelligence for the Intelligence Community is hereby established (Committee on Foreign Intelligence)

(3) To assist the Director of Central Intelligence in the supervision and direction of the Central Intelligence Agency, the Director of Central Intelligence shall, to the extent consistent with his statutory responsibilities, delegate the day-to-day operation of the Central Intelligence Agency to the Deputy Director of Central Intelligence (50 U.S.C. 403(a)).

(4) To assist the DCI in the fulfillment of his responsibilities, the heads of all departments and agencies shall give him access to all information relevant to the foreign intelligence needs of the United States. Relevant information requested by the DCI shall be provided, and the DCI shall take appropriate steps to maintain its confidentiality.

Sec. 4. Responsibilities and Duties of the Intelligence Community. Purpose. The rules of operation prescribed by this section of the Order relate to the activities of our foreign intelligence agencies. In some instances, detailed implementation of this Executive order will be contained in classified documents because of the sensitivity of the information and its relation

to national security. All such classified instructions will be consistent with this Order. Unless otherwise specified within this section, its provisions apply to activities both inside and outside the United States, and all references to law are to applicable laws of the United States. Nothing in this section of this Order shall be construed to interfere with any law-enforcement responsibility of any department or agency.

(a) Senior Officials of the Intelligence Community.

The senior officials of the CIA, Departments of State, Treasury and Defense, ERDA and the FBI shall ensure that, in discharging the duties and responsibilities enumerated for their organizations which relate to foreign intelligence, they are responsive to the needs of the President, the National Security Council and other elements of the Government. In carrying out their duties and responsibilities, senior officials shall ensure that all policies and directives relating to intelligence activities are carried out in accordance with law and this Order, including Section 5, and shall:

(1) Make appropriate use of the capabilities of the other elements of the Intelligence Community in order to achieve maximum efficiency.

(2) Contribute in areas of his responsibility to the national intelligence products produced under auspices of the Director of Central Intelligence.

(3) Establish internal policies and guidelines governing employee conduct and ensuring that such are made known to, and acknowledged by, each employee.

(4) Provide for a strong and independent organization for identification and inspection of, and reporting on, unauthorized activity.

(5) Report to the Attorney General that information which relates to detection or prevention of possible violations of law by any person, including an employee of the senior official's department or agency.

(6) Furnish to the Director of Central Intelligence, the CFI, the Operations Group, the President's Foreign Intelligence Advisory Board, and the Intelligence Oversight Board all of the information required for the performance of their respective duties.

(7) Participate, as appropriate, in the provision of services of common concern as directed by the Director of Central Intelligence and provide other departments and agencies with such mutual assistance as may be within his capabilities and as may be required in the interests of the Intelligence Community for reasons of economy, effectiveness, or operational necessity.



(8) Protect intelligence and intelligence sources and methods within his department or agency, consistent with policies and guidance of the Director of Central Intelligence.

(9) Conduct a continuing review of all classified material originating within his organization and promptly declassifying such material consistent with Executive Order No. 11652, as amended.

(10) Provide administrative and support functions required by his department or agency.

(b) The Central Intelligence Agency. All duties and responsibilities of the Central Intelligence Agency shall be related to the foreign intelligence functions outlined below. As authorized by the National Security Act of 1947, as amended, the CIA Act of 1949, as amended, and other laws, regulations, and directives, the Central Intelligence Agency shall:

(1) Produce and disseminate foreign intelligence relating to the national security, including foreign political, economic, scientific, technical, military, sociological, and geographic intelligence, to meet the needs of the President, the National Security Council, and other elements of the United States Government.

(2) Develop and conduct programs to collect political, economic, scientific, technical, military, geographic, and sociological information, not otherwise

obtainable, relating to foreign intelligence, in accordance with directives of the National Security Council.

(3) Collect and produce intelligence on foreign aspects of international terrorist activities and traffic in narcotics.

(4) Conduct foreign counterintelligence activities outside the United States and when in the United States in coordination with the FBI subject to the approval of the Attorney General.

(5) Carry out such other special activities in support of national foreign policy objectives as may be directed by the President or the National Security Council and which are within the limits of applicable law.

(6) Conduct, for the Intelligence Community, services of common concern as directed by the National Security Council, such as monitoring of foreign public radio and television broadcasts and foreign press services, collection of foreign intelligence information from cooperating sources in the United States, acquisition and translation of foreign publications and photographic interpretation.

(7) Carry out or contract for research, development and procurement of technical systems and devices relating to the functions authorized in this subsection.



(8) Protect the security of its installations, activities, information and personnel. In order to maintain this security, the CIA shall conduct such investigations of applicants, employees, and other persons with similar associations with the CIA as are necessary.

(9) Conduct administrative, technical and support activities in the United States or abroad as may be necessary to perform the functions described in paragraphs (1) through (8) above, including procurement, maintenance and transport; communications and data processing; recruitment and training; the provision of personnel, financial and medical services; development of essential cover and proprietary arrangements; entering into contracts and arrangements with appropriate private companies and institutions to provide classified or unclassified research, analytical and developmental services and specialized expertise; and entering into similar arrangements with academic institutions, provided CIA sponsorship is known to the appropriate senior officials of the academic institutions and to senior project officials.

(c) The Department of State. The Secretary of State shall:

(1) Collect, overtly, foreign political, political-military, sociological, economic, scientific, technical and associated biographic information.



(2) Produce and disseminate foreign intelligence relating to United States foreign policy as required for the execution of his responsibilities and in support of policy-makers involved in foreign relations within the United States Government.

(3) Disseminate within the United States Government, as appropriate, reports received from United States diplomatic missions abroad.

(4) Coordinate with the Director of Central Intelligence to ensure that United States intelligence activities and programs are useful for and consistent with United States foreign policy.

(5) Transmit reporting requirements of the Intelligence Community to our Chiefs of Missions abroad and provide guidance for their collection effort.

(6) Contribute to the Intelligence Community guidance for its collection of intelligence based on the needs of those responsible for foreign policy decisions.

(7) Support Chiefs of Missions in discharging their responsibilities to direct and coordinate the activities of all elements of their missions.

(d) The Department of the Treasury. The Secretary of the Treasury shall:

(1) Collect, overtly, foreign financial and monetary information.

(2) Participate with the Department of State in the overt collection of general foreign economic information.

(3) Produce that intelligence required for the execution of the Secretary's interdepartmental responsibilities and the mission of the Department of the Treasury.

(4) Contribute intelligence and guidance required for the development of national intelligence.

(5) Disseminate within the United States Government, as appropriate, foreign intelligence information acquired.

(a) Department of Defense.

(1) The Secretary of Defense shall:

(i) Collect foreign military intelligence information as well as military-related foreign intelligence information, including scientific, technical, political and economic information as required for the execution of his responsibilities.

(ii) Produce and disseminate, as appropriate, intelligence emphasizing foreign military capabilities and intentions and scientific, technical and economic developments pertinent to his responsibilities.

(iii) Conduct such programs and missions necessary to fulfill national intelligence requirements as determined by the CFI.

(iv) Direct, fund and operate the National Security Agency, and national, defense and military intelligence and reconnaissance entities as required.

(v) Conduct, as the executive agent of the United States Government, signals intelligence activities and communications security.

(vi) Provide for the timely transmission of critical intelligence, as defined by the Director of Central Intelligence, within the United States Government, except as otherwise approved by the CFI.

(2) In carrying out these assigned responsibilities, the Secretary of Defense is authorized to utilize the following:

(1) The Defense Intelligence Agency (whose functions, authorities and responsibilities are currently publicly assigned by Department of Defense Directive No. 5105.21) to:

(A) Produce or provide military intelligence for the Secretary of Defense, the Joint Chiefs of Staff, other Defense components, and, as appropriate, non-Defense agencies.

(B) Coordinate all Department of Defense intelligence collection requirements and manage the Defense Attache system.

(C) Establish substantive intelligence priority goals and objectives for the Department of Defense and provide guidance on substantive intelligence matters to all major Defense intelligence activities.

(D) Review and maintain cognizance over all plans, policies and procedures for noncryptologic intelligence functions of the Department of Defense.

(E) Provide intelligence staff support as directed by the Joint Chiefs of Staff.

(ii) The National Security Agency, whose functions, authorities and responsibilities shall include:

(A) Establishment and operation of an effective unified organization for the signals intelligence activities of the United States Government, except for certain operations which are normally exercised through appropriate elements of the military command structure, or by the CIA.

(B) Exercise control over signals intelligence collection and processing activities of the Government, delegating to an appropriate agent specified resources for such periods and tasks as required for the direct support of military commanders.

(C) Collection, processing and dissemination of signals intelligence in accordance with objectives, requirements, and priorities established by the Director of Central Intelligence.

(D) Dissemination of signals intelligence to all authorized elements of the Government, including the Armed Services, as requested.

(E) Serving under the Secretary of Defense as the central communications security authority of the United States Government.

(F) Conduct of research and development to meet the needs of the United States for signals intelligence and communications security.

(iii) Special offices for the collection of specialized intelligence through reconnaissance programs, whose functions, authorities, and responsibilities shall include:

(A) Carrying out consolidated programs for reconnaissance.

(B) Assigning responsibility to the various departments and agencies of the Government, according to their capabilities, for the research, development, procurement, operations and control of designated means of collection.

(iv) Such other offices within the Department of Defense as shall be deemed appropriate for conduct of the intelligence missions and responsibilities assigned to the Secretary of Defense.

(f) Energy Research and Development Administration.

The Administrator of the Energy Research and Development Administration shall:

(1) Produce intelligence required for the execution of his responsibilities and the mission of the Energy Research and Development Administration, hereinafter referred to as ERDA, including the area of nuclear and atomic energy.



(2) Disseminate such intelligence and provide technical and analytical expertise to other Intelligence Community organizations and be responsive to the guidance of the Director of Central Intelligence and the Committee on Foreign Intelligence.

(3) Participate with other Intelligence Community agencies and departments in formulating collection requirements where its special technical expertise can contribute to such collection requirements.

(g) The Federal Bureau of Investigation. Under the supervision of the Attorney General and pursuant to such regulations as the Attorney General may establish, the Director of the FBI shall:

(1) Detect and prevent espionage, sabotage, subversion, and other unlawful activities by or on behalf of foreign powers through such lawful counterintelligence operations within the United States, including electronic surveillance, as are necessary or useful for such purposes.

(2) Conduct within the United States and its territories, when requested by officials of the Intelligence Community designated by the President, those lawful activities, including electronic surveillance, authorized by the President and specifically approved by the Attorney General, to be undertaken in support of foreign intelligence collection requirements of other intelligence agencies.

(3) Collect foreign intelligence by lawful means within the United States and its territories when requested by officials of the Intelligence Community designated by the President to make such requests.

(4) Disseminate, as appropriate, foreign intelligence and counterintelligence information which it acquires to appropriate Federal agencies, State and local law enforcement agencies and cooperating foreign governments.

(5) Carry out or contract for research, development and procurement of technical systems and devices relating to the functions authorized above.

Sec. 5. Restrictions on Intelligence Activities.

Information about the capabilities, intentions and activities of other governments is essential to informed decision-making in the field of national defense and foreign relations. The measures employed to acquire such information should be responsive to the legitimate needs of our Government and must be conducted in a manner which preserves and respects our established concepts of privacy and our civil liberties.

Recent events have clearly indicated the desirability of government-wide direction which will ensure a proper balancing of these interests. This section of this Order does not authorize any activity not previously authorized



and does not provide exemption from any restrictions otherwise applicable. Unless otherwise specified, the provisions of this section apply to activities both inside and outside the United States. References to law are to applicable laws of the United States.

(a) Definitions. As used in this section of this Order, the following terms shall have the meanings ascribed to them below:

(1) "Collection" means any one or more of the gathering, analysis, dissemination or storage of non-publicly available information without the informed express consent of the subject of the information.

(2) "Counterintelligence" means information concerning the protection of foreign intelligence or of national security information and its collection from detection or disclosure.

(3) "Electronic surveillance" means acquisition of a non-public communication by electronic means, without the consent of a person who is a party to, or, in the case of a non-electronic communication, visibly present at, the communication.

(4) "Employee" means a person employed by, assigned or detailed to, or acting for a United States foreign intelligence agency.

(5) "Foreign intelligence" means information concerning the capabilities, intentions and activities of any foreign power, or of any non-United States person, whether within or outside the United States, or concerning areas outside the United States.

(6) "Foreign intelligence agency" means the Central Intelligence Agency, National Security Agency, and Defense Intelligence Agency; and further includes any other department or agency of the United States Government or component thereof while it is engaged in the collection of foreign intelligence or counter-intelligence, but shall not include any such department, agency or component thereof to the extent that it is engaged in its authorized civil or criminal law enforcement functions; nor shall it include in any case the Federal Bureau of Investigation.

(7) "National security information" has the meaning ascribed to it in Executive Order No. 11652, as amended.

(8) "Physical surveillance" means continuing visual observation by any means; or acquisition of a non-public communication by a person not a party thereto or visibly present thereat through any means which does not involve electronic surveillance.

(9) "United States person" means United States citizens, aliens admitted to the United States for permanent residence and corporations or other organizations incorporated or organized in the United States.

(b) Restrictions on Collection. Foreign intelligence agencies shall not engage in any of the following activities:

(1) Physical surveillance directed against a United States person, unless it is a lawful surveillance conducted pursuant to procedures approved by the head of the foreign intelligence agency and directed against any of the following:

(i) A present or former employee of such agency, its present or former contractors or their present or former employees, for the purpose of protecting foreign intelligence or counterintelligence sources or methods or national security information from unauthorized disclosure; or

(ii) a United States person, who is in contact with either such a present or former contractor or employee or with a non-United States person who is the subject of a foreign intelligence or counterintelligence inquiry, but only to the extent necessary to identify such United States person; or

(iii) a United States person outside the United States who is reasonably believed to be acting on behalf



of a foreign power or engaging in international terrorist or narcotics activities or activities threatening the national security.

(2) Electronic surveillance to intercept a communication which is made from, or is intended by the sender to be received in, the United States, or directed against United States persons abroad, except lawful electronic surveillance under procedures approved by the Attorney General; provided, that the Central Intelligence Agency shall not perform electronic surveillance within the United States, except for the purpose of testing equipment under procedures approved by the Attorney General consistent with law.

(3) Unconsented physical searches within the United States; or unconsented physical searches directed against United States persons abroad, except lawful searches under procedures approved by the Attorney General.

(4) Opening of mail or examination of envelopes of mail in United States postal channels except in accordance with applicable statutes and regulations.

(5) Examination of Federal tax returns or tax information except in accordance with applicable statutes and regulations.

(6) Infiltration or undisclosed participation within the United States in any organization for the purpose of reporting on or influencing its activities

or members; except such infiltration or participation with respect to an organization composed primarily of non-United States persons which is reasonably believed to be acting on behalf of a foreign power.

(7) Collection of information, however acquired, concerning the domestic activities of United States persons except:

(i) Information concerning corporations or other commercial organizations which constitutes foreign intelligence or counterintelligence.

(ii) Information concerning present or former employees, present or former contractors or their present or former employees, or applicants for any such employment or contracting, necessary to protect foreign intelligence or counterintelligence sources or methods or national security information from unauthorized disclosure; and the identity of persons in contact with the foregoing or with a non-United States person who is the subject of a foreign intelligence or counterintelligence inquiry.

(iii) Information concerning persons who are reasonably believed to be potential sources or contacts, but only for the purpose of determining the suitability or credibility of such persons.

(iv) Foreign intelligence or counterintelligence gathered abroad or from electronic surveillance conducted in compliance with Section 5(b)(2); or foreign intelligence acquired from cooperating sources in the United States.

(v) Information about a United States person who is reasonably believed to be acting on behalf of a foreign power or engaging in international terrorist or narcotics activities.

(vi) Information concerning persons or activities that pose a clear threat to foreign intelligence agency facilities or personnel, provided, that such information is retained only by the foreign intelligence agency threatened and that proper coordination with the Federal Bureau of Investigation is accomplished.

(c) Dissemination and Storage. Nothing in this section of this Order shall prohibit:

(1) Lawful dissemination to the appropriate law enforcement agencies of incidentally gathered information indicating involvement in activities which may be in violation of law.

(2) Storage of information required by law to be retained.

(3) Dissemination to foreign intelligence agencies of information of the subject matter types listed in Section 5(b)(7).

(d) Restrictions on Experimentation. Foreign intelligence agencies shall not engage in experimentation with drugs on human subjects, except with the informed consent, in writing and witnessed by a disinterested third party, of each such human subject and in accordance with the guidelines issued by the National Commission for the Protection of Human Subjects for Biomedical and Behavioral Research.

(e) Assistance to Law Enforcement Authorities.

(1) No foreign intelligence agency shall, except as expressly authorized by law (i) provide services, equipment, personnel or facilities to the Law Enforcement Assistance Administration or to State or local police organizations of the United States or (ii) participate in or fund any law enforcement activity within the United States.

(2) These prohibitions shall not, however, preclude: (i) cooperation between a foreign intelligence agency and appropriate law enforcement agencies for the purpose of protecting the personnel and facilities of the foreign intelligence agency or preventing espionage or other criminal activity related to foreign intelligence or counterintelligence or (ii) provision of specialized equipment or technical knowledge for use by any other Federal department or agency.

(f) Assignment of Personnel. An employee of a foreign intelligence agency detailed elsewhere within the Federal Government shall be responsible to the host agency and shall not report to such employee's parent agency on the affairs of the host agency, except as may be directed by the latter. The head of the host agency, and any successor, shall be informed of the detailee's association with the parent agency.

(g) Prohibition of Assassination. No employee of the United States Government shall engage in, or conspire to engage in, political assassination.

(h) Implementation.

(1) This section of this Order shall be effective on March 1, 1976. Each department and agency affected by this section of this Order shall promptly issue internal directives to implement this section with respect to its foreign intelligence and counter-intelligence operations.

(2) The Attorney General shall, within ninety days of the effective date of this section of this Order, issue guidelines relating to activities of the Federal Bureau of Investigation in the areas of foreign intelligence and counterintelligence.

Sec. 6. Oversight of Intelligence Organizations.

(a) There is hereby established an Intelligence Oversight Board, hereinafter referred to as the Oversight Board.



(1) The Oversight Board shall have three members who shall be appointed by the President and who shall be from outside the Government and be qualified on the basis of ability, knowledge, diversity of background and experience. The members of the Oversight Board may also serve on the President's Foreign Intelligence Advisory Board (Executive Order No. 11460 of March 20, 1969). No member of the Oversight Board shall have any personal contractual relationship with any agency or department of the Intelligence Community.

(2) One member of the Oversight Board shall be designated by the President as its Chairman.

(3) The Oversight Board shall:

(i) Receive and consider reports by Inspectors General and General Counsels of the Intelligence Community concerning activities that raise questions of legality or propriety.

(ii) Review periodically the practices and procedures of the Inspectors General and General Counsels of the Intelligence Community designed to discover and report to the Oversight Board activities that raise questions of legality or propriety.

(iii) Review periodically with each member of the Intelligence Community their internal guidelines to ensure their adequacy.

(iv) Report periodically, at least quarterly, to the Attorney General and the President on its findings.

(v) Report in a timely manner to the Attorney General and to the President any activities that raise serious questions about legality.

(vi) Report in a timely manner to the President any activities that raise serious questions about propriety.

(b) Inspectors General and General Counsels within the Intelligence Community shall:

(1) Transmit to the Oversight Board reports of any activities that come to their attention that raise questions of legality or propriety.

(2) Report periodically, at least quarterly, to the Oversight Board on its findings concerning questionable activities, if any.

(3) Provide to the Oversight Board all information requested about activities within their respective departments or agencies.

(4) Report to the Oversight Board any occasion on which they were directed not to report any activity to the Oversight Board by their agency or department heads.

(5) Formulate practices and procedures designed to discover and report to the Oversight Board activities that raise questions of legality or propriety.

(c) Heads of intelligence agencies or departments shall:

(1) Report periodically to the Oversight Board on any activities of their organizations that raise questions of legality or propriety.

(2) Instruct their employees to cooperate fully with the Oversight Board.

(3) Ensure that Inspectors General and General Counsels of their agency have access to any information necessary to perform their duties assigned by paragraph (4) of this section.

(d) The Attorney General shall:

(1) Receive and consider reports from the Oversight Board.

(2) Report periodically, at least quarterly, to the President with respect to activities of the Intelligence Community, if any, which raise questions of legality.

(e) The Oversight Board shall receive staff support. No person who serves on the staff of the Oversight Board shall have any contractual or employment relationship with any department or agency in the Intelligence Community.

(f) The President's Foreign Intelligence Advisory Board established by Executive Order No. 11460 of March 20, 1969, remains in effect.



Sec. 7. Secrecy Protection.

(a) In order to improve the protection of sources and methods of intelligence, all members of the Executive branch and its contractors given access to information containing sources or methods of intelligence shall, as a condition of obtaining access, sign an agreement that they will not disclose that information to persons not authorized to receive it.

(b) In the event of any unauthorized disclosure of information concerning sources or methods of intelligence, the names of any persons found to have made unauthorized disclosure shall be forwarded (1) to the head of applicable departments or agencies for appropriate disciplinary action; and (2) to the Attorney General for appropriate legal action.

(c) In the event of any threatened unauthorized disclosure of information concerning sources or methods of intelligence by a person who has agreed not to make such disclosure, the details of the threatened disclosure shall be transmitted to the Attorney General for appropriate legal action, including the seeking of a judicial order to prevent such disclosure.

(d) In further pursuit of the need to provide protection for other significant areas of intelligence, the Director of Central Intelligence is authorized to promulgate rules and regulations to expand the scope

of agreements secured from those persons who, as an aspect of their relationship with the United States Government, have access to classified intelligence material.

Sec. 8. Enabling Data.

(a) The Committee on Foreign Intelligence and the Director of Central Intelligence shall provide for detailed implementation of this Order by issuing appropriate directives.

(b) All existing National Security Council and Director of Central Intelligence directives shall be amended to be consistent with this Order within ninety days of its effective date.

(c) This Order shall supersede the Presidential Memorandum of November 5, 1971, on the "Organization and Management of the U.S. Foreign Intelligence Community."

(d) Heads of departments and agencies within the Intelligence Community shall issue supplementary directives to their organizations consistent with this Order within ninety days of its effective date.

(e) This Order will be implemented within current manning authorizations of the Intelligence Community. To this end, the Director of the Office of Management and Budget will facilitate the required realignment of personnel positions. The Director of the Office of Management and Budget will also assist in the allocation of appropriate facilities.

GERALD R. FORD

THE WHITE HOUSE

February 18, 1976.

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

---

THE WHITE HOUSE

PRESS CONFERENCE  
OF  
GEORGE BUSH, DIRECTOR,  
CENTRAL INTELLIGENCE AGENCY,  
EDWARD H. LEVI,  
ATTORNEY GENERAL OF THE UNITED STATES,  
BRENT SCOWCROFT,  
ASSISTANT TO THE PRESIDENT  
FOR NATIONAL SECURITY AFFAIRS,  
JOHN O. MARSH,  
COUNSELLOR TO THE PRESIDENT,  
AND  
MICHAEL DUVAL,  
ASSISTANT TO THE COUNSELLOR TO THE PRESIDENT

450 EXECUTIVE OFFICE BUILDING

11:05 A.M. EST

MR. NESSEN: I think you have had by now the Executive Order and fact sheet, I hope, long enough to read it and make some sense out of it. As you know, that material and this briefing are embargoed for noon release, the time at which the material will be delivered to Congress.

For the briefing today, we have Jack Marsh, Counsellor to the President, who coordinated the President's efforts to study and reorganize the intelligence community; Attorney General Levi, Brent Scowcroft, the Assistant to the President for National Security Affairs; Mike Duval, who was the Executive Director of the group here at the White House which studied the matter and proposed options for reorganizing the intelligence community; and George Bush, the Director of Central Intelligence.

The first thing we would like to do is to give you precisely what the President gave to the Members of Congress last evening at 6 o'clock without removing anything but showing you exactly the presentation that he made to the Members of Congress.

Now this requires the presentation of some slides on the screen and a narration by Jack Marsh. We will do that first and then I think open it up for your questions.

MR. MARSH: Thank you, Ron.

What I would like to do is to give you a sort of a summary of the package that you have. This is the presentation that Ron mentioned that was given to Members of the Congress last evening in positions of leadership under jurisdiction of the committee. This is the same presentation that was given to the Members of the House and Senate last evening.

MORE



This is also the same presentation that the President gave--substantially the same as he gave to members of the intelligence coordinating group which, of course, included the Secretary of Defense, Secretary of State, Director of the CIA, Attorney General and other members of that committee.

The objectives, as are noted on the slide there, the twofold objectives -- one to strengthen the United States intelligence community and at the same time observe these traditional constitutional liberties -- were the two overriding considerations that were part of the President's program.

The President decided to try and do this principally through the means of the Executive Order as opposed to a major emphasis on legislation. Traditionally, in the intelligence community, a great deal of the management of the intelligence community has been achieved by internal memorandum, by Executive Orders and this was the approach that the President decided that he would use.

He also would set out in the Executive Order, which I am sure you have noticed, a portion of that which we refer to as the restrictions order that provides the guidelines and also states the prohibitions of those things the community are not supposed to do.

In there, as a part of this Omnibus Executive Order is the new command structure which he mentioned last evening. It is significant to note also that he has charged the NSC to conduct semi-annual reviews of the intelligence operation and particularly as to the adequacy of the intelligence problem.

Also, significantly, he decided to go outside of Government, to go outside of the Administration and set up a three member Intelligence Oversight Board. Those are the three individuals chaired by former Ambassador Robert Murphy, former Secretary of the Army Stephen Ailes, and Leo Cherne, who serves on the PFIAB. These three individuals will also be members of the President's Foreign Intelligence Advisory Board.

Now, in order for you to have an understanding of just what was being addressed, it is frequently not known as to what is the American intelligence community. The intelligence community of the United States is made up of the agencies you see on the slides -- the CIA the Department of Defense. It has four subordinate subdivisions in the intelligence area: one, the Defense Intelligence Agency; the National Security Agency; third, the various intelligence agencies of the respective services -- those that you have in the Army, Navy and the Air Force -- and then the special offices for reconnaissance in the Department of Defense.

MORE

The Department of State has an intelligence capability in the Bureau of Intelligence and Research, as does the Department of Justice; of course we know, particularly in the field of counter-intelligence in the Federal Bureau of Investigation. There is an intelligence capability in the Department of Treasury and also one that is likely to be overlooked in the field of the nuclear energy, ERDA, which has a responsibility for atomic and nuclear intelligence.

In order to address the intelligence matter, the President decided in September that he would establish an Intelligence Coordinating Group. The mission of that group would be twofold: One, to deal in a day-to-day manner with the requests and requirements of the Select Committees that were investigating and holding hearings on the intelligence community, and, secondly, while it was engaged in that process, to also begin a second try to develop a management program to address a number of the areas that he has addressed in the Omnibus Executive Order.

The members of the Intelligence Coordinating Group were the Secretary of State, the Secretary of Defense, the Attorney General, the Director of Central Intelligence, the Assistant to the President for National Security Affairs, the Director of OMB, the Counsel to the President, the Counsellor to the President as Chairman, and as the Executive Director, Michael Duval.

This group met quite frequently and at times back in October and November and December almost on a daily basis. The principals did not always attend, but very frequently they would, particularly the Attorney General, who attended many of those meetings or they were represented, if they were not there, by one of their principal deputies.

The President's Executive actions really encompass three broad areas of action -- his Omnibus Executive Order that provides both guidelines and restrictions, a new command structure, and an oversight mechanism.

He also will suggest a minimum of legislation principally aimed at protecting the security or secrecy of classified information. He will endorse legislation that would prohibit assassination of foreign leaders in times of peace and he will also ask the Congress and meet with them to discuss legislation that will relate to two areas: One, electronic surveillance, and, secondly, the unauthorized opening of mail.

He is also suggesting to the Congress a form of oversight to hopefully reduce the proliferation of Congressional committees that do address themselves in the intelligence area.

It is interesting, his decision was that he felt there should be a summary of the activities of the departments and agencies in the intelligence area and to that extent has proposed a type of policy guidelines or modified charters for publication in order not only that the American people would know what these agencies are and what their general missions were, but, secondly, that the agencies themselves would have certain parameters that would be the areas of their principal responsibilities.



Now, let's look at the first major area that the President has addressed and this is in the NSC. The NSC does continue and will continue to have the principal responsibility for the integration of domestic and foreign policies and military policies as they relate to the national security. It has its four statutory members with whom you are familiar, but it will conduct now, at the direction of the President, a semi-annual review:

One, as to the needs of policymakers for adequate intelligence as to whether it is timely, whether it addresses the problem as to its quality; secondly, the NSC will be charged to be certain that the intelligence community is operating both effectively and efficiently in the collection of intelligence and also they will review the appropriateness of ongoing covert types of operations and other sensitive collection missions that may have been authorized.

The Assistant to the President for National Security Affairs, Brent Scowcroft, will have the principal responsibility for the conduct of the semi-annual reviews.

Now this is an area that should be of considerable interest. It is an effort that has been made by the President to address the question of management and resource control or resource allocation inside the intelligence community. For the purpose of budget review and control and resource allocation, the President has established a three member committee. The Chairman of that committee will be the Director of Central Intelligence. The other two members of that committee will be the Deputy Secretary of Defense, Robert Ellsworth, who will have a principal authority in the Department of Defense for intelligence, and the third member will be the Deputy Assistant to General Scowcroft, Bill Hyland.

This three member committee will have budget preparation, they will prepare the budget before it goes to OMB for review. Also, they will handle re-programming requests. They will establish the management policies inside the community and they will carry out the NSC policy decisions.

Now, in the event there is disagreement inside the three member committee chaired by Director Bush, they may make an appeal from a decision of the three member committee; the committee itself may make an appeal, or any member of the NSC, and particularly the Secretary of Defense, who is a member of the NSC, if he has a question about a decision of that three member committee, they may pull the decision into the NSC on an automatic review.

Now over in the field of the production of intelligence, the production of the intelligence after it is collected, this remains the principal responsibility, however, of the DCI. The Director of Central Intelligence will still have the responsibility for doing that. The Director of Central Intelligence, it is iterated and restated that he will be and will continue to be the President's principal advisor in the field of foreign intelligence.

The DCI, in undertaking his responsibilities, may establish such committees or subcommittees as he deems requisite.

Now, this is the old 40 Committee, a revamping and a restructuring of the old 40 Committee, and there are several areas that I think you will find of interest here. One, the name of this group will be called the Operations Advisory Group. The membership will be changed and the membership will be principals. It will be the Secretary of State, the Secretary of Defense, the Director of CIA, the Chairman of the Joint Chiefs and two observers -- the Attorney General and the Director of OMB -- and in the latter, two such individuals as they might designate to attend the meeting.

It is anticipated, however, that the meetings will be attended by principals. The meeting will be chaired by Brent Scowcroft, this particular group will be chaired by Brent Scowcroft, and it is expected the principals will attend unless, for some reason, they are out of the city or there is some other conflict that they have that makes it impossible for them to be there.

MORE

They shall undertake these duties that are assigned here. They will consider and make recommendations together with dissents to the President on the proposals for covert operations and all sensitive collection systems, and they will make a periodic review and submit a report to the NSC of these ongoing operations and missions. They will meet as a group and will conduct formal meetings as a group in the consideration of their efforts.

Now this is a schematic diagram of the American intelligence community as it exists today. Now I will show you a diagram of the new system, but under the old system the American intelligence community has operated on a series of interlocking committees, executive committees, that sought to achieve a number of things that the President has sought to accomplish by this streamlined system and focusing into the Committee on Foreign Intelligence. This is the old schematic diagram and the next slide will show you the new schematic diagram.

As I mentioned, a part of this operation is right here, your three-member committee chaired by Director Bush, and then you have our Advisory Operation Group here which is the old 40 Committee.

I should point out that it is envisioned that under this system it may be necessary, or Mr. Bush may want to set up certain committees or subcommittees in order to accomplish the functions that are necessary to be achieved.

Now let's move over into the areas that focus on some of the charters that we can read into your Omnibus Executive Order. There are several points that I would like to make.

The President is expecting that the senior officer of each department or agency will be the responsible officer, the accountable officer for the conduct of that agency and its compliance with this Executive Order which includes the restrictions that are set out in that order.

Director Bush and those who work with him will have the responsibility to establish a system of Inspector Generals for, not monitoring but auditing of the activities of the community; and the NSC, the Committee on Foreign Intelligence and the Intelligence Oversight Board will also have a responsibility as to the strengthening of those Inspector Generals systems inside the departments and agencies.

As I mentioned to you, the President felt that it would be helpful to make a disclosure, to the extent that it could be done, of the role and function and duties of the various components of the intelligence community.

MORE

There will, of course, still remain some areas in which there will be classified instructions or matters that relate to their activities and functions, but this is probably the first time that there has been laid out for public disclosure an establishment of certain parameters and modified guidelines or policy charters that we have had in the intelligence community today.

I will not go through these because they are set out there for you more fully in the material that you have, but we will run through them just very quickly.

The areas you will see--the State, the Treasury--will be over in the field of economic intelligence, State through its Bureau of Intelligence and research -- these are spelled out more fully.

I would want to point out the defense. You will find in your Executive Order a discussion of the role and function and mission of the National Security Agency. Additionally set out are the duties and functions of the DIA--Defense Intelligence Agency, which has been set out itself publicly at an earlier time; ERDA, which I mentioned to you; the Federal Bureau of Investigation. In this area we are principally talking in terms of their role in espionage and sabotage and collecting foreign intelligence in the United States.

Now let me give you a little background here when you read into your Restrictions Order. The Restrictions Order is one of the most complex documents that you will read. It represents literally months and months of work, interdepartmental staff work. The restrictions that are there are the joint product of the departments and agencies represented in the Coordinating Group -- that is, Defense and State and CIA -- and this chart here simply in a very generic way assigns the areas addressed but you have to go into the Restrictions Order and read it precisely to identify each of these subjects.

But it restricts or prohibits in the following areas -- the collection of analysis and information on domestic activities of United States citizens, and it points out there how that can be done through either as authorized by law and with the procedures established by the Attorney General--and I am sure there may be questions here that he will want to respond to--and it does address the question of unconsented physical searches of electronic surveillance of U.S. persons; it reiterates the prohibition against illegally obtaining Federal tax returns in order to obtain information; it places restrictions in reference to the infiltration of groups to influence or report on them and severely prohibits that activity to the CIA except in a very narrow exception of where the members of the group are principally non-U.S. persons and where that group is believed reasonably to be controlled by a foreign power.

MORE

Experimenting with drugs on humans without informed consent is prohibited unless the consent is obtained voluntarily in the presence of a third party and that research is conducted according to standards established by the Commission on Biomedical Research. The correct name of that Commission is more fully set out.

It does spell out and limit the manner in which information might be shared internally in the intelligence community. It places restrictions on the assignment of personnel, in that personnel in the intelligence community cannot be assigned without disclosures being made as to who those individuals are and also places certain restraints on what they may report back to their parent agency.

It sets up prohibitions against providing assistance to law enforcement agencies in violation of law unless authorized by statute and with the approval of the Attorney General.

It places severe limitations on the testing of electronic surveillance equipment in the United States unless authorized by law and with procedures established by the Attorney General. As you read through this, you will see in many, many instances the words "as established," "procedures established by the Attorney General," and it makes reference to U.S. statutes.

The exceptions there are also set out. They are quite limited on the collecting of information on activities of U.S. persons and in many instances I think you will find that these relate to the employees of, for example, the Central Intelligence Agency or the contractors or people who might be seeking to deal with them, and also the question of counterintelligence and counterespionage activities which, of course, moves over into the field of the FBI.

It should be pointed out here that in those particular areas where there are normal law enforcement responsibilities of an agency -- for example, there are law enforcement responsibilities in Treasury and in the Department of Justice, through the FBI -- in that particular area these restrictions are not applicable. These are restrictions on foreign intelligence agencies and activities.

Now the President has mentioned to you his Oversight Board that will be separate and apart. This sets out in general terms what he expects that Board to do. It is spelled out more fully in the materials that you have, but he does expect them to receive and consider reports of the IGs about questionable activities that are either improper or illegal, to make periodic reports either to the Attorney General and, in certain instances, to the Attorney General and to the President, and they will receive their staff report from the Executive Office of the President.

MORE

The President is also seeking in the Executive Branch that individuals in the Executive Branch who receive classified information would be required to sign what we would call a secrecy agreement against non-disclosure of classified information.

In his requests to the Congress, first to point out to them the areas that he has sought to address, many of these things that he has done are based on the inputs of the Rockefeller Commission, the Murphy Commission; it is drawn from the discussions and the hearings of the Select Committees of the House and Senate, from discussions that have occurred in the media on the question of intelligence from outside witnesses and experts who have given advice to the Executive Branch and also from his own personal knowledge because you should recall the President did serve as a Member of the Appropriations Committee on the subcommittee that did handle the intelligence oversight.

He is asking the Congress to consider a form of Congressional oversight that hopefully would be a joint type of committee to reduce the proliferation of the number of committees. He is asking that they consider rules that would insure the safeguard of intelligence, the materials there, and establish procedures there that would also protect the requests of the President when he indicates that the information that is sent is sensitive.

He also expects to keep that committee apprized of the information that they need in the exercise of their legislative function and he would like that the Hughes Act or Hughes amendment, section 662, be appended on the reporting requirement to reduce the number of reports that you would have to make pursuant to that statute.

I would also point out on the proposed legislation the secrecy of intelligence sources and methods. This statute goes to those who unlawfully disclose information; it does not apply to people who receive information. It is not, of course, intended to be directed toward the Fourth Estate. It applies to people in Government who would disclose information and that would be similar in criminal penalties in reference to that. It is not an official secrets act.

As I mentioned earlier, he has endorsed the proposal to prohibit, in times of peace, assassination and he does expect to meet with Members of the Congress to discuss further electronic surveillance and mail opening and legislation to address that area.

MR. NESSEN: That, as I said, was the presentation made to the Members of Congress last night. I don't think any of the others here have any opening statements.

Do you, Mr. Attorney General?

MORE

ATTORNEY GENERAL LEVI: No.

MR. NESSEN: Brent?

GENERAL SCOWCROFT: No.

MR. NESSEN: George?

MR. BUSH: No.

MR. NESSEN: Why don't we get right on to the questions.

Q Could I ask a question of the Attorney General?

Mr. Attorney General, since there is no proposal to change the original legislation of 1947 and since the original legislation makes no reference to covert operations, under what legal basis can covert operations continue to be conducted?

ATTORNEY GENERAL LEVI: I think there are Constitutional powers that are sufficient to justify the legal basis for covert actions as well as the frequent appropriations, so it is not a subject which Congress has not recognized through statutory authorization.

Q Mr. Attorney General, I wonder if you could say a couple of things on the secrecy legislation. The secrecy legislation uses the phrase "intelligence sources and methods and classified" and various other phrases. In your opinion, would it be a crime under that statute for someone to inform the press of the fact that the United States is giving arms and money to a faction in Angola?

ATTORNEY GENERAL LEVI: No, I don't think so. I don't think that would be covered by that.

Q Another question on that. You have said the press is exempt from the coverage. Just to be sure, does that mean that no injunction would lie against the press under the injunctive provision of the statute?

ATTORNEY GENERAL LEVI: As the legislation is drafted it would not lie against the press but the injunction might prohibit the person who was going to reveal the information to the press from revealing it.

Q Now if the press in fact published something that was regarded as a violation of the statute, would it not, however, be possible for a grand jury to call the publisher, editor or reporter involved with the story and ask for the source of information since it would have been a crime in view of this statute, and to require an answer and in failure of an answer to punish the person who attempted it?

MORE

ATTORNEY GENERAL LEVI: I think that would be possible under this statute and under the present statute.

Q Mr. Attorney General, could a Member of Congress or a Member of a Congressional committee be put in jail or fined for disclosing secrets unlawfully or illegally?

ATTORNEY GENERAL LEVI: Not under this proposed section.

Q Could I follow up on an earlier question? Are you saying that if this law is passed and it is a crime for a Government employee or a contractor to divulge a secret that you would permit U.S. attorneys to call before grand juries reporters to whom secrets had been leaked and to require that they answer and if they failed to charge them with contempt?

ATTORNEY GENERAL LEVI: No, I didn't say that. That was not the question that was asked me. The question was whether the grand jury could call them. They could be called now actually under a variety of statutes.

As you know, the Department of Justice operates with the rule where the Attorney General's permission is required and where there has to be a particular reason for calling and where the effect on First Amendment right or related rights is taken into account. We have been very careful about that and we would continue to be careful about that.

Q I think what I am asking you is, would it be your policy if you felt that the leak had been serious enough to call the reporter and require him to answer the questions?

ATTORNEY GENERAL LEVI: Yes, I understood the question and I think that one would have to see what kind of a case that is. We have been very careful in handling the department's policy on this matter and we have not called many reporters who were not willing, in fact, to come before a grand jury. We have been very careful about that and we would continue to be, but I do not want to make the statement that there is no circumstance in which we might not do it.

Q I would like to follow up on questions on covert operations.

ATTORNEY GENERAL LEVI: Yes.

MORE



Q Does the President envision approving legislation which would allow this joint committee to have the right of prior approval over covert operations? Has he spelled out his thoughts within the Executive Branch on that subject?

ATTORNEY GENERAL LEVI: I doubt whether I am the person to answer that. I could tell you something but I am not going to do it. (Laughter)

Q Would you sit down. He has not answered the question.

MR. MARSH: The President's position is one that is opposed to prior notification and that view has been communicated to Members of the Senate Government Operations Committee.

Q Then I would like to ask the Attorney General a Constitutional question.

Since we do have a Constitution which embodies checks and balances as a method of controlling Government activity and since the absence of Congressional checks on Congress is widely interpreted to be a cause of abuses that have taken place by the intelligence establishment -- that is, lack of oversight --

ATTORNEY GENERAL LEVI: Congressional checks on Congress?

Q No, Congressional checks on the intelligence community -- how is it that in an effort to reform the intelligence community the recourse is to stronger Presidential action, if anything, unless there is Congressional oversight and an absence of checks and balances? Would you answer that on a Constitutional basis?

ATTORNEY GENERAL LEVI: I don't think that is a Constitutional question at all; it is a policy question. The Constitutional implications are really moved in the other direction; that is, as to what extent the management of an enterprise can be carried on by the Congress rather than by the Executive which has that function.

But, assuming that there is an interrelationship -- and that is what you are assuming -- you are asking me the question as to why the President chose the particular road that he did here in terms of Executive power and I don't know whether the question specifically related to covert action or not.

Q Perhaps Director Bush or Mr. Marsh could give us the rationale as to why you decided to go that route.

MORE

MR. BUSH: On what aspect of it?

Q Well, why can't you notify Congress of covert activities? Why does he oppose that? That is what the argument is going to be all about.

MR. BUSH: It is a policy decision of the President.

Q Well, I mean, does he have some reason for it, Mr. Bush?

MR. BUSH: Let's look at it from the intelligence end of it. I think that people have felt that operationally it would be better to be under the inherent powers for the President to retain the right to make these decisions. I do think it is appropriate to note that there has been a formalization of procedures of the old 40 Committee and they have stepped up the level of the membership and people are going to sign off on decisions and they are going to meet to do it, and I think those should be reported as I think progress over the way it has been in the past.

Q Mr. Bush, if Congress completely disagrees with the President's proposals, do they have any recourse whatsoever?

MR. BUSH: Congress has a lot of power, ma'am. Yes, they have got a lot of recourse.

Q Would you tell us how this joint committee would ever find out about what was going on?

Q Also, would you outline exactly how?

MR. BUSH: I feel an obligation to keep in close touch with Congress and to inform them, and hopefully simplified oversight procedures will mean more full information going to the Congress certainly from our agency and certainly from any part of the intelligence community that I have something to say about.

Daniel?

Q Mr. Bush, this question has to be addressed peculiarly to you as Director of Central Intelligence.

The system that has been explained to us is one in which lines of authority appear to have been smoothed out, made somewhat more orderly but, if you would agree with me, centralized much more in the President who has said last night that he is ultimately accountable, but the record in the investigations of the past year have, among other things, raised the question of what happens when a secret apparatus with the intelligence collection and capacity for covert operations is misused by a President.

MORE

If the centralization is carried on it places a great problem on the one who is the Director of Central Intelligence. I think one of your predecessors, Mr. Helms, once said, "I serve only one President at a time."

Have you thought about the problems and responsibilities -- not for you as a person nor for the President as a person -- that happens when you increase centralization and make the President almost solely accountable? What happens to the one who serves him?

MR. BUSH: I think the President -- this President and any President -- has been solely accountable to the Congress for actions in the intelligence field. I have read that this means that the Director of Central Intelligence is now some kind of czar. Really what this program does, and why I think it will be well received in the intelligence community and I hope on the Hill and across this country, is give the Director certain authority to go with responsibility that has been there since the inception, certainly since the 1971 letter. What it does is not create a czar but it streamlines the machinery in such a way that the Director can execute authority that he has had.

For example, in the whole field of resource control on paper the Director has had a certain responsibility for this but he has not had the authority to act. Now in conjunction with the Deputy Secretary of the Defense Department and in conjunction with General Scowcroft's Deputy Assistant to the President you have a much more orderly management system.

I respectfully suggest that that has not increased the President's power or clutched to his breast more power in the whole field of intelligence. What I hope it does is result in a more effective intelligence operation.

Q Mr. Bush, if we can be more specific about the role of Congress and the joint committee that the President has proposed, I gather what it is effectively is window dressing because you will go to that joint committee only after a covert operation is already underway; is that not correct?

MR. BUSH: Well, I don't know that that has been determined. That will largely be determined, I think, by the Congress. I think the President's suggestion would be that he has the right -- and, Jack, you correct me because this is a policy matter and that decision is the President's, not the intelligence community's -- my view is, as the President indicated yesterday, there would be prompt and full disclosure to these proper oversight committees of the Congress. So I don't think there is any effort here to hold back. I just simply feel that in his view he determined that you don't have to run the proposal by Congress before it is enacted.

MORE

Q But that is the point. It will go to Congress only after the decision has been made and theoretically at least the operation is underway; is that not correct?

MR. BUSH: I think that is what the intention is -- maybe not the operation underway because it depends on how much lead time there is on these things.

Q What, then, is the influence of that committee in terms of oversight on intelligence activity?

MR. BUSH: Well, I think, one, you have to wait and see what the Congress itself does and I think one must input a certain amount of intention to fully inform as these operations are approved and that would be my intention to the degree I would have responsibility for some of this information to Congress.

Q As you see it as it has been outlined, what kind of control then would that Congressional committee have on the operation or on the intelligence policy?

MR. BUSH: They have a large control on the budget of these operations for one thing, just as that is the major control on all programs in the Government. So they do have control there.

Q Mr. Bush, I was wondering, in your oath, as I recall, you said you defend the Constitution against all enemies foreign and domestic. Does the term "domestic enemy" in your judgment preclude all U.S. citizens?

MR. BUSH: Could I get help from the Attorney General on this? I need legal help and I know it and so please --

MR. NESSEN: I am not sure it is a question that needs an answer.

Q Wait a minute.

Q Mr. Bush, would you ask Mr. Nessen if you could answer the question?

MR. BUSH: All I know is when I get asked --

Q Could I ask Mr. Levi?

MR. BUSH: Maybe this will give a little insight into how I plan to run the intelligence community. When I am asked a highly technical, and I feel appropriately good question, that --

Q Could I address the question to Mr. Levi?

MORE

ATTORNEY GENERAL LEVI: I think the Constitutional oath taken by the appointee of the President is not defined in the jurisdiction of his office if I understand your question and, therefore, it does not relate to the jurisdiction in terms of the foreign intelligence.

Q The reason I ask this, sir, is because it says here "never aimed at our own citizens." Now does that mean that the oath means that no U.S. citizen could be a domestic enemy?

MR. BUSH: I don't think there is anything in the language that I have seen that would prohibit the Director from policing his own organization, you might say, to be sure that people are not divulging classified information, for example. Our employees sign a secrecy agreement that I strongly support and I think they should and they are willing to do it and I think it is an important thing. I think I have responsibilities under the 1947 Act to protect sources and methods and I intend to do it and I intend to live very carefully within what is mandated and what will be legislated here.

Q Sir, in addition to your own organization, if you suspect that there are U.S. citizens involved in foreign espionage do you feel that you are not supposed to or what?

MR. BUSH: I think the FBI takes over at that point.

Q Mr. Levi, on page 5 of your fact sheet, in subsection 3, Restrictions on Intelligence Activities, it says "The Executive Order prohibits or severely restricts the following activities by U.S. foreign intelligence agencies," and then lists the 10 including wiretapping and all these other worthwhile objectives.

My question, addressed to anyone who can answer it, probably the Attorney General, is, it says, "foreign intelligence agencies," and what about these restrictions for the FBI and other agencies engaged in the domestic matters? Will these restrictions be placed on domestic activities at all?

ATTORNEY GENERAL LEVI: The general answer would be that they are applicable. They are not covered by this particular order in view of the foreign intelligence.

As I understand it, your question is that you go beyond foreign intelligence, purely domestic intelligence -- for example, towards the regular FBI work.

Q Right. Is there any set of guidelines?

MORE

ATTORNEY GENERAL LEVI: There are guidelines, as you well know, being developed. Many of the items mentioned here, however, are now in the statutory law.

MR. DUVAL: Could I just add one point, and that is that the Executive Order requires the Attorney General to issue regulations covering the domestic activities of the FBI within 90 days.

Q Mr. Marsh, on that secrecy protection clause I just want to pin it down again. Does that apply to the secrecy agreement for all Federal employees? Does it apply only to the disclosure of sources and methods of intelligence or also to substantive matters such as what we think our foreign policy is or a factual situation or only to sources and methods of intelligence?

MR. MARSH: The present plan is sources and methods. The proposed legislation that we have in mind is sources and methods.

Q I am sorry, sir, not the legislation but your requirement that all Executive Branch employees be required to sign a secrecy agreement against what you called non-disclosure of classified information. Precisely what does that mean and how does it differ from where we are now?

MR. MARSH: Secrecy agreements are required in some agencies and not in others and it is felt that it should be Government-wide and to impose it in areas where it is presently not being imposed.

Q All Executive agencies will have such an agreement?

MR. MARSH: If it is an individual who is authorized to receive classified information, if in the nature of his duties he has to use that information, before he receives it he signs a secrecy agreement.

Q Is that a legally binding effect?

MR. MARSH: Yes, I think it is. I think it does become enforceable.

Q How would it become enforceable? Would you explain that? Maybe the Attorney General could explain it.

MR. MARSH: The agency uses that type of an agreement now and it has been used and I think it has been applied and tested in the courts--the Marchetti case.

MORE

Q How do you keep it from being abused? I asked this question of the President last night and in his statement today he says, "Moreover, this legislation could not be used to cover up abuses and improprieties."

Now, as perhaps you know, the House Intelligence Committee report strongly suggested that the Secretary of State was guilty of abuse and improprieties of the classified and security label system, as the news account said, to cover up policy errors. Now, how are you going to prevent this from being abused?

MR. MARSH: In two ways. Number one, this is one reason that the President has directed that the Inspector Generals system in the departments and agencies be strengthened. Secondly, this is the reason that he has established the Intelligence Oversight Board because if an individual, if an employee, feels that something has been arbitrarily classified in a manner to disclose an impropriety or an illegality he can go to the IOB with that, he can go to his Inspector General with it. The purpose of this is if somebody has a highly sensitive piece of information which is a regular publication, like one of the daily reports from the Central Intelligence Agency, he goes over to another department or agency where an individual has it, and he is going to use that, he signs a secrecy agreement against its non-disclosure. That is the main purpose. It is not intended for the purpose of concealing improper activity and, indeed, if it is, that is the type of thing that you want brought into the IOB.

Q It seems to me the net effect of what you are doing, specifically with regard to reducing what you call the proliferation of Congressional oversight committees, is to indeed reduce the Congressional oversight centralizing it, if you will, but nonetheless reducing Congressional oversight and putting more and more power into the hands of the Executive. If you would consider the example of the previous Administration, wouldn't you consider that a little risky?

MR. MARSH: The purpose on reducing the number of oversight committees in Congress is simply for the purpose of safeguarding the information that moves up to the Hill. The situation that we find ourselves in now frequently is that information has to be given to make 6 or 8 different committees and by the extension of risks of that disclosure you are contributing to the public disclosure of that information.

It is envisioned that the oversight committees of the Congress that are established, whatever they may be, whether it is a suggestion along the lines of the Administration or whether it is the proposals of the Congress, to furnish those committees with the information that they need to perform their oversight function.

MORE

There is no real problem with the disclosure of the information to the Congress but we feel from the standpoint of safeguarding the information that it is to their benefit as well as ours and the Nation's to reduce the number of committees that receive it.

Q I want to ask the Attorney General about the proposed legislation. Mr. Attorney General, last April Mr. Colby, who was then Director of Central Intelligence, made some proposals for legislation. Reading this draft I see that it is rather tougher and more restrictive on information than Mr. Colby's proposals. For example, it omits a scienter requirement, a requirement Mr. Colby had included, that the disclosure be knowing and it restricts the right to an in camera proceeding to discover whether the matter was lawfully classified and it removes the clause allowing the parties to be represented in the in camera proceeding.

Can you tell me why you would want something more restricted than the Central Intelligence Agency Director proposed?

ATTORNEY GENERAL LEVI: I think this legislation is extremely carefully protected. On the issues you raise, for example, the classification has to be certified to as appropriate before the case can be brought. If there is an improper classification, that can be itself a bar so that I do not find this a harsh statute.

As to a scienter requirement and as to whether it applies to an accidental disclosure, I don't think it applies to a disclosure which is entirely accidental.

Q I want to clarify the security business. Your law is directed, as you said earlier, to the disclosure of sources and methods which is a term of art, the specific sources and the specific methods, and that relates to intelligence sources.

ATTORNEY GENERAL LEVI: Yes.

Q In this Executive Order on page 26, when you are talking about restriction you talk about physical surveillance which can be directed against employees, former employees, protecting foreign intelligence or counter-intelligence sources or methods or national security information. Now that is a much broader category so does this permit investigation of the disclosure of national security information under an Executive Order as against the law?

ATTORNEY GENERAL LEVI: No. It is quite different. The passage you just read means observing people as far as I can --

MORE



Q Is what you are saying the Government now can carry on observing as to an investigation under this order?

ATTORNEY GENERAL LEVI: Yes, but the order itself limits the forms of investigation. It is quite different from the statute.

Q But if it is not illegal under the law to disclose national security information, how do you lawfully surveil?

ATTORNEY GENERAL LEVI: I have to know what is meant by "national security information."

Q It is not in the Executive Order.

ATTORNEY GENERAL LEVI: But the Executive Order would say, for example, that you can use electronic surveillance only under certain conditions. If you are going to have mail openings for some such purpose, it would only be under statute and so on and so forth.

Q The final one is, Mr. Bush has been charged in the program with getting signed agreements to broaden that to cover people who have access to classified intelligence information. That is on page 36, which seems to be another category.

Are there going to be any definitions of this? The problem is, you are going to define what intelligence is as against just normal classification programs that are coming up?

MR. DUVAL: The answer is yes.

Q Mr. Marsh, under this new streamline plan where the President would have greater control and where the Congress would have a smaller number of committees on oversight, where secrets would be punishable if they were released, where classified information could not be released from the Congress without the President's authority, could the Administration have continued to provide covert aid to Angola?

MR. MARSH: Quite frankly, I can't respond to a specific type of question like that but I can say this: that it is envisioned that the oversight that the Congress would have would certainly be as good as the oversight that they currently have and, indeed, we would seek to improve it.

MORE

It should be remembered that there has been a Congressional oversight in a number of committees over a period of years. The Congress only last year has discussed the improvement of that or they seek to make changes in it themselves. They are going to make changes. We would like to see them make those changes in a way that is effective for them and effective for us.

The basic guideline is that we don't want the intelligence community to engage in activities that are beyond the reach of the Congressional authorization, and we don't want to do the things that are not consistent with our own form of Government, and I think that will be a basic consideration in trying to cooperatively establish a method of oversight that suits them and us and that the American people are satisfied with.

Q Mr. Marsh, on that same point, on page 7 of the fact sheet you refer to "there should be no requirement for prior notification of specific activities." Can you tell me where I can find a more elaborate explanation of that in the documents?

MR. MARSH: In the bigger document?

Where does that appear? What page?

He has asked for more elaboration on the --

Q Or even the same language.

MR. DUVAL: The message to Congress, page 3.

MR. MARSH: Mike says it is on page 3 of the message to Congress.

Q You have suggested but you never actually said that the Intelligence Oversight Board has the power to declassify. Does it, in fact?

MR. MARSH: No. That Board is directed more to improprieties and illegal types of activities.

Q I am curious, then, sir, since the restrictions on Government officials are clearly more severe than they have ever been in the past, who does have the power to declassify and has that group been enlarged?

MR. MARSH: The declassification procedures were established by an Executive Order, I believe in 1971 or 1972. The Director of Central Intelligence, I believe, under this Executive Order is directed to implement the operation of those declassification procedures and to expedite them, if I am not mistaken.

MORE

Q Has that group been enlarged?

GENERAL SCOWCROFT: Yes. As a matter of fact, there is an NSC review going on right now of the classification procedures that were put into effect in 1972.

Q Could I follow up on Tom Jarriell's question? If everyone who has access to classified information has the problem of a penalty for releasing it, how would the public ever know what the CIA was doing and if there was any abuse and not any abuse?

GENERAL SCOWCROFT: On the Angola question specifically there would be nothing to prevent a Member of the oversight committee or a Member of Congress from moving to bar the expenditure of funds for Angola which is in fact what happened.

Q Wouldn't they be revealing a covert operation by doing so?

GENERAL SCOWCROFT: Not necessarily. They would not have to be with respect to anything ongoing as the present law was.

Q Could I just ask this one question?

From time to time officials have had off-the-record briefings for the press, for responsible press. How will this affect off-the-record background briefings in the future?

MR. DUVAL: I think one important point is that the President considered carefully whether to ask for legislation covering all intelligence secrets, legislation such as is embodied in S. 1. He rejected that course. He went to the much more narrow sources and methods and that should solve that problem.

Q Mr. Bush, could I just ask you one more question? It goes back to what I asked earlier.

Without making it personal, under this system, what does a DCI do when a President says, "I want to know what is going on in the headquarters of the other party," or "I want to help a friendly head of a foreign government by organizing some covert operation that the State Department and the Pentagon and others don't like"? What does a future DCI do in order to do something about a President that does not seem to him to be wise, judicious, legal or moral?

MORE

MR. BUSH: Well, I cannot answer for other DCIs but I answered that question, I think, to the satisfaction of the Senate and that is simply that clearly the first one is absolutely out and the second one without authorization of this committee that has been set up would be out as well. So I think you are referring to this double track thing that has happened under different Administrations in the past. I think that the machinery that has been set up here eliminates any danger of that. Hopefully, sir, I have the integrity that I would not be approached on a double track.

Q I am not asking about you. I am asking what is the institutional protection?

MR. BUSH: The institutional protection is the formalization of the procedures of the old 40 Committee, for one thing, and I think that is a very important step. It is not gathering more power to the President. It seems to me it is formalizing a necessary check, you might say, before the operation gets to him. And it won't be done without meetings of a higher level -- Special Operations Committee, whatever it is called.

The operations will not be approved. So I do think there are more safeguards for the American people in this respect while keeping the right for the President to approve operations.

Q Mr. Bush, with all due respect --

MR. DUVAL: If I might, Mr. Schorr, could I just expand for one second because it goes to a question that I think Mr. Brokaw had also.

What the President did by putting into an Executive Order what the agencies must do and importantly, specifically, what they must not do, it has the effect of being binding. It is public. It can't be changed unless it is changed publicly. It establishes an iron clad process whereby if you take the example you use, that would be a domestic violation of the Restrictions Order. If such a command went out, then under the procedures that President Ford has put into Executive Order, anybody in the CIA would have a command under Executive Order to report that to the Intelligence Oversight Board made up of independent citizens.

If, for example, a future Director of the Central Intelligence Agency ordered his employees not to report it, the simple fact of giving that order under the express command of the Restrictions Order, the employee would have to go to the Intelligence Oversight Board.

MORE

So what you have done and what the President has done is he has set up the commandments of what they must not do in writing and in an Executive Order that cannot be changed unless it is changed publicly. Then he has established a mechanism for getting any deviation from that to the Intelligence Oversight Board for its handling. If it is against the law, that Board must report it to the Attorney General.

Q Mr. Levi, could I ask one question to clarify something?

Q Mr. Duval, could you specify just what the procedures are by which the agency would inform the oversight committees of a covert action; that is, the timing and also the procedures by which that would be done?

MR. DUVAL: Well, again I know it has taken Jack and myself and all of us a long time to get to understand and work out that Executive Order -- it is extremely complex. The reporting to the Intelligence Oversight Board of abuses is specified specifically, the procedures in the Executive Order.

Q These are on covert actions?

MR. DUVAL: On covert action. It is not the Intelligence Oversight Board.

MR. BUSH: Congressional oversight committees of Congress.

MR. DUVAL: Well, we start where we are, start with the state of the law today.

Under the state of the law today you have section 662 of the Foreign Assistance Act, the so-called Hughes-O'Brien amendment that sets out the reporting requirements. What the President says in his message and what he said to the leadership last night was centralize the committee structure to perform so that you can bring together the oversight at one place -- it will be better oversight. We can provide it more information, full information. And once you have done that then modify section 662 so that the notification of any covert operations would be given to that group.

Q It now says "in a timely fashion" which admittedly is ambiguous. Would that continue as the governing?

MORE

MR. DUVAL: The President again has set forth certain principles. One of the principles that the Executive Branch acting under Article 2 has to exercise is its functions. The Congress is oversight. If Congress is involved in specific operations and the decision-making for specific operations, then who does the oversight? So what he envisions is to find the ground rules for the action, full notification to Congress after the action and they conduct the oversight.

Q Is there any place in these documents where he spells that out? I mean, it seems like it is a fairly critical point.

MR. DUVAL: Dick, he made a very strong point -- and I think Jack ought to get up here and rescue me on this -- and that is that when you are defining the specific relationship, that point where the Executive functions and the Congressional functions come together, that needs discussion with the Congress and he has laid out principles and guidelines but, as he told the leadership last night, he wants to work with them in defining the specifics.

Q Could I ask one question of the Attorney General? I am still not clear on the legal effect of this oath that all Executive Branch employees who have access to classified information will sign.

Suppose a functionary in the State Department having signed that oath then reveals classified information, what is the effect of the oath? I mean, can he be sued? Can he be prosecuted?

ATTORNEY GENERAL LEVI: Yes, a civil suit.

Q A civil suit brought by whom?

ATTORNEY GENERAL LEVI: Well, it can be brought by the Government.

Q But only a civil suit, not a criminal suit?

ATTORNEY GENERAL LEVI: It does in itself provide for the criminal remedy.

Q But is a criminal remedy possible?

ATTORNEY GENERAL LEVI: Well, not on the basis of that agreement alone.

Q Are there any limits to the amount of the civil liability?

MORE

The point is that although the claim has been made that this is not an official secrets act, yet every Executive Branch employee in the entire Government is required to sign an oath stating that he will not reveal classified information and, furthermore, action can lie as a result of his failure to comply.

ATTORNEY GENERAL LEVI: It would be one of the few ways that the Government under present law might proceed to enjoin the disclosure by that person of information. I must say that the combination of that and the intelligence methods and sources legislation which is proposed here, which by the way was arrived at through an agreement between Mr. Colby and myself and really was not a question of one running after the other to see who would be tougher, it seemed to us to be the minimum steps if you are going to have whatsoever any effective legislation against any and all disclosures.

The fact of the matter is that the present law, except for the signing of the agreement in the Marchetti case, is practically in that shape now. If one considers that the best policy and program for this country, then obviously one should have no legislation whatsoever. If one assumes that some secrecy should be enforceable by law, some minimum amount, our judgment was that this was that minimum amount and certainly is, I think, much less than one would find in any other country.

If one refers to the official Secrets Act, it really would be fantastically different and it is fantastically different than S. 1. So we thought this was a minimum amount.

Q Have any standards been applied to determine when classified information is revealed by someone in an unauthorized way when a civil suit would be brought? What are the standards for which secrets will be let out?

ATTORNEY GENERAL LEVI: It is exactly the same today as when these agreements are there. The most useful thing about the agreement would be that if one knew that a revelation was in process, one could get an injunction against it.

Q How do I insure the independence of an Inspector Generalship when it is lodged within each of the agencies? This is perhaps for Mr. Duval or Mr. Marsh. Why did you go that route rather than an independent Inspector General for intelligence where you would not have these internal agency loyalties?

MORE



MR. MARSH: Well, it was felt that having the IOB and giving them a very broad responsibility and requiring the agency heads and their general counsels and inspector generals to report to them and they could make recommendations, too, that that will be far, far more effective to achieve oversight than having a Government-wide Inspector General.

Q Mr. Marsh, am I right in thinking that the only substantive limit on the kind of covert operation could be carried out, either proposed in the President's message to Congress to be embodied in legislation or included in the Executive Order as a prohibition on assassinations? That is the only type of covert operation that is specifically excluded.

MR. MARSH: I think some of the collection systems -- electronic surveillance systems -- are covert types of surveillances, they are excluded.

Q I was thinking of some of the foreign ones we have learned about lately such as President Nixon's order to the CIA or Mr. Helms' to carry out or encourage a military coup in Chile, various things of that kind. They would not be excluded under this proposal, or the payment of bribes or subventions to foreign politicians? All of those would not be covered?

MR. MARSH: I think that the standards that you would have in the Restrictions Order and the Congressional oversight and the Inspector General's operation and the IOB or the Oversight Board's examination of the activities would quickly flush out and bring out any type of abuse like that that would occur.

Q Why is it an abuse? I don't find any language in either the Executive Order or the legislation that leads me to think it is regarded as an abuse. Could you point me to any language that would lead a board of this kind you describe to regard it as an abuse? I say I can only find the reference to the assassinations.

MR. MARSH: Actually the Order is directed to the foreign intelligence agencies in the manner in which they conduct their operations and a provision for the overview of how they conduct it and the standards that they will be tested by will be the standards of their own Inspector Generals or the Attorney General and of the Intelligence Oversight Board and those items that they find that are abuses, that we should not be engaged in, they will report those to the Attorney General. I think that is the best oversight you can have because I don't think you can anticipate some of the things that may occur in this or any other type of operation.

MORE



Q How would that be an abuse?

MR. NESSEN: Why don't we have two more questions?

Q Mr. Bush, I would like to ask this since Mr. Colby has --

MR. NESSEN: Dick had a question half out of his mouth, Les, and then Walt and then Ford and that will be it.

Q Thank you, Ron. I mean, I was standing and I had a question half out of my mouth, too.

MR. NESSEN: Dick.

Q I am just not clear from your answer, Mr. Marsh. Would that be an abuse?

MR. MARSH: Would what be?

Q The situation described in Chile, for example? Under the President's Order, would that be an abuse?

MR. MARSH: I can't say that I can answer that. I would say this, that the standards that would be applied in the covert operations will have to meet the standards that are acceptable to the Intelligence Oversight Board and there will be a question in my mind whether that would meet the standards.

Q Who sets those standards? The Board?

MR. MARSH: The Board themselves will set standards and these are men --

Q Do they have any experience in covert operations? I mean, for example, don't some of these members have some past experience with regard to covert operations?

MR. MARSH: Yes, they do.

Q Mr. Cherne was the first to be overseeing on the President's Foreign Policy Advisory Board, wasn't he? It didn't seem to work very well.

These are not exactly fresh new faces. Ambassador Murphy has been around this town for a little while.

MR. MARSH: That is right, and Mr. Ailes was the Secretary of the Army.

MORE

Q General Scowcroft, may I ask one question, please, relative to national security leaks? I was wondering, sir, if, in your experience at the White House, you could give us an example of one or more leaks that have damaged the national security and, if so, how and why?

GENERAL SCOWCROFT: Well, just offhand I don't think of one specifically that I can tell you a), b), and c) has damaged national security. I think, though, you have to say that there has been at the very minimum a cumulative effect on the efficiency and effectiveness of our intelligence collection and our cooperation with other intelligence organizations in the free world. Their cooperation with us has, in some cases, been limited by the fact that they do have some doubts about our ability to safeguard the information that they have been willing to share with us. That is one specific example.

MR. NESSEN: One last question.

Q Could I ask a question of either Mr. Marsh or Mr. Duval.

Sometimes we have short memories. The last time we had a major scandal about spying inside of the United States was by the military and out of that came internal reforms which are not unlike these. They were not Presidentially ordered but they were ordered by the Secretary of Defense, called DIRK, in 1971 or 1970.

To what extent do these change DIRK -- some of them seem stronger and some of them seem weaker. What have you rescinded about the Defense Department's own regulations restricting spying on Americans by the military? Have you done a study on that?

MR. DUVAL: The Secretary of Defense has an obligation under this Executive Order to insure that the Defense Department regulations are consistent with the prohibitions and the commands in that Executive Order. The President faced up to this. He grabbed it straight on and put it down in the Executive Order. So having it out there, that is the point.

Now clearly the Secretary of Defense, as it states in the order, must have internal regulations that implement and are consistent with the President's restrictions.

Q So is it your view that this does not rescind any part of DIRK?

MR. DUVAL: That order in your hand supersedes anything else in the Defense Department.

MORE

THE PRESS: Thank you.

MR. NESSEN: Let Jack Marsh say one word here in general terms about the President's views of covert operations when they are conducted according to all these restrictions and regulations when they have been reviewed and approved by the appropriate bodies set up here. I think some of you perhaps are leaving without that point quite clear in your mind.

MR. MARSH: There are no restrictions on the conduct of covert operations except those restrictions, of course, that might be applied by the Congress or decisions that are made internally in the Executive Branch of Government as to whether it was a wise thing to do or not to do. Other than the Congressional oversight there are no restrictions in this Executive Order that has been issued here that relate to covert operations.

THE PRESS: Thank you.

END (AT 12:25 P.M. EST)

February 18, 1976

Office of the White House Press Secretary

*File*

THE WHITE HOUSE

FACT SHEET

The President's Actions Concerning  
the Foreign Intelligence Community

SUMMARY

The President has today taken the following comprehensive actions to strengthen the United States foreign intelligence departments and agencies: (1) issued an Omnibus Executive Order establishing policy guidelines and restrictions for the intelligence agencies and a new command structure and oversight mechanism for the intelligence community; (2) proposed new legislation to protect the secrecy of particularly sensitive intelligence information, announced that he will meet with Congressional leaders to develop legislation concerning electronic surveillance and to prevent unauthorized opening of mail, and he endorsed legislation to prohibit assassinations of foreign leaders, and, (3) proposed a framework in which constructive Congressional oversight can be established without disclosing intelligence secrets.

OBJECTIVES OF THE PRESIDENT'S ACTIONS

The President's actions are designed to insure that:

- (1) The United States has a strong and effective capability to gather and evaluate foreign intelligence and conduct necessary covert operations; and
- (2) These activities are conducted in a Constitutional and lawful manner and never aimed at our own citizens.

The President's actions will strengthen our foreign intelligence capability and establish an effective process to prevent abuses by.

- (A) Setting forth in Executive Order, policy guidance for the foreign intelligence agencies which define what functions they are supposed to carry out and which clearly states what they are not permitted to do.
- (B) Creating a streamlined command structure for intelligence community leadership which makes specifically designated individuals accountable.
- (C) Requiring the NSC to conduct semi-annual reviews of the adequacy of the foreign intelligence product and establishing the Intelligence Oversight Board to monitor compliance with the restrictions which have been placed on the intelligence community's activities.

more



OMNIBUS EXECUTIVE ORDER(1) Control and Direction of Intelligence Organizations

## (A) Overall Policy Development

1. The National Security Council (NSC) will continue to exercise overall policy control over the foreign intelligence community.
2. Statutory members are:
  - The President
  - Vice President
  - Secretary of State
  - Secretary of Defense
3. The NSC will conduct a semi-annual policy review of foreign intelligence activities focused on, but not limited to, the following:
  - . Needs of government foreign policy-makers and the responsiveness of foreign intelligence to these needs, including the quality, scope and timeliness of the intelligence product.
  - . The effective and efficient use of resources in the collection of intelligence information; and
  - . The continued appropriateness of ongoing covert operations and sensitive intelligence collection missions.

The Assistant to the President for National Security Affairs will have staff responsibility for the semi-annual policy reviews. Heads of the departments and agencies which use foreign intelligence will be consulted.

## (B) Management and Resource Control

1. Responsibility for management and resource control of the foreign intelligence community is vested by Executive Order in the Committee on Foreign Intelligence (CFI), which reports directly to the NSC.
2. Membership of the CFI is:
  - The Director of Central Intelligence (DCI),  
Chairman
  - Deputy Secretary of Defense for Intelligence
  - Deputy Assistant to the President for  
National Security Affairs

(NOTE: Staff support shall be provided by the intelligence community staff.)
3. The Committee on Foreign Intelligence shall:
  - . Control budget preparation and resource allocation for the National Foreign Intelligence Program (defined as excluding tactical intelligence).

more

- . Establish management policies for the Foreign Intelligence Program.
  - . Carry out policy decisions of the NSC with particular emphasis on collection and production of national intelligence.
4. Decisions of the CFI may be reviewed by the NSC upon appeal by the Director of Central Intelligence or any member of the NSC.

(C) Production of National Intelligence

1. Responsibility for the production of substantive national (i.e., not tactical or departmental) intelligence is vested in the Director of Central Intelligence. The DCI is the President's primary advisor on foreign intelligence.
2. To assist in developing national intelligence requirements and priorities, and in developing finished national intelligence, the DCI shall establish such boards and committees (similar to the former USIB) of the intelligence community as will enable him most effectively to utilize the talent of the community to produce the best possible intelligence product.

(D) Covert Action and Other Special Operations

1. Responsibility to review and advise the President on covert operations and certain sensitive foreign intelligence collection missions is assigned by Executive Order to the Operations Advisory Group (Operations Group).

2. New membership is:

Assistant to the President for National Security Affairs, Chairman  
 - Secretary of State  
 - Secretary of Defense  
 - Director of Central Intelligence  
 - Chairman of the Joint Chiefs of Staff

Observers are:

Attorney General  
 Director of OMB

3. The Special Intelligence Operations Group shall:
  - . Consider and make recommendations to the President on all proposals for covert action and certain sensitive intelligence collection missions.
  - . Submit to the NSC a periodic review of ongoing covert operations and sensitive intelligence collection missions.
  - . Meet formally to carry out its responsibility to make recommendations to the President.

more

(E) The following existing committees or organizations are abolished:

- (1) United States Intelligence Board
- (2) Intelligence Resources Advisory Committee
- (3) National Security Council Intelligence Committee
- (4) Executive Committee for resource control of certain intelligence collection activity
- (5) 40 Committee

(2) Responsibilities and Duties of the Intelligence Community

(A) The Senior Official of each organization of the intelligence community shall insure his organization operates in accordance with the Executive Order. He shall establish a system of independent inspection within the organization and provide information to the NSC, CFI and Intelligence Oversight Board. Other responsibilities as designated in Section IV of the Order.

(B) CIA is responsible, among other duties as defined in Section IV of the Order, for:

- . Production of national intelligence
- . Maintaining and improving a national intelligence analytic base
- . Collection by other than normal, overt means
- . Foreign counterintelligence activities
- . Undertaking activities defined in the Executive Order necessary to implement the above

(C) The Department of State is primarily responsible for overt collection of foreign, non-military information. Its Bureau of Intelligence and Research shall also produce departmental intelligence and contribute to national intelligence production.

(D) The Department of Treasury is responsible for overt collection of foreign, economic information.

(E) The Department of Defense is responsible for:

- . Overt collection outside the United States of foreign military and military-related information.
- . Producing that intelligence required to fulfill the responsibilities of DOD.
- . Managing the Defense Attache system.
- . Providing intelligence staff support to the Joint Chiefs of Staff.

more

The National Security Agency is responsible for:

- . Full control over signals intelligence collection activities.
  - . Production and dissemination of signals intelligence.
  - . Providing communications security services to the U.S. Government.
  - . Research and development related to signals intelligence.
- (F) The Energy Research and Development Administration is responsible for producing intelligence relating to atomic and nuclear matters.
- (G) The Federal Bureau of Investigation is responsible for:
- . Making available to foreign intelligence agencies foreign intelligence and foreign counterintelligence which it collects.
  - . Conducting foreign counterintelligence activities within the United States.

(3) Restrictions on Intelligence Activities

The Executive Order prohibits or severely restricts the following activities by United States foreign intelligence agencies:

- . Collection and analysis of information on the domestic activities of United States citizens, corporations and organizations and permanent resident aliens (referred to as U.S. persons).
- . Physical or electronic surveillance or physical searches of United States persons.
- . Opening of United States mail in violation of law.
- . Illegally obtaining federal tax returns or information.
- . Infiltration of domestic groups for the purpose of influencing or reporting on them.
- . Experimentation with drugs on humans without the subject's informed consent.
- . Sharing among agencies information on the domestic activities of United States persons except in compliance with stringent safeguards.
- . Assignment of personnel to other agencies.
- . Providing assistance to law enforcement agencies in violation of law.
- . Testing of electronic surveillance equipment within the United States.

more



Limited exceptions are permitted to allow the agencies to meet the legitimate foreign intelligence needs of the Nation. These narrow exceptions are expressed in detail in the Order. They are designed to permit the following activities under carefully defined circumstances:

- . Collection of information on the domestic activities of U.S. persons in order to: conduct security checks on intelligence agency employees, contractors, people who are given access to classified information and persons who may assist the agency in the future. Overt collection of certain foreign intelligence information from other government agencies.
- . Counterintelligence and counterespionage activities.

(4) Oversight of Intelligence Activities

1. Responsibility to assist the President, the NSC and the Attorney General in overseeing the intelligence community is assigned by Executive Order to the Intelligence Oversight Board (Oversight Board).
2. New membership consists of three members from the private sector designated by the President. One of these will be designated by the President to be Chairman. They will also be made members of the PFIAB.
3. The Board shall:
  - . Receive and consider reports by Inspectors General and General Counsels of the intelligence community concerning activities that raise questions of legality or propriety.
  - . Review periodically the practices and procedures of the intelligence community Inspectors General and General Counsels designed to assist the Oversight Board.
  - . Report periodically and in a timely manner, as appropriate, to the Attorney General and the President on any activities that raise serious questions about legality. It shall report to the President on activities that raise questions of propriety of intelligence community activities.
  - . Receive staff support from persons not connected with the intelligence community.

(5) Secrecy Protection

All persons given access to information containing intelligence sources and methods shall be required to sign an agreement that they will not disclose that information to persons not authorized to receive it.

more

MESSAGE TO CONGRESS AND PROPOSED LEGISLATION(A) Message

Today the President sent a message to the Congress which:

- (1) Advised the Congress of the actions he has taken by Executive Order.
- (2) Transmitted the legislative proposal as indicated below.
- (3) Urged Congress to establish effective oversight consistent with the following general objectives:
  - . The oversight functions should be centralized in a Joint House-Senate Committee to provide better security.
  - . Both the House and Senate should adopt rules to insure that secrets will not be improperly disclosed.
  - . The President's injunction of secrecy over foreign intelligence information provided to the Congress by the Executive Branch should be respected.
  - . The Executive Branch should keep the Joint Oversight Committee fully informed of foreign intelligence matters, but there should be no requirement for prior notification of specific activities.
- (4) Section 662 of the Foreign Assistance Act should be modified. This requires the intelligence agencies to brief over six committees of Congress on covert actions and has resulted in unauthorized disclosures of classified information.

(B) Legislation

The President submitted the following proposed legislation:

. Secrecy of Sources and Methods

This bill provides for:

- . Criminal penalties for the disclosure to unauthorized persons of information relating to intelligence sources and methods.
- . Limits its coverage to persons whose access to such information arise out of their relationship to the Government (Government employees, contractors and contractor employees).
- . Injunctive relief where unauthorized disclosure is threatened and serious damage to the intelligence collection effort would result.

more

The President endorsed the objectives of the legislation proposed by the Senate Select Intelligence Committee to prohibit the assassination of foreign officials in peacetime.

The President also will meet with Congressional leaders to develop acceptable proposed legislation to control electronic surveillance in the United States and mail openings for foreign intelligence purposes.

ACTIONS ALREADY TAKEN

The following are examples of agency actions:

- . CIA directives implementing the recommendations of the Rockefeller Commission and other reforms have been issued internally.
- . NSA reform directives have been issued internally.
- . FBI guidelines are being drafted. Some have already been made public.

# # #

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

---

THE WHITE HOUSE

REMARKS OF THE PRESIDENT  
TO THE  
REGULATORY COMMITTEE FOR INTELLIGENCE

THE OVAL OFFICE

12:53 P.M. EST

Mr. Chairman, Mr. Ailes and Mr. Cherne:

I thank you, first of all, for taking on this responsibility, which I think is extremely significant in the reorganization of the intelligence community. As all three of you know, we told the intelligence community what they have to do on the one hand and what they can't do on the other hand.


We have sought to achieve accountability so that individuals in the various intelligence agencies will know precisely what their responsibilities are and to whom they are accountable. But, the main new addition -- which I think is fundamentally necessary -- is the oversight board.

You, Mr. Chairman and Steve and Earl, are to act as an independent auditor on what takes place within the intelligence community. You are not to be influenced by the White House on the one hand, and you are not to be influenced by the intelligence community on the other, and your responsibility is an independent area of responsibility.

I just want to thank the three of you. I know you bring together a good many years of Government service, but also dedication, to what is in the best interest of the country.

So, I am delighted that you would accept it, and I am confident that the role played by this board will be reassuring to the American people.

END (AT 12:56 P.M. EST)



MARCH 11, 1976

Office of the White House Press Secretary

---

THE WHITE HOUSE

The President today announced the appointment of seventeen persons as members of the President's Foreign Intelligence Advisory Board. They are:

Stephen Ailes, of Maryland, President and Chief Executive Officer, Association of American Railroads, Washington, D. C.

Admiral George W. Anderson, USN (Ret.), Washington, D. C. This is a reappointment.

Leslie C. Arends, of Melvin, Illinois, Retired Member of Congress, Melvin, Illinois.

William O. Baker, of Morristown, New Jersey, President, Bell Telephone Laboratories, Inc., Murray Hill, New Jersey. This is a reappointment.

William J. Casey, of Washington, D. C., Counsel to the law firm of Rogers and Wells, Washington, D. C.

Leo Cherne, of New York, New York, Executive Director, Research Institute of America, Inc., New York, New York.

John B. Connally, of Houston, Texas, Partner, law firm of Vinson, Elkins, Searls, Connally and Smith, Houston, Texas.

John S. Foster, Jr., of Palos Verdes Estates, California, Vice President, TRW Inc. and General Manager, Energy Systems Group, Palos Verdes Estates, California. This is a reappointment.

Robert W. Galvin, of Barrington, Illinois, Chairman of the Board and Chief Executive Officer, Motorola, Inc., Chicago, Illinois. This is a reappointment.

Gordon Gray, of the District of Columbia, Broadcast Executive and former Government Official, Washington, D. C.

Melvin R. Laird, of Maryland, Senior Counsellor, National and International Affairs, Reader's Digest Association, Inc., Washington, D. C.

(MORE)



Edwin H. Land, of Cambridge, Massachusetts, Chairman of the Board, Polaroid Corporation, Cambridge, Massachusetts. This is a reappointment.

General Lyman L. Lemnitzer, USA (Ret.) of Washington, D.C.

Clare Booth Luce, of Honolulu, Hawaii, Novelist; Playwright; Writer; and Lecturer, Honolulu, Hawaii. This is a reappointment.

Robert D. Murphy, of the District of Columbia, Honorary Chairman, Corning International Corporation, New York, New York.

Edward Teller, of Berkeley, California, Director at Large, Lawrence Livermore Laboratory, University of California, Livermore, California. This is a reappointment.

Edward Bennett Williams, of Potomac, Maryland, Senior Partner, Williams, Connolly and Califano, Washington, D.C.

The President today also announced his designation of Leo Cherne as Chairman of the Board.

The Board advises the President concerning the various activities making up the overall national intelligence effort. It also conducts a continuing review and assessment of foreign intelligence and related activities in which the Central Intelligence Agency and other Government departments and agencies are engaged. The Board reports to the President on its findings and makes appropriate recommendations.

# # #



Office of the White House Press Secretary

---

THE WHITE HOUSE

## STATEMENT BY THE PRESIDENT

Two weeks ago I announced to the Nation a comprehensive program to strengthen the foreign intelligence agencies of the United States Government. My actions were designed to achieve two basic objectives;

--First to ensure that we have the best possible information on which to base our policies toward other nations;

--And second, to ensure that our foreign intelligence agencies do not infringe on the rights of American citizens.

Today, as an additional part of this effort, I am announcing the expansion of my Foreign Intelligence Advisory Board. This Board was set up in 1956 in order to provide independent, nonpartisan advice on the effectiveness of the intelligence community in meeting the intelligence needs of the President. Since 1974, the Board has been composed of ten members, all of whom are private citizens.

I am announcing today that I am expanding the Board to 17 members, and I am appointing the following members to the Board:

Stephen Ailes  
Leslie C. Arends  
Admiral George W. Anderson  
William O. Baker  
William J. Casey  
Leo Cherne  
John B. Connally  
John S. Foster, Jr.

Robert W. Galvin  
Gordon Gray  
Melvin Laird  
Edwin H. Land  
General Lyman L. Lemnitzer  
Clare Booth Luce  
Robert Murphy  
Edward Teller  
Edward Bennett Williams

I am announcing my decision to have Leo Cherne serve as the new Chairman of the Board.

(MORE)



The intelligence needs of the '70's and beyond require the use of highly sophisticated technology. Furthermore, there are new areas of concern which demand our attention. No longer does this country face only military threats. New threats are presented in such areas as economic reprisal and international terrorism. The combined experience and expertise of the members of this Board will be an invaluable resource as we seek solutions to the foreign intelligence problems of today and the future.

In developing the Nation's offensive and defensive strategy to conduct foreign policy and provide for the national security, we must be able to deal with problems covering the broadest spectrum of activities.

By strengthening the Board as I have done today, and by giving the Board my full personal support, I fully anticipate that the Foreign Intelligence Advisory Board will continue its indispensable role in advising me on the effectiveness of our foreign intelligence efforts.

###

