

XVIII. SUMMARY: FINDINGS AND RECOMMENDATIONS

A. INTRODUCTION

The purpose of the Senate Select Committee's inquiry into the intelligence activities of the United States has been to determine what secret governmental activities are necessary and how they best can be conducted under the rule of law. There is unquestioned need to build a new consensus between the executive and legislative branches concerning the proper scope and purpose of foreign and military intelligence activities. Allegations of abuse, revelations in the press, and the results of the Committee's 15 month inquiry have underlined the necessity to restore confidence in the integrity of our nation's intelligence agencies.

The findings and recommendations which follow are presented in that spirit. They are, in essence, an agenda for remedial action by both the legislative and executive branches of the United States Government. There is an urgency to completing this schedule of action. This task is no less important to safeguarding America's future than are intelligence activities themselves.

The Committee's investigation and the body of its report seek, within the limits of prudence, to perform the crucial task of informing the American people concerning the nature and scope of their Government's foreign intelligence activities. The fundamental issue faced by the Committee in its investigation was how the requirements of American democracy can be properly balanced in intelligence matters against the need for secrecy. Secrecy is essential for the success of many important intelligence activities. At the same time, secrecy contributed to many of the abuses, excesses and inefficiencies uncovered by the Committee. Secrecy also makes it difficult to establish a public consensus for the future conduct of certain intelligence operations.

Because of secrecy, the Committee initially had difficulty gaining access to executive branch information required to carry out the investigation. It was not until the Committee became responsible for investigating allegations of assassination plots that many of the obstacles were cleared away. The resulting access by the Committee was in some cases unprecedented. But the Committee's access to documents and records was hampered nonetheless in a number of other instances either because the materials did not exist or because the executive branch was unwilling to make them available.

Secrecy was also a major issue in preparing this report. In order to safeguard what are now agreed to be necessary intelligence activities, the Committee decided not to reveal publicly the full and complete picture of the intelligence operations of the United States Government. The recommendations as a whole have not been materially affected by the requirements of secrecy, but some important findings of the Committee must remain classified in accordance with the Committee's policy of protecting valid secrets. In this connection it should be noted

that some information which in the Committee's opinion the American public should know remains classified and has been excluded from the report at the request of the intelligence community agencies. Only the Senate will receive the full version of the Committee's Final Report in accordance with the standing rules of the Senate.

In trying to reconcile the requirements of secrecy and open democratic processes, the Committee found itself with a difficult dilemma. As an investigating committee, it cannot take affirmative legislative action respecting some of the matters that came to its attention. On the other hand, because of necessary secrecy, the Committee cannot publicly present the full case as to why its recommendations are essential.

This experience underscores the need for an effective legislative oversight committee which has sufficient power to resolve such fundamental conflicts between secrecy and democracy. As stated previously, it is the Committee's view that effective congressional oversight requires the power to authorize the budgets of the national intelligence agencies. Without such authority, an oversight committee may find itself in possession of important secret information but unable to act effectively to protect the principles, integrity, and reputation of the United States.

The findings and recommendations which follow are organized principally by agency. There are, however, common themes in the recommendations which cut across agency lines. Some of these themes are: guarding against abuse of America's institutions and reputation; ensuring clear accountability for clandestine activities; establishing effective management of intelligence activities; and creating a framework of statutory law and congressional oversight for the agencies and activities of the United States intelligence community.

The Committee's recommendations fall into three categories: (1) recommendations that the Committee believes should be embodied in law; (2) recommendations to the executive branch concerning principles, practices, and policies which the Committee believes should be pursued within the executive's sphere of responsibilities; and (3) recommendations which should be taken into account by the executive branch in its relations with the intelligence oversight committee(s) of Congress.

B. GENERAL FINDINGS

The Committee finds that United States foreign and military intelligence agencies have made important contributions to the nation's security, and generally have performed their missions with dedication and distinction. The Committee further finds that the individual men and women serving America in difficult and dangerous intelligence assignments deserve the respect and gratitude of the nation.

The Committee finds that there is a continuing need for an effective system of foreign and military intelligence. United States interests and responsibilities in the world will be challenged, for the foreseeable future, by strong and potentially hostile powers. This requires the maintenance of an effective American intelligence system. The Committee has found that the Soviet KGB and other hostile intelligence services maintain extensive foreign intelligence operations, for both intelligence collection and covert operational purposes. These

activities pose a threat to the intelligence activities and interests of the United States and its allies.

The Committee finds that Congress has failed to provide the necessary statutory guidelines to ensure that intelligence agencies carry out their missions in accord with constitutional processes. Mechanisms for, and the practice of, congressional oversight have not been adequate. Further, Congress has not devised appropriate means to effectively use the valuable information developed by the intelligence agencies. Intelligence information and analysis that exist within the executive branch clearly would contribute to sound judgments and more effective legislation in the areas of foreign policy and national security.

The Committee finds that covert action operations have not been an exceptional instrument used only in rare instances when the vital interests of the United States have been at stake. On the contrary, presidents and administrations have made excessive, and at times self-defeating, use of covert action. In addition, covert action has become a routine program with a bureaucratic momentum of its own. The long-term impact, at home and abroad, of repeated disclosure of U.S. covert action never appears to have been assessed. The cumulative effect of covert actions has been increasingly costly to America's interests and reputation. The Committee believes that covert action must be employed only in the most extraordinary circumstances.

Although there is a question concerning the extent to which the Constitution requires publication of intelligence expenditures information, the Committee finds that the Constitution at least requires public disclosure and public authorization of an annual aggregate figure for United States national intelligence activities. Congress' failure as a whole to monitor the intelligence agencies' expenditures has been a major element in the ineffective legislative oversight of the intelligence community. The permanent intelligence oversight committee(s) of Congress should give further consideration to the question of the extent to which further public disclosure of intelligence budget information is prudent and constitutionally necessary.

At the same time, the Committee finds that the operation of an extensive and necessarily secret intelligence system places severe strains on the nation's constitutional government. The Committee is convinced, however, that the competing demands of secrecy and the requirements of the democratic process—our Constitution and our laws—can be reconciled. The need to protect secrets must be balanced with the assurance that secrecy is not used as a means to hide the abuse of power or the failures and mistakes of policy. Means must and can be provided for lawful disclosure of unneeded or unlawful secrets.

The Committee finds that intelligence activities should not be regarded as ends in themselves. Rather, the nation's intelligence functions should be organized and directed to assure that they serve the needs of those in the executive and legislative branches who have responsibility for formulating or carrying out foreign and national security policy.

The Committee finds that Congress has failed to provide the necessary statutory guidelines to ensure that intelligence agencies carry out their necessary missions in accord with constitutional processes.

In order to provide firm direction for the intelligence agencies, the Committee finds that new statutory charters for these agencies must be written that take account of the experience of the past three and a half decades. Further, the Committee finds that the relationship among the various intelligence agencies and between them and the Director of Central Intelligence should be restructured in order to achieve better accountability, coordination, and more efficient use of resources.

These tasks are urgent. They should be undertaken by the Congress in consultation with the executive branch in the coming year. The recent proposals and executive actions by the President are most welcome.¹ However, further action by Congress is necessary.

C. THE 1947 NATIONAL SECURITY ACT AND RELATED LEGISLATION

The National Security Act of 1947² is no longer an adequate framework for the conduct of America's intelligence activities. The 1947 Act, preoccupied as it was with the question of military unification, failed to provide an adequate statement of the broad policy and purposes to be served by America's intelligence effort. The Committee found that the 1947 Act constitutes a vague and open-ended statement of authority for the President through the National Security Council. Neither espionage, covert action, nor paramilitary warfare is explicitly authorized by the 1947 Act. Nonetheless, these have come to be major activities conducted by the Central Intelligence Agency, operating at the direction of the President through the National Security Council. In contrast, the 1947 Act's specific charge to the Director of Central Intelligence (DCI) to coordinate national intelligence has not been effectively realized.

In addition to this broad concern, the Committee found that the 1947 Act does not provide an adequate charter for the Central Intelligence Agency. Moreover, no statutory charter exists for other key intelligence agencies: the National Security Agency and the Defense Intelligence Agency. Nor does the Act create an overall structure for intelligence which ensures effective accountability, management control, and legislative and executive oversight.

Finally, the 1947 Act fails to establish clear and specific limits on the operation of America's intelligence organizations which will help ensure the protection of the rights and liberties of Americans under the Constitution and the preservation of America's honor and reputation abroad. The need for such limits is a need for legislation. The need is not satisfied by the President's recent proposals and Executive Order.

*Recommendations*³

1. The National Security Act should be recast by omnibus legislation which would set forth the basic purposes of national intelligence activities, and define the relationship between the Congress and the intelligence agencies of the executive branch. This revision should be given the highest priority by the intelligence oversight committee(s) of Congress, acting in consultation with the executive branch.

¹ Executive Order 11905, 2/18/76.

² 50 U.S.C. 401 *et seq.*

³ See recommendations on this subject in the Committee's Report on Intelligence Activities and Rights of Americans.

2. The new legislation should define the charter of the organizations and entities in the United States intelligence community. It should establish charters for the National Security Council, the Director of Central Intelligence, the Central Intelligence Agency, the national intelligence components of the Department of Defense, including the National Security Agency and the Defense Intelligence Agency, and all other elements of the intelligence community, including joint organizations of two or more agencies.

3. This legislation should set forth the general structure and procedures of the intelligence community, and the roles and responsibilities of the agencies which comprise it.

4. The legislation should contain specific and clearly defined prohibitions or limitations on various activities carried out by the respective components of the intelligence community.

D. THE NATIONAL SECURITY COUNCIL AND THE OFFICE OF THE PRESIDENT

The National Security Council (NSC) is an instrument of the President and not a corporate entity with authority of its own. The Committee found that in general the President has had, through the National Security Council, effective means for exerting broad policy control over at least two major clandestine activities—covert action⁴ and sensitive technical collection. The covert American involvement in Angola and the operations of the *Glomar Explorer* are examples of that control in quite different circumstances, whatever conclusions one draws about the merits of the activities. The Central Intelligence Agency, in broad terms, is not “out of control.”

The Committee found, however, that there were significant limits to this control:

1. *Clandestine Activities*

—The degree of control and accountability exercised regarding covert action and sensitive collection has been a function of each particular President’s willingness to use these techniques.

—The principal NSC vehicle for dealing with clandestine activities, the 40 Committee and its predecessors, was the mechanism for reviewing and making recommendations regarding the approval of major covert action projects. However, this body also served generally to insulate the President from official involvement and accountability in the approval process until 1974.⁵

—As high-level government officials, 40 Committee members have had neither the time nor inclination to adequately review and pass judgment on all of the literally hundreds of covert action projects. Indeed, only a small fraction of such projects (those which the CIA regards as major or sensitive) are so approved and/or reviewed. This

⁴ See definition, p. 141.

⁵ Appendix D. Senate Select Committee Hearings, Vol. 7, p. 230.

In 1974 the Hughes-Ryan Amendment (22 USC, 2422, section 662) was enacted. It provides that no funds appropriated under the Foreign Assistance Act or any other act may be expended by or on behalf of CIA foreign operations other than for obtaining necessary intelligence “unless and until the President finds that each such operation is important to the national security of the United States and reports, in a timely fashion, a description and scope of such operation to the appropriate committees of the Congress . . .”

problem is aggravated by the fact that the 40 Committee has had virtually no staff, with only a single officer from the Clandestine Services acting as executive secretary.

—The process of review and approval has been, at times, only general in nature. It sometimes has become *pro forma*, conducted over the telephone by subordinates.

—The President, without consulting any NSC mechanism, can exercise personal direction of clandestine activities as he did in the case of Chile in 1970.

—There is no systematic White House-level review of either sensitive foreign espionage or counterintelligence activities. Yet these operations may also have a potential for embarrassing the United States and sometimes may be difficult to distinguish from covert action operations. For example, a proposal to recruit a high foreign government official as an intelligence “asset” would not necessarily be reviewed outside the Central Intelligence Agency at the NSC level, despite the implications that recruitment might pose in conducting American foreign relations. Similarly, foreign counterintelligence operations might be conducted without any prior review at the highest government levels. The Committee found instances in the case of Chile when counterintelligence operations were related to, and even hard to distinguish from, the program of covert action.

—The President’s proposals to upgrade the 40 Committee into the Operations Advisory Group and to give explicit recognition to its role in advising the President on covert activities are desirable. That upgrading, however, will strain further the Group’s ability to conduct a systematic review of sensitive clandestine operations. Under the new structure, the Group members are cabinet officers who have even less time than their principal deputies, who previously conducted the 40 Committee’s work. The Group’s procedures must be carefully structured, so that the perspective of Cabinet officers can in fact be brought to bear.

2. Counterintelligence

—There is no NSC-level mechanism for coordinating, reviewing or approving counterintelligence activities in the United States, even those directed at United States citizens, despite the demonstrated potential for abuse. Both the FBI and the CIA are engaged in counterintelligence, with the CIA operating primarily abroad. The Committee found frictions between the two agencies over the last thirty-five years. The so-called Huston Plan, discredited because of its excessive scope and patent illegalities, was justified in part as a response to the need for improved CIA–FBI coordination. At the same time, the Huston Plan episode illustrates the questions of propriety and legality which may arise in counterintelligence operations conducted in the United States or involving American citizens.

3. Coordination and Resource Allocation

—The Director of Central Intelligence has been assigned the function of coordinating the activities of the intelligence community, ensuring its responsiveness to the requirements for national intelligence, and for assembling a consolidated national intelligence budget. Until the recent establishment of the Committee on Foreign Intelligence (CFI), there was no effective NSC-level mechanism for any of these purposes. The Committee believes that the CFI is a step in the right direction and is to be commended. However, the language of the Presi-

dential Order is such that much will depend on how the order is in fact implemented. "Manage" and "coordinate" are terms that are general in nature and have proven to be so in matters of intelligence. Because the CFI was formed only recently, questions remain about its operation and its relation to the DCI's current responsibilities and to the existing authority of the Secretary of Defense.

Moreover, the Committee notes that a major collector and consumer of intelligence information, the Department of State, is not represented on the CFI. It should be. Other agencies with an important stake in intelligence, such as the Department of the Treasury, the Energy Resources Development Administration, and the Arms Control and Disarmament Agency should play an appropriate role in the CFI on an ad hoc basis.

4. Executive Oversight

—The Committee finds that Presidents have not established specific instruments of oversight to prevent abuses by the intelligence community. In essence, Presidents have not exercised effective oversight.

—The President's Foreign Intelligence Advisory Board (PFIAB) has served Presidents as a useful "Kitchen Cabinet" for intelligence and related matters. It has carried out studies that have resulted in useful changes in procedure and emphasis within the intelligence community, as well as in the adoption of new technologies and techniques. At the same time, the Committee has found that any expectations that PFIAB would serve as an independent watchdog have been mistaken. The PFIAB has been given neither statutory nor Presidential authority to serve such a function. For instance, when the Board became aware of the Huston Plan, it asked the Attorney General and the Director of the FBI for a copy of the plan. That request was refused, and the Board did not pursue the matter with the White House.

—The Committee finds the President's recent establishment of the Intelligence Oversight Board to be long overdue. In the Committee's opinion, however, this does not eliminate the need for vigorous congressional oversight. Moreover, the Order is broadly phrased and at some points ambiguous. The effectiveness of the Oversight Board, as well as the rest of the President's reforms, will depend in large measure on the details of their implementation.

The Committee makes the following recommendations concerning the National Security Council and the Office of the President. These recommendations are designed to support and extend the measures taken recently by the President.

Recommendations

5. By statute, the National Security Council should be explicitly empowered to direct and provide policy guidance for the intelligence activities of the United States, including intelligence collection, counterintelligence, and the conduct of covert action.

6. By statute, the Attorney General should be made an advisor to the National Security Council in order to facilitate discharging his responsibility to ensure that actions taken to protect American national security in the field of intelligence are also consistent with the Constitution and the laws of the United States.

7. By statute, the existing power of the Director of Central Intelligence to coordinate the activities of the intelligence community

should be reaffirmed. At the same time, the NSC should establish an appropriate committee—such as the new Committee on Foreign Intelligence—with responsibility for allocating intelligence resources to ensure efficient and effective operation of the national intelligence community. This committee should be chaired by the DCI and should include representatives of the Secretary of State, the Secretary of Defense, and the Assistant to the President for National Security Affairs.⁶

8. By statute, an NSC committee (like the Operations Advisory Group) should be established to advise the President on covert action. It would also be empowered, at the President's discretion, to approve *all* types of sensitive intelligence collection activities. If an OAG member dissented from an approval, the particular collection activity would be referred to the President for decision. The Group should consist of the Secretary of State, the Secretary of Defense, the Assistant to the President for National Security Affairs, the Director of Central Intelligence, the Attorney General, the Chairman of the Joint Chiefs of Staff, and the Director of OMB, as an observer. The President would designate a chairman from among the Group's members.

9. The chairman of the Group would be confirmed by the Senate for that position if he were an official not already subject to confirmation. In the execution of covert action and sensitive intelligence collection activities specifically approved by the President, the chairman would enter the chain of command below the President.

10. The Group should be provided with adequate staff to assist in conducting thorough reviews of covert action and sensitive collection projects. That staff should not be drawn exclusively from the Clandestine Service of the CIA.

11. Each covert action project should be reviewed and passed on by the Group. In addition, the Group should review all on-going projects at least once a year.

12. By statute, the Secretary of State should be designated as the principal administration spokesman to the Congress on the policy and purpose underlying covert action projects.

13. By statute, the Director of Central Intelligence should be required to fully inform the intelligence oversight committee(s) of Congress of each covert action ⁷ prior to its initiation. No funds should be expended on any covert action unless and until the President certifies and provides to the congressional intelligence oversight committee(s) the reasons that a covert action is required by extraordinary circumstances to deal with grave threats to the national security of the United States. The congressional intelligence oversight committee(s) should be kept fully and currently informed on all covert action projects, and the DCI should submit a semi-annual report on all such projects to the committee(s).

14. The Committee recommends that when the Senate establishes an intelligence oversight committee with authority to authorize the na-

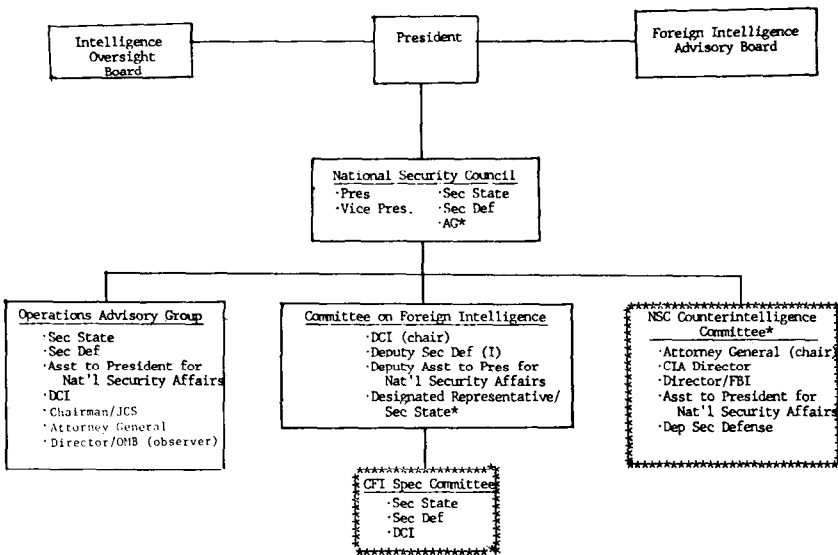
⁶ In effect, this recommendation would establish the President's proposed Committee on Foreign Intelligence in law but would include a representative of the Secretary of State. It would also empower the DCI to establish intelligence requirements. See Recommendation #16, p. 434.

⁷ A covert action meeting would consist of either a major project, or an aggregation of smaller projects meeting the standards of this paragraph.

tional intelligence budget, the Hughes-Ryan Amendment (22 USC, 2422) should be amended so that the foregoing notifications and presidential certifications to the Senate are provided only to that committee.

15. By statute, a new NSC counterintelligence committee should be established, consisting of the Attorney General as chairman, the Deputy Secretary of Defense, the Director of Central Intelligence, the Director of the FBI, and the Assistant to the President for National Security Affairs. Its purpose would be to coordinate and review foreign counterintelligence activities conducted within the United States and the clandestine collection of foreign intelligence within the United States, by both the FBI and the CIA. The goal would be to ensure strict conformity with statutory and constitutional requirements and to enhance coordination between the CIA and FBI.⁸ This committee should review the standards and guidelines for all recruitments of agents within the United States for counterintelligence or positive foreign intelligence purposes, as well as for the recruitment of U.S. citizens abroad. This committee would consider differences between the agencies concerning the recruitment of agents, the handling of foreign assets who come to the United States, and the establishment of the bona fides of defectors. It should also treat any other foreign intelligence or counterintelligence activity of the FBI and CIA which either agency brings to that forum for presidential level consideration.

EXECUTIVE COMMAND AND CONTROL/INTELLIGENCE ACTIVITIES



*Committee Recommendations

⁸ See related legislative proposals in the Committee's Report on Intelligence Activities and the rights of Americans.

E. THE DIRECTOR OF CENTRAL INTELLIGENCE

The 1947 National Security Act gave the DCI responsibility for "coordinating the intelligence activities of the several Government departments and agencies in the interest of national security." In addition, the DCI as the President's principal foreign intelligence adviser was given responsibility for coordinating and producing national intelligence for senior policymakers. However, the Committee found that these DCI responsibilities have often conflicted with the particular interests and prerogatives of the other intelligence community departments and agencies. They have not given up control over their own intelligence operations, and in particular the Department of Defense and the military services, which allocate 80 percent of the direct costs for national intelligence, have insisted that they must exercise direct control over peacetime intelligence activities to prepare for war. Thus, while the DCI was given responsibility under the 1947 act for intelligence community activities, he was not authorized to centrally coordinate or manage the overall operations of the community.

1. Coordinator of the Intelligence Community

The Committee has found that the DCI in his coordinator role has been unable to ensure that waste and unnecessary duplication are avoided. Because the DCI only provides guidance for intelligence collection and production, and does not establish requirements, he is not in a position to command the intelligence community to respond to the intelligence needs of national policymakers. Where the DCI has been able to define priorities, he has lacked authority to allocate intelligence resources—either among different systems of intelligence collection or among intelligence collection, analysis and finished intelligence production.

The Committee supports President Ford's objectives of enhancing the stature of the DCI and establishing a mechanism such as the Committee on Foreign Intelligence (CFI) with the DCI as chairman to control the allocation of national intelligence programs resources. The Committee questions, however, whether the CFI can be effective without some appropriate modification of the peacetime authority of the Secretary of Defense. In order to strike an appropriate balance between the requirements of national and tactical intelligence, the intelligence collected by national means should be readily available to the military commanders and vice versa, and the Secretary of Defense and the military services should retain direct control over the operations of tactical military intelligence. Nonetheless, the DCI needs the right to review tactical military intelligence operations in order to make budget choices between tactical and national intelligence activities. Moreover, to carry out his coordinating role, the DCI needs to retain control over major technical intelligence collection systems which service both tactical and national intelligence requirements.

2. Producer of National Intelligence

In the area of providing finished intelligence, the Committee discovered that the DCI, in his role as intelligence adviser, has faced obstacles in ensuring that his national intelligence judgments are objective and independent of department and agency biases. The Committee

has been particularly concerned with pressures from both the White House and the Defense Department on the DCI to alter his intelligence judgments. One example of such pressure investigated by the Committee occurred in the fall of 1969 when the DCI modified his judgment on the capability of the Soviet SS-9 system when it conflicted with the public position of Secretary of Defense Laird. After a meeting with staff of the Office of the Secretary of Defense, Director Helms deleted a paragraph from the draft of the National Intelligence Estimate on Soviet strategic forces which stated that within the next five years it was "highly unlikely" that the Soviets would attempt to achieve "a first strike capability, i.e., a capability to launch a surprise attack against the United States with assurance that the U.S.S.R. would not itself receive damage it would regard as unacceptable."

The Committee believes that over the past five years the DCI's ability to produce objective national intelligence and resist outside pressure has been reduced with the dissolution of the independent Board of National Estimates and the subsequent delegation of its staff to the departments with responsibility for drafting the DCI's national intelligence judgments.

In the end, the DCI must depend on his position as the President's principal intelligence adviser or on his personal relationship with the President to carry out his various responsibilities and to withstand pressures to compromise his intelligence judgments. Consequently, the Committee has been concerned that the DCI's proximity and access to the President has diminished over the years. Since 1969, at least until the confirmation of Mr. Bush, the DCI has rarely seen the President except at NSC meetings. The influence a DCI could have from a close relationship with the President has generally been lacking.

While President Ford's Executive Order is a step in the right direction, the Committee believes that the DCI's responsibility over intelligence community activities should be enhanced and spelled out clearly and in detail in statute. The Executive should not continue defining these responsibilities alone as it has done since 1947 through Executive Orders and National Security Council Intelligence Directives (NSCIDs).

The Committee believes that the Congress, in carrying out its responsibilities in the area of national security policy, should have access to the full range of intelligence produced by the United States intelligence community. The Committee further believes that it should be possible to work out a means of ensuring that the DCI's national intelligence judgments are available to the appropriate Congressional committees on a regular basis without compromising the DCI's role as personal adviser to the President.

Finally, the Committee has found concern that the function of the DCI in his roles as intelligence community leader and principal intelligence adviser to the President is inconsistent with his responsibility to manage one of the intelligence community agencies—the CIA. Potential problems exist in a number of areas. Because the DCI as head of the CIA is responsible for human clandestine collection overseas, interception of signals communication overseas, the development

and interception of technical collection systems, there is concern that the DCI as community leader is in "a conflict of interest" situation when ruling on the activities of the overall intelligence community.

The Committee is also concerned that the DCI's new span of control—both the entire intelligence community and the entire CIA—may be too great for him to exercise effective detailed supervision of clandestine activities.

Recommendations

16. By statute, the DCI should be established as the President's principal foreign intelligence adviser, with exclusive responsibility for producing national intelligence for the President and the Congress. For this purpose, the DCI should be empowered to establish a staff directly responsible to him to help prepare his national intelligence judgments and to coordinate the views of the other members of the intelligence community. The Committee recommends that the Director establish a board to include senior outside advisers to review intelligence products as necessary, thus helping to insulate the DCI from pressures to alter or modify his national intelligence judgments. To advise and assist the DCI in producing national intelligence, the DCI would also be empowered to draw on other elements of the intelligence community.

17. By statute, the DCI should be given responsibility and authority for establishing national intelligence requirements, preparing the national intelligence budget, and providing guidance for United States national intelligence program operations. In this capacity he should be designated as chairman of the appropriate NSC committee, such as the CFI, and should have the following powers and responsibilities:

a. The DCI should establish national intelligence requirements for the entire intelligence community. He should be empowered to draw on intelligence community representatives and others whom he may designate to assist him in establishing national intelligence requirements and determining the success of the various agencies in fulfilling them. The DCI should provide general guidance to the various intelligence agency directors for the management of intelligence operations.

b. The DCI should have responsibility for preparing the national intelligence program budget for presentation to the President and the Congress.⁹ The definition of what is to be included within that national intelligence program should be established by Congress in consultation with the Executive. In this capacity, the Director of Central Intelligence should be involved early in the budget cycle in preparing the budgets of the respective intelligence community agencies. The Director should have specific responsibility for choosing among the programs of the different collection and production agencies and departments and to insure against waste and unnecessary duplication. The DCI should also have responsibility for issuing fiscal guidance for the allocation of all national intelligence resources. The authority of the

⁹ [The DCI] shall: Ensure the development and submission of a budget for the National Foreign Intelligence Program to the CFI. (Executive Order 11905, Sec. 3(d)iii.)

DCI to reprogram funds within the intelligence budget should be defined by statute.¹⁰

c. In order to carry out his national intelligence responsibilities the DCI should have the authority to review all foreign and military intelligence activities and intelligence resource allocations, including tactical military intelligence which is the responsibility of the armed forces.¹¹

d. The DCI should be authorized to establish an intelligence community staff to support him in carrying out his managerial responsibilities. This staff should be drawn from the best available talent within and outside the intelligence community.

e. In addition to these provisions concerning DCI control over national intelligence operations in peacetime, the statute should require establishment of a procedure to insure that in time of war the relevant national intelligence operations come under the control of the Secretary of Defense.

18. By statute, the position of Deputy Director of Central Intelligence for the intelligence community should be established as recommended in Executive Order 11905. This Deputy Director should be subject to Senate confirmation and would assume the DCI's intelligence community functions in the DCI's absence. Current provisions regarding the status of the DCI and his single deputy should be extended to cover the DCI and both deputies. Civilian control of the nation's intelligence is important; only one of the three could be a career military officer, active or retired.

19. The Committee recommends that the intelligence oversight committee(s) of Congress consider whether the Congress should appropriate the funds for the national intelligence budget to the DCI, rather than to the directors of the various intelligence agencies and departments.

20. By statute, the Director of Central Intelligence should serve at the pleasure of the President but for no more than ten years.

21. The Committee also recommends consideration of separating the DCI from direct responsibility over the CIA.¹²

F. THE CENTRAL INTELLIGENCE AGENCY

1. The Charter for Intelligence Activities: Espionage, Counterintelligence and Covert Action

The Committee finds that the CIA's present charter, embodied in the National Security Act of 1947, the CIA Act of 1949, and the 1974 Hughes-Ryan amendments to the Foreign Assistance Act, is inadequate in a number of respects.

¹⁰ "Reprogramming" means shifting money previously approved for one purpose to another use; for instance, from clandestine human collection to technical collection or covert action.

¹¹ In contrast to President Nixon's 1971 letter to Director Helms which asked the DCI to plan and review ". . . all intelligence activities including tactical intelligence and the allocation of all intelligence resources," President Ford's Executive Order 111905 states that ". . . neither the DCI nor the CFI shall have responsibility for tactical intelligence."

¹² See discussion on pp. 449-450.

While the legislative history of the 1947 Act makes clear that the CIA's mandate would be limited to "foreign intelligence," the Act itself does not so specify. Covert action, in the past a major CIA activity, is not mentioned in the 1947 Act, although the Act contains a vague and open-ended authorization for the National Security Council to direct the CIA to undertake "such other functions and duties related to the intelligence affecting the national security as the NSC may from time to time direct."¹³ No explicit authority even to collect intelligence is provided the Agency.

The restrictions on domestic activities in the 1947 Act were not clearly defined, nor was the potential conflict between these limits and the Director's authority to protect "sources and methods" of intelligence gathering resolved. Neither did the 1947 Act set forth the Agency's role in conducting counterintelligence and in collecting foreign intelligence.

The Congress' confusing and ill-defined charge to the Agency in these areas resulted in conflicts of jurisdiction with other government agencies. The lack of legislative specificity also opened the way to domestic activities such as Operation CHAOS¹⁴ which clearly went beyond Congress' intent in enacting and amending the National Security Act. In sum, the Committee finds that a clear statutory basis is needed for the Agency's conduct abroad of covert action, espionage, counterintelligence and foreign intelligence collection and for such counterespionage operations within the United States as the Agency may have to undertake as a result of the activities abroad.¹⁵

Foreign Espionage

Espionage is often equated with the slightly broader category of "clandestine human collection." Although "clandestine human collection" may include collection of public information by a covert source, espionage centers on recruiting and handling agents to acquire "protected" or "denied" information.

Espionage on behalf of the United States Government is primarily the responsibility of the Central Intelligence Agency's Clandestine Service which operates on a world-wide basis. The Clandestine Service—officially, the Directorate of Operations—is responsible for CIA clandestine human collection, espionage, covert action, paramilitary operations and counterintelligence. The CIA also has special responsibilities for coordinating the military services' limited espionage activities abroad.

By CIA doctrine, espionage should be aimed at securing information others wish to conceal and not at collecting information available through diplomatic channels or from public sources, such as the press, television and radio.

The Clandestine Service regards espionage, rather than covert action and other such activities, as the essence of its mission. Indeed, the Committee found that clandestine human intelligence collection is often considered a prerequisite as well as a precursor of successful covert action, paramilitary activity, and counterintelligence.

¹³ Appendix B, Hearings, Vol. 7, p. 210.

¹⁴ See the Committee's detailed report on Project CHADS.

¹⁵ See the Committee's Report on Domestic Intelligence, Part IV, for recommended limitations on such activity.

Espionage targets vary, covering political, military and economic information wherever we perceive a national interest. Espionage involves a variety of techniques, ranging from technical surveillance, break-ins and theft, to human reporting by controlled agents, paid and unpaid of protected information. It is generally illegal in the countries against which it is aimed, but its widespread practice by nation states makes the status of espionage under international law ambiguous.

Covert action, which is designed to have an impact, differs from clandestine collection and classic espionage, which are designed to obtain intelligence without affecting the source or revealing the fact that the information has been collected. In practice, however, covert action and espionage overlap, since they rely on the same CIA officers, foreign intermediaries, and sources of information.¹⁶

The Committee believes that the United States cannot forego clandestine human collection and expect to maintain the same quality of intelligence on matters of the highest importance to our national security. Technical collection systems do not eliminate the usefulness of espionage in denied areas (essentially the communist countries). Agent intelligence can help provide valuable insight concerning the motivations for activities or policies of potential adversaries, as well as their future intentions.

Nevertheless, the Committee found that there are certain inherent limitations to the value of clandestine sources. Espionage information tends to be fragmentary, and there is always some question as to the trustworthiness and reliability of the source.

The Committee found that over the last decade, the size of the Clandestine Service has been reduced significantly, particularly in the field. However, there remains the question of whether the complements abroad and at headquarters have been reduced sufficiently.

The Committee found that the CIA's clandestine collection effort has been reoriented towards denied areas and away from internal political and security developments in the Third World. The Committee believes that this changed emphasis is desirable and welcomes it.

The Committee found that while internal supervision of espionage within the CIA appears sufficient, there is inadequate external review and control over CIA espionage activities. There is no effective machinery to ensure that the Secretaries of States and Defense and the Assistant to the President for National Security Affairs, who are knowledgeable about the value and limitations of espionage, systematically participate directly in decisions concerning such issues as how large our espionage effort should be, the relative priorities, risk assessments, and possible duplication of effort between overt and clandestine human collection.

The Committee notes that the duplication between the CIA's Clandestine Service and the State Department's overt Foreign Service reporting appears to have diminished in recent years. However, William Colby when he was DCI voiced concern that the problem had not been solved. The Committee notes that increased collection efforts regarding economic issues may aggravate the overlap problem.

¹⁶ Senate Select Committee, "Covert Action in Chile." p. 6ff.

Foreign Intelligence Collection in the United States

The CIA engages in both overt and clandestine activity within the United States for the purpose of foreign intelligence collection. The Domestic Collection Division (DCD) is responsible primarily for overt collection, while the Foreign Resources Division (FRD) manages clandestine collection of foreign intelligence. Both divisions are currently within the Directorate of Operations. Formerly run and staffed by the Directorate of Intelligence, the DCD was moved to Operations in 1973 and now has many clandestine services officers assigned to it.

The Domestic Collection Division openly collects foreign intelligence information from American citizens on a wide variety of subjects, primarily of an economic and technological nature. The Domestic Collection Division currently maintains contact with tens of thousands of American citizens who, on a confidential basis, volunteer information of intelligence value to the United States. The Committee notes that the Central Intelligence Agency is *overtly* in contact with many members of the American academic community to consult with them on the subjects of their expertise. On occasion, at the request of the academic concerned, these contacts are confidential.

The Committee believes there are significant benefits to both the government and the universities in such contacts and that they should not be discouraged. The Committee sees no danger to the integrity of American academic institutions in continuing such overt contacts.

The Domestic Collection Division operates from 38 offices around the United States and lists itself in local telephone directories, although it conducts its business as discretely as possible.

*The Foreign Resources Division (FRD) performs its functions in a more traditional operational manner much as it is done overseas; foreign nationals of special interest, located in the United States, are enlisted to cooperate secretly with the CIA abroad. FRD's activity, which takes place throughout the United States, is carried out by some of CIA's very best personnel. In the performance of its job, FRD maintains contact with a large number of Americans who are witting of its mission and willing to be cooperative. There are also a number of Americans who are not aware that they are participating in such CIA activities.*¹⁷

The Committee believes that the activities of the Foreign Resources Division and the Domestic Collection Division make an important and useful contribution to the overall intelligence effort; however, there are significant problems.

The Committee found that the Domestic Collection Division, subsidiary to its overt role, supports the clandestine components of the CIA. It provides such services as re-settling defectors, and, by drawing on DCD's extensive contacts in the U.S., reports leads regarding foreign nationals who could prove useful abroad or U.S. firms whose offices abroad could help the CIA.

The Committee is concerned that this kind of assistance provided by the Domestic Collection Division, if not closely watched, could lead to an exploitation of cooperating Americans beyond that which

¹⁷ For explanation of italics, see footnote, p. 179.

*they, themselves, envisioned or beyond these limited CIA objectives.*¹⁸

The Committee notes that due to the recent revelations about CIA activities, some foreign intelligence sources are shying away from cooperation with the Domestic Collection Division, thus impeding this division's most important function, namely, the overt collection of foreign intelligence.

The Committee also questions the recruiting, for foreign espionage purposes, of immigrants desiring American citizenship, because it might be construed as coercive.

*Foreign Counterintelligence*¹⁹

Counterintelligence is defined quite broadly by the CIA. It includes the knowledge needed for the protection and preservation of the military, economic, and productive strength of the United States, as well as the government's security in domestic and foreign affairs, against or from espionage, sabotage, and subversion designed to weaken or destroy the United States.

Counterintelligence (CI) is a special form of intelligence activity, aimed at discovering hostile foreign intelligence operations and destroying their effectiveness. It involves protecting the United States Government against infiltration by foreign agents, as well as controlling and manipulating adversary intelligence operations. An effort is made to discern the plans and intentions of enemy intelligence services and to deceive them about our own.

The Committee finds that the threat from hostile intelligence services is real. In the United States alone, well over a thousand Soviet officials are on permanent assignment. Among these, over 40 percent have been identified as members of the KGB or GRU, the Soviet civilian and military intelligence units, respectively. Estimates for the number of *unidentified* Soviet intelligence officers raise this figure to over 60 percent and some defector sources have estimated that 70 percent to 80 percent of Soviet officials in the United States have some intelligence connection.

Furthermore, the number of Soviets with access to the United States has tripled since 1960, and is still increasing. In 1974, for example, over 200 Soviet ships with a total crew complement of 13,000 officers and men visited this country. Some 4,000 Soviets entered the United States as commercial or exchange visitors in 1974. In 1972-1973, for example, approximately one third of the Soviet exchange students here for the academic year under the East-West student exchange program were cooperating with the KGB, according to the Central Intelligence Agency.

Other areas of counterintelligence concern include the sharp increase in the number of Soviet immigrants to the United States (4,000 in 1974 compared to fewer than 500 in 1972); the rise in East-West commercial exchange visitors (from 641 in 1972 to 1,500 in 1974); and the growing number of officials in this country from other Communist bloc nations (from 416 in 1960 to 798 in 1975).

Both the FBI and the CIA are engaged in counterintelligence work. The CIA operates primarily abroad. Within the United States the

¹⁸ *Ibid.*

¹⁹ See also the Select Committee Report on CHAOS and the counterintelligence recommendations in the committee's Report on Domestic Intelligence Activities and the Rights of Americans, Part IV.

counterintelligence mission is conducted by the FBI, except when the CIA, in consultation with the FBI, continues activities begun abroad.

Defectors are an important source of counterintelligence. Within the United States, the interrogation of defectors is primarily the responsibility of the FBI, though the CIA may also participate. Sometimes, however, the bona fides of a defector are disputed between the CIA and the FBI and there is no established interagency mechanism for settling such disputes—which may last for years. An incident in which a defector was held in so-called “incommunicado interrogation” for two years was, in part, a result of the lack of such a mechanism.²⁰

Liaison among the various U.S. Government counterintelligence units at home is particularly important, because counterintelligence—with all its intricacies and deceptions—requires coordination among agencies and sharing of records. Unlike the totally unified KGB organization, the American intelligence service is fragmented and depends upon liaison to make operations more effective.

Coordination between CIA and FBI counterintelligence units is especially critical. The history of CIA-FBI liaison has been turbulent, though a strong undercurrent of cooperation has usually existed at the staff level since 1952 when the Bureau began sending a liaison person to the CIA on a regular basis. The sources of friction between the CIA and FBI in the early days revolved around such matters as the frequent unwillingness of the Bureau to collect positive intelligence for the CIA within the United States or to help recruit foreign officials in this country.

In 1970 an essentially minor incident resulted in an order from FBI Director Hoover to discontinue FBI liaison with the Central Intelligence Agency. Although informal communications between CIA and FBI staff personnel continued, it was not until the post-Hoover era that formal liaison relations were reestablished. Today, there is still a need for closer coordination of FBI and CIA counterintelligence efforts.

The Committee believes that counterintelligence requires the direct attention of Congress and the executive for three reasons: (1) two distinct and partly incompatible approaches to counterintelligence have emerged and demand reconciliation; (2) recent evidence suggests that FBI counterespionage results have been less than satisfactory; and (3) counterintelligence has infringed on the rights and liberties of Americans.

Disagreement over the approach to counterintelligence affects all aspects of this activity—compartmentation, method of operation, security, research priorities, deception activities, and liaison. The Committee found that there has been no high-level executive branch review of the classified issues surfaced in this important disagreement.

The Committee also found that there is no system of clearance outside the CIA or FBI for sensitive counterespionage operations,

²⁰ Recommendation 14 is based, in part, on these findings.

despite the difficulty of distinguishing some of these operations from covert action.

On the FBI contribution to counterintelligence, testimony before the Committee reveals that the Bureau has given insufficient priority to discovering and controlling foreign agents within the United States. Insufficient manpower in the counterintelligence field, especially highly trained analysts, appears to be part of the problem.

Recommendations

22. By statute, a charter should be established for the Central Intelligence Agency which makes clear that its activities must be related to foreign intelligence. The Agency should be given the following missions:

- The collection of denied or protected foreign intelligence information.²³
- The conduct of foreign counterintelligence.²⁴
- The conduct of foreign covert action operations.
- The production of finished national intelligence.

23. The CIA, in carrying out foreign intelligence missions, would be permitted to engage in relevant activities within the United States so long as these activities do not violate the Constitution nor any federal, state, or local laws within the United States.²⁵ The Committee has set forth in its Domestic Recommendations proposed restrictions on such activities to supplement restrictions already contained in the 1947 National Security Act. In addition, the Committee recommends that by statute the intelligence oversight committee(s) of Congress and the proposed counterintelligence committee of the National Security Council be required to review, at least annually, CIA foreign intelligence activities conducted within the United States.²⁶

24. By statute, the Attorney General should be required to report to the President and to the intelligence oversight committee(s) of Congress any intelligence activities which, in his opinion, violate the Constitutional rights of American citizens or any other provision of law and the actions he has taken in response. Pursuant to the Committee's Domestic Recommendations, the Attorney General should be made responsible for ensuring that intelligence activities do not violate the Constitution or any other provision of law.

25. The Committee recommends the establishment of a special committee of the Committee on Foreign Intelligence to review all foreign human intelligence collection activities. It would make recommendation activities. (See the committee's Report on Domestic Intelligence Activities and the Rights of Americans, Part IV.)

U.S. clandestine human collection operations and choices between overt and clandestine human collection. This committee would be

²³ This would not preclude the NSC from assigning appropriate overt collection functions to the CIA.

²⁴ The CIA would be excluded from any law enforcement or criminal investigation activities. (See the Committee's Report on Domestic Intelligence Activities and the Rights of Americans, Part IV.)

²⁵ *Ibid.*

²⁶ For recommended review requirements for covert action operations, see p. 26 ff.

composed of a representative of the Secretary of State as chairman, the other statutory members of the CFI, and others whom the President may designate.

26. The intelligence oversight committee(s) of Congress should carefully examine intelligence collection activities of the Clandestine Service to assure that clandestine means are used only when the information is sufficiently important and when such means are necessary to obtain the information.

27. The intelligence oversight committee(s) should consider whether:

- the Domestic Collection Division (overt collection operations) should be removed from the Directorate of Operations (the Clandestine Service), and returned to the Directorate of Intelligence;
- the CIA's regulations should require that the DCD's overt contacts be informed when they are to be used for operational support of clandestine activities;
- the CIA's regulations should prohibit recruiting as agents immigrants who have applied for American citizenship.

28. The President of the United States, in consultation with the intelligence oversight committee(s) of Congress, should undertake a classified review of current issues regarding counterintelligence. This review should form the basis for a classified Presidential statement on national counterintelligence policy and objectives, and should closely examine the following issues: compartmentation, operations, security, research, accountability, training, internal review, deception, liaison and coordination, and manpower.

2. CIA Production of Finished Intelligence

Intelligence production refers to the process (coordination, collation, evaluation, analysis, research, and writing) by which "raw" intelligence is transformed into "finished" intelligence for senior policy-makers. The finished intelligence product includes a daily report and summaries, as well as longer analytical studies and monographs on particular topics of policy interest. In the CIA, finished intelligence is produced by the Directorate of Intelligence and the Directorate of Science and Technology.

Certain problems and issues in the area of CIA intelligence production have come to the Committee's attention. The Committee believes these problems deserve immediate attention by both the executive branch and future congressional intelligence oversight bodies. These problems bear directly on the resources allocated to the production of finished intelligence, the personnel system, and the organizational structure of intelligence production.

The Committee recognizes that it is not the primary purpose of intelligence to predict every world event. Rather, the principal function of intelligence is to anticipate major foreign developments and changes in policies which bear on United States interests. Intelligence should also provide a deeper understanding of the behavior, processes, and long-term trends which may underlie sudden military and political developments.

The Committee wishes to emphasize that there is an important difference between an intelligence failure and a policy failure. The United States had intelligence on the possibility of a Turkish invasion of Cyprus in 1974. The problem of taking effective action to prevent such an invasion was a policy question and not an intelligence failure.

The Committee has received evidence that on some subjects, such as the current capability of the strategic and conventional forces of potential adversaries, U.S. intelligence is considered excellent. But in other areas, U.S. finished intelligence is viewed by policymakers as far from satisfactory in light of the total resources devoted to intelligence. On balance, the Committee found that the quality, timeliness, and utility of our finished intelligence is generally considered adequate, but that major improvement is both desirable and possible.

One issue examined by the Committee is whether intelligence community elements responsible for producing finished intelligence receive adequate attention and support. Production is, in the words of one observer, "the stepchild of the intelligence community." Since finished intelligence is a principal purpose of all United States intelligence activities, the Committee finds that this neglect of finished intelligence is unacceptable for the future.

Intelligence resources are overwhelmingly devoted to intelligence collection. The system is inundated with raw intelligence. The individual analysts responsible for producing finished intelligence has difficulty dealing with the sheer volume of information. Policymakers want the latest reports, and producers of finished intelligence often have to compete with the producers of raw intelligence for policymakers' attention. In a crisis situation, analysts tend to focus on the latest piece of evidence at the expense of a longer and broader view. Intelligence Community staff saw this tendency as one reason why the Cyprus coup in July 1974 was not foreseen.

The Intelligence Community staff in its post-mortem on the 1974 Cyprus crisis noted another general analytical problem which was involved in the failure to anticipate the Cyprus coup and the Arab attack on Israeli forces in October of 1973: "the perhaps subconscious conviction (and hope) that, ultimately, reason and rationality will prevail, that apparently irrational moves (the Arab attack, the Greek sponsored coup) will not be made by essentially rational men."

An additional area of the Committee's concern is that analysts are often not informed in a timely way of national policies and programs which affect their analyses and estimates. In its examination of cases involving Cambodia and Chile in the 1970s, the Committee encountered evidence that the analysts were so deprived.

Another issue uncovered by the Committee is whether the highest quality personnel are recruited into the CIA analytical staff. Among the problems raised:

- Analysts tend to be hired early in their careers, and stay in the Agency throughout their careers. The nature of their work tends to insulate them from other useful experiences.
- The analysts career pattern rewards most analyst by promoting them to supervisory positions thereby reducing the time available to utilize their analytical skills.

- Some analysts complain that there are too many steps in the process for reviewing finished intelligence—too much bureaucratic “layering” in the analytical components. With each successive level of review, the analysis and commentary tend to become increasingly derivative.
- There has been little lateral entry of established analysts and intelligence experts into CIA ranks to leaven the outlook, interests and skills of the Agency’s intelligence analysts.²⁷

A final issue raised by the Committee’s investigation of intelligence production is whether the new organizational structure proposed by the President will assure the appropriate stature for the Directorate of Intelligence to help overcome existing problems in the production of finished intelligence. Instead of reporting directly to the DCI (who is still to be the President’s chief intelligence adviser), CIA analysts may well report through the Deputy for the CIA. Experience indicates that the new Deputy will need to devote the bulk of his time to managing the Clandestine Services and the Directorate for Science and Technology. At the same time, the DCI may be preoccupied with greater community-wide management responsibilities. Without some further restructuring, the Committee believes that the production of finished intelligence may be lost in the shuffle.

Recommendations

29. By statute, the Director of the Directorate of Intelligence (DDI) should be authorized to continue to report directly to the Director of Central Intelligence.

30. The Committee recommends that a system be devised to ensure that intelligence analysts are better and more promptly informed about United States policies and programs affecting their respective areas of responsibility.

31. The Central Intelligence Agency and the intelligence oversight committee(s) of Congress should reexamine the personnel system of the Directorate of Intelligence with a view to providing a more flexible, less hierarchical personnel system. Super-grade positions should be available on the basis of an individual’s analytical capabilities.

32. The Directorate for Intelligence should seek to bring more established analysts into the CIA at middle and upper grade levels for both career positions and temporary assignments.

33. Greater emphasis should be placed on stimulating development of new tools and methods of analysis.

34. Agency policy should continue to encourage intelligence analysts to assume substantive tours of duty on an open basis in other agencies (State, Defense, NSC staff) or in academic institutions to broaden both their analytical outlook and their appreciation for the relevance of their analysis to policymakers and operators within the Government.

²⁷ In FY 1975, only 18 out of 105 analysts hired by the DDI from outside the CIA were at grades GS-12 to GS-15.

3. Covert Action and Paramilitary Operations

Covert action is the attempt to influence the internal affairs of other nations in support of United States foreign policy in a manner that conceals the participation of the United States Government. Covert action includes political and economic action, propaganda and paramilitary activities.

The basic unit of covert action is the project. Covert action "projects" can range from single assets, such as a journalist placing propaganda, through a network of assets working in the media, to major covert and military intervention such as in Laos. The Agency also maintains what it terms an "operational infrastructure" of "stand-by" assets (agents of influence or media assets) who can be used in major operations—such as in Chile. These "stand-by" assets are also part of on-going, most often routine, projects. There are no inactive assets.

Covert Action

The Committee has found that the CIA has conducted some 900 major or sensitive covert action projects plus several thousand smaller projects since 1961. The need to maintain secrecy shields covert action projects from the rigorous public scrutiny and debate necessary to determine their compatibility with established American foreign policy goals. Recently, a large-scale covert paramilitary operation in Angola was initiated without any effort on the part of the executive branch to articulate, and win public support for, its overall policy in Africa. Only public disclosure has allowed the nation to apply its standards of success or failure to covert action projects and then only in retrospect, often without the benefit of the details prompting the original choice of covert rather than overt action.

The secrecy covert action requires means that the public cannot determine whether such actions are consistent with established foreign policy goals. This secrecy also has allowed covert actions to take place which are inconsistent with our basic traditions and values.

Some covert operations have passed retrospective public judgments, such as the support given Western European democratic parties facing strong communist opposition in the late 1940s and 1950s. Others have not. In the view of the Committee, the covert harassment of the democratically elected government of Salvador Allende in Chile did not command U.S. public approval.

Even if the short-term consequences of covert action are consistent with stated policy and accepted standards, the Committee has found that the continued use of covert action techniques within or against a foreign society can have unintended consequences that sometimes subvert long-term goals. For instance, extended covert support to foreign political leaders, parties, labor unions, or the media has not always accomplished the intended objective of strengthening them against the communist challenge. In some cases, it has both encouraged a debilitating dependence on United States covert support, and made those receiving such support vulnerable to repudiation in their own society when their covert ties are exposed. Furthermore, prolonged covert relations and the resulting dependence of recipients on con-

tinued CIA support seem to encourage the CIA to extend its ties to means of controlling the recipients in other respects. Covert actions also have, over time, developed a bureaucratic momentum of their own that often surpasses the original need for covert action.

Paramilitary Operations

Covert paramilitary operations are a special, extreme form of covert action. These operations most often consist of covert military assistance and training, but occasionally have involved actual combat activities by American advisers.

Because military assistance involves foreign policy commitments, it is, with one exception, authorized by the Congress. That exception is *covert* military assistance which is channeled through the CIA without being authorized or approved by the Congress as a whole.

Covert U.S. paramilitary combat operations frequently amount to making war, but they do not come under the War Powers Act since they usually do not involve *uniformed* U.S. military officers. American military officers engaged in CIA-sponsored paramilitary operations are "sheep-dipped" for paramilitary duty—that is, they appear to resign from the military yet preserve their place for reactivation once their tour as civilian in paramilitary operations has ended.

The Committee finds that major paramilitary operations have often failed to achieve their intended objective. Most have eventually been exposed. Operations, as in Angola, recently, and Indonesia in the late 1950s are examples of such paramilitary failures. Others, such as Laos, are judged successes by the CIA and officials within the executive branch. The "success" in Laos, however, must be seen against the larger American involvement in Indochina which failed.

Paramilitary operations often have evolved into large-scale programs with a high risk of exposure (and thus embarrassment and/or failure). In some cases, the CIA has been used to undertake paramilitary operations simply because the Agency is less accountable to the public for highly visible "secret" military operations. In all cases considered by the Committee, command and control within the executive branch was rigorous. However, all such operations have been conducted without direct congressional authority or public debate. In recent years, some have been continued in the face of strong congressional disapproval.

Recently, however—apart from Angola—United States paramilitary activities have been at a very low level. The capability for these actions, residing jointly in the CIA and the Department of Defense, consists of a cadre of trained officers, stockpiles of military equipment, logistic networks and small collections of air and maritime assets.

Review and Approval of Covert Action

Given the open and democratic assumptions on which our government is based, the Committee has given serious consideration to the option of proposing a total ban on all forms of covert activity. The Committee has concluded, however, that the United States should maintain the capability to react through covert action when no other means will suffice to meet extraordinary circumstances involving grave

threats to U.S. national security. Nevertheless, covert action should be considered as an exception to the normal process of government action abroad, rather than a parallel but invisible system in which covert operations are routine.

Absent some means of assuring public participation in assessing each covert action, the mechanisms of executive branch review and control and of legislative intelligence oversight must serve as the restricted arenas in which such standards are applied to covert action. The Committee's examination of the covert action record over the last 25 years has underscored the necessity for legislative reinforcement of the executive branch's internal review process. This is necessary to assure that all covert action projects are reviewed, and to establish a system of formal accountability within the executive accessible to congressional intelligence oversight bodies.

The CIA has not been free, however, to carry out covert action as it sees fit. The Committee's investigation revealed that on the whole, the Agency has been responsive to internal and external review and authorization requirements. Most of the significant covert operations have been approved by the appropriate NSC committee. At the same time, the Committee notes that approval outside the Agency does not solve all problems since the NSC committees have approved (and in some cases *initiated*) projects that involved highly improper practices or were inconsistent with declared foreign policies.

Approximately three-fourths of all covert action projects are never reviewed or approved by a high level body outside the CIA.²⁸ These projects which are not brought before the NSC for review are so-called "non-sensitive" projects, or part of what the CIA calls its "operational infrastructure." The Committee found that a single small project, though not reviewed by the NSC, still can be of great importance (e.g. QJWIN, the CIA "executive action" assassination capability, and AMLASH, the Cuban officer being groomed to kill Fidel Castro). Moreover, a cluster of small projects can be aggregated to form a program of significance (e.g., Chile).

Until recently, Congress, through its committees, has failed to effectively oversee CIA covert action. Much of this flowed from the legitimate desire of the congressional oversight committees to maintain the security of covert action projects, but it also resulted from a hesitancy to challenge the President or to become directly involved in projects he deemed necessary. Covert paramilitary operations pose a special problem, since they cut across several functions (and committee jurisdictions) of Congress—namely, granting military assistance and making war.

Members of the congressional oversight committees are almost totally dependent on the executive branch for information on covert operations. The secrecy needed for these covert operations allows the executive to limit the information provided to the Congress and to use covert actions to avoid the open scrutiny and debate of the normal foreign policy procedures. While the Committee believes that the

²⁸ Since 1974, the President has had to certify all covert actions as important to the national security—treating smaller projects by certain broad categories.

executive should continue to have the initiative in formulating covert action, it also strongly believes that the appropriate oversight bodies of Congress should be fully informed prior to the initiation of such actions.

Congressional power over the purse can serve as the most effective congressional oversight tool if there is the courage and the will to exercise it. In addition to the regular budget for covert action, the Agency draws on a Contingency Reserve Fund for unanticipated projects. Any withdrawals from this fund require approval from the Office of Management and Budget and notification, within 48 hours, to the appropriate congressional committees. The Committee believes that the Contingency Fund can also provide one of the mechanisms by which Congress can effectively control covert action.

Recommendations

35. The legislation establishing the charter for the Central Intelligence Agency should specify that the CIA is the only U.S. Government agency authorized to conduct covert actions. The purpose of covert actions should be to deal with grave threats to American security. Covert actions should be consistent with publicly-defined United States foreign policy goals, and should be reserved for extraordinary circumstances when no other means will suffice. The legislation governing covert action should require executive branch procedures which will ensure careful and thorough consideration of both the general policies governing covert action and particular covert action projects; such procedures should require the participation and accountability of highest level policymakers.

36. The Committee has already recommended, following its investigation of alleged assassination attempts directed at foreign leaders, a statute to forbid such activities. The Committee reaffirms its support for such a statute and further recommends prohibiting the following covert activities by statute:

- All political assassinations.²⁹
- Efforts to subvert democratic governments.
- Support for police or other internal security forces which engage in the systematic violation of human rights.

37. By statute, the appropriate NSC committee (e.g., the Operations Advisory Group) should review every covert action proposal.³⁰

The Committee recommends that the Operations Advisory Group review include:

- A careful and systematic analysis of the political premises underlying the recommended actions, as well as the nature, extent, purpose, risks, likelihood of success, and costs of the operation. Reasons explaining why the objective can-

²⁹ The Committee endorses Executive Order 11905, of February 18, 1976, which states: "No employee of the United States Government shall engage in, or conspire to engage in, political assassination."

³⁰ Executive Order 11905, 2/18/76, established the Operations Advisory Group and directed it to "consider and develop a policy recommendation, including any dissents, for the President prior to his decision on each special activity [e.g., covert operations] in support of national foreign policy objectives."

not be achieved by overt means should also be considered. —Each covert action project should be formally considered at a meeting of the OAG, and if approved, forwarded to the President for final decision. The views and positions of the participants would be fully recorded. For the purpose of OAG, presidential, and congressional considerations, all so-called non-sensitive projects should be aggregated according to the extraordinary circumstances or contingency against which the project is directed.

38. By statute, the intelligence oversight committee(s) of Congress should require that the annual budget submission for covert action programs be specified and detailed as to the activity recommended. Unforeseen covert action projects should be funded from the Contingency Reserve Fund which could be replenished only after the concurrence of the oversight and any other appropriate congressional committees. The congressional intelligence oversight committees should be notified prior to any withdrawal from the Contingency Reserve Fund.

39. By statute, any covert use by the U.S. Government of American citizens as combatants should be preceded by the notification required for all covert actions. The statute should provide that within 60 days of such notification such use shall be terminated unless the Congress has specifically authorized such use. The Congress should be empowered to terminate such use at any time.³¹

40. By statute, the executive branch should be prevented from conducting any covert military assistance program (including the indirect or direct provision of military material, military or logistics advice and training, and funds for mercenaries) without the explicit prior consent of the intelligence oversight committee(s) of Congress.

G. REORGANIZATION OF THE INTELLIGENCE COMMUNITY

1. *The Position of the DCI*

The Committee recommendations regarding the Director of Central Intelligence (pages 43–45) would, if implemented, increase his authority over the entire intelligence community. Given such increased authority, the Committee believes that both the executive branch and the intelligence oversight committee(s) of Congress should give careful consideration to removing the DCI from direct management responsibility for the Central Intelligence Agency. This would free the DCI to concentrate on his responsibilities with regard to the entire intelligence community and would remove him from any conflict of interest in performing that task. It might also increase the accountability of the Central Intelligence Agency by establishing a new and separate senior position—a Director of the Central Intelligence Agency—responsible for only the CIA.

2. *The Structures of the CIA*

The Committee believes that several important problems uncovered in the course of this inquiry suggest that serious consideration also be given to major structural change in the CIA—in particular, sepa-

³¹ This recommendation parallels the current provisions of the War Powers Resolution which could be so amended. (Appendix C, Hearings, Vol. 7, p. 226.)

rating national intelligence production and analysis from the clandestine service and other collection functions. Intelligence production could be placed directly under the DCI, while clandestine collection of foreign intelligence from human and technical sources and covert operations would remain in the CIA.

The advantages of such a step are several:

- The DCI would be removed from the conflict of interest situation of managing the intelligence community as a whole while also directing a collection agency.
- The concern that the DCI's national intelligence judgments are compromised by the impulse to justify certain covert action operations or by the close association of the analysts with the clandestine service would be remedied.
- The problem, seen by some in the intelligence community, of bias on the part of CIA analysts toward the collection resources of the CIA would be lessened.
- It would facilitate providing the intelligence production unit with greater priority and increased resources necessary for improving the quality of its finished intelligence.
- Tighter policy control of the Clandestine Service by the National Security Council and the Department of State would be possible.
- The Director would be able to focus increased attention on monitoring Clandestine Services.
- Internal reorganization of the Directorate for Intelligence and the remainder of the CIA could be facilitated.

There are potential drawbacks as well:

- The Director of Central Intelligence might lose the influence that is part of having command responsibility for the clandestine services.
- The increasing, though still not extensive, contact between national intelligence analysts and the Clandestine Service for the purpose of improving the espionage effort might be inhibited.
- The DCI would have managerial responsibility over the former CIA analysts which might place him in a conflict-of-interest situation in regard to the production of intelligence.
- The increased number of independent agencies would increase the DCI's coordination problems.
- If the clandestine services did not report to the DCI, there would be the problem of establishing an alternative chain of command to the President.
- The Clandestine Service might be downgraded and fail to secure adequate support.

Nonetheless, on balance, the Committee believes such a separation of functions and consequent possible realignments in authority within the intelligence community merit serious consideration.

Recommendations

41. The intelligence oversight committee(s) of Congress in the course of developing a new charter for the intelligence community should give consideration to separating the functions of the DCI and the Director of the CIA and to dividing the intelligence analysis and production functions from the clandestine collection and covert action functions of the present CIA.

H. RELATIONS WITH UNITED STATES INSTITUTIONS AND PRIVATE CITIZENS

In the immediate postwar period, as the communists pressed to influence and to control international organizations and movements, mass communications, and cultural institutions, the United States responded by involving American private institutions and individuals in the secret struggle over minds, institutions, and ideals. In the process, the CIA subsidized, and even helped develop "private" or non-government organizations that were designed to compete with communists around the world. The CIA supported not only foreign organizations, but also the international activities of United States student, labor, cultural, and philanthropic organizations.

These covert relationships have attracted public concern and this Committee's attention because of the importance that Americans attach to the independence of these institutions.

The Committee found that in the past the scale and diversity of these covert actions has been extensive. For operational purposes, the CIA has:

- Funded a special program of a major American business association;
- Collaborated with an American trade union federation;
- Helped to establish a research center at a major United States university;
- Supported an international exchange program sponsored by a group of United States universities;
- Made widespread use of philanthropic organizations to fund such covert action programs.

The Committee's concern about these relationships is heightened by the Agency's tendency to move from support to use of both institutions and individuals. For example, the initial purpose of the Agency's funding of the National Student Association was to permit United States students to represent their own ideas, in their own way, in the international forums of the day. Nevertheless, the Committee has found instances in which the CIA moved from general support to the "operational use" of individual students.³² Contrary to the public's understanding, over 250 United States students were sponsored by the CIA to attend youth festivals in Moscow, Vienna and Helsinki and

³² Operational use, according to CIA directives, means performing services in support of the CIA Operations Directorate, and may include the recruitment, utilization, or training of any individual for such purposes as providing cover and collecting intelligence.

used for missions such as reporting on Soviet and Third World personalities or observing Soviet security practices. The CIA also used National Student Association Summer International Seminars in the United States in the 1950s and 1960s to identify and screen new leaders whom they would eventually support at the national NSA Convention.

When the CIA's relationship to NSA was publicly revealed in 1967, the Johnson Administration established the Katzenbach Committee, with a limited mandate to investigate the relationship of the CIA to "U.S. educational and private voluntary organizations which operate abroad." The Katzenbach Committee recommended that it should be the policy of the United States Government not to provide any "covert financial assistance or support, direct or indirect, to any of the nation's educational or private voluntary organizations."

The Committee found that the CIA not only carried out this Katzenbach recommendation but also terminated support for a number of other U.S.-based organizations such as publishing houses. Nevertheless, the CIA, with the approval of the appropriate NSC committee, insured the continuation of a number of high priority operations by either moving them overseas or encouraging private and non-CIA government support of domestically-based operations. More importantly, however, the CIA shifted its operational interest from institutional relationships to individuals in, or affiliated with, private institutions.

The Committee inquiry has been particularly concerned about the current operational use of United States citizens as individuals. Some academics now help the CIA by providing leads and, on occasion, making introductions to potential sources of foreign intelligence. American academics and freelance writers are occasionally used abroad to assist the CIA's clandestine mission.

1. Covert Use of the U.S. Academic Community

The Central Intelligence Agency is now using several hundred American academics,³³ who in addition to providing leads and sometimes making introductions for intelligence purposes, occasionally write books and other material to be used for propaganda purposes abroad. Beyond these, an additional few more are used in an unwitting manner for minor activities.

These academics are located in over 100 American colleges, universities, and related institutes. At the majority of institutions, no one other than the individual academic concerned is aware of the CIA link. At the others, at least one university official is aware of the operational use made of academics on his campus. In addition, there are several American academics abroad who serve operational purposes, primarily the collection of intelligence.

The CIA gives a high priority to obtaining leads on potential foreign intelligence sources especially those from communist countries. This Agency's emphasis reflects the fact that many foreign nationals in the United States are in this category. The Committee notes that American academics provide valuable assistance in this activity.^{33a}

³³ "Academics" includes administrators, faculty members, and graduate students engaged in teaching.

^{33a} For explanation of italics, see footnote, p. 79.

The Committee is concerned, however, that American academics involved in such activities may undermine public confidence that those who train our youth are upholding the ideals, independence, and integrity of American universities.

Government Grantees

CIA regulations adopted in 1967 prohibit the "operational" use of certain narrow categories of individuals. The CIA is prohibited from using teachers, lecturers, and students receiving grants from the Board of Foreign Fellowships under the Fulbright-Hayes Act.³⁴ There is no prohibition on the use of individuals participating in any other federally funded exchange programs. For example, the CIA may use those grantees—artists, specialists, athletes, leaders, etc.—who do not receive their grants from the Board of Foreign Scholarships. The Committee is concerned that there is no prohibition against exploiting such open federal programs for clandestine purposes.³⁵

2. The Covert Use of Books and Publishing Houses

The Committee has found that the Central Intelligence Agency attaches a particular importance to book publishing activities as a form of covert propaganda. A former officer in the Clandestine Service stated that books are "the most important weapon of strategic (long-range) propaganda." Prior to 1967, the Central Intelligence Agency sponsored, subsidized, or produced over 1,000 books; approximately 25 percent of them in English. In 1967 alone, the CIA published or subsidized over 200 books, ranging from books on African safaris and wildlife to translations of Machiavelli's *The Prince* into Swahili and works of T. S. Eliot into Russian, to a competitor to Mao's little red book, which was entitled *Quotations from Chairman Liu*.

The Committee found that an important number of the books actually produced by the Central Intelligence Agency were reviewed and marketed in the United States:

- A book about a young student from a developing country who had studied in a communist country was described by the CIA as "developed by [two areas divisions] and produced by the Domestic Operations Division. . . and has had a high impact in the United States as well as in the [foreign area] market." This book, which was produced by the European outlet of a United States publishing house was published in condensed form in two major U.S. magazines.³⁶
- Another CIA book, *The Penkovsky Papers*, was published in United States in 1965. The book was prepared and written by witting agency assets who drew on actual case materials and publication rights to the manu-

³⁴ CIA regulations also prohibit the operational use of members of ACTION and officials, employees, and grantees of the Ford, Rockefeller, and Carnegie Foundations.

³⁵ For explanation of italics, see footnote, p. 79.

³⁶ CBS commentator Eric Sevareid, in reviewing this book, spoke a larger truth than he knew when he suggested that "our propaganda services could do worse than flood [foreign] university towns with this volume."

script were sold to the publisher through a trust fund which was established for the purpose. The publisher was unaware of any U.S. Government interest.

In 1967, the CIA stopped publishing within the United States. Since then, the Agency has published some 250 books abroad, most of them in foreign languages. The CIA has given special attention to publication and circulation abroad of books about conditions in the Soviet Bloc. Of those targeted at audiences outside the Soviet Union and Eastern Europe, a large number has also been available in English.

3. Domestic "Fallout"

The Committee finds that covert media operations can result in manipulating or incidentally misleading the American public. Despite efforts to minimize it, CIA employees, past and present, have conceded that there is no way to shield the American public completely from "fallout" in the United States from Agency propaganda or placements overseas. Indeed, following the Katzenbach inquiry, the Deputy Director for Operations issued a directive stating: "Fallout in the United States from a foreign publication which we support is inevitable and consequently permissible."

The domestic fallout of covert propaganda comes from many sources: books intended primarily for an English-speaking foreign audience; CIA press placements that are picked up by an international wire service; and publications resulting from direct CIA funding of foreign institutes. For example, a book written for an English-speaking foreign audience by one CIA operative was reviewed favorably by another CIA agent in the *New York Times*. *The Committee also found that the CIA helped create and support various Vietnamese periodicals and publications. In at least one instance, a CIA supported Vietnamese publication was used to propagandize the American public and the members and staff of both houses of Congress. So effective was this propaganda that some members quoted from the publication in debating the controversial question of United States involvement in Vietnam.*

The Committee found that this inevitable domestic fallout was compounded when the Agency circulated its subsidized books in the United States prior to their distribution abroad in order to induce a favorable reception overseas.

The Covert Use of U.S. Journalists and Media Institutions on February 11, 1976, CIA Director George Bush announced new guidelines governing the Agency's relationship with United States media organizations:

Effective immediately, CIA will not enter into any paid or contractual relationship with any full-time or part-time news correspondent accredited by any U.S. news service, newspaper, periodical, radio or television network or station.³⁸

³⁸ According to the CIA, "accredited" applies to individuals who are "formally authorized by contract or issuance of press credentials to represent themselves as correspondents." (For explanation of italics, see footnote, p. 179.)

Agency officials who testified after the February 11, 1976, announcement told the Committee that the prohibition extends to non-Americans accredited to specific United States media organizations.

The CIA currently maintains a network of several hundred foreign individuals around the world who provide intelligence for the CIA and at times attempt to influence opinion through the use of covert propaganda. These individuals provide the CIA with direct access to a large number of newspapers and periodicals, scores of press services and news agencies, radio and television stations, commercial book publishers, and other foreign media outlets.

Approximately 50 of the assets are individual American journalists or employees of U.S. media organizations. Of these, fewer than half are "accredited" by U.S. media organizations and thereby affected by the new prohibitions on the use of accredited newsmen. The remaining individuals are non-accredited freelance contributors and media representatives abroad, and thus are not affected by the new CIA prohibition.

More than a dozen United States news organizations and commercial publishing houses formerly provided cover for CIA agents abroad. A few of these organizations were unaware that they provided this cover.

The Committee notes that the new CIA prohibitions do not apply to "unaccredited" Americans serving in media organizations such as representatives of U.S. media organizations abroad or freelance writers. Of the more than 50 CIA relationships with United States journalists, or employees in American media organizations, fewer than one half will be terminated under the new CIA guidelines.

The Committee is concerned that the use of American journalists and media organizations for clandestine operations is a threat to the integrity of the press. All American journalists, whether accredited to a United States news organization or just a stringer, may be suspects when any are engaged in covert activities.³⁹

4. Covert Use of American Religious Personnel

The Committee has found that over the years the CIA has used very few religious personnel for operational purposes. The CIA informed the Committee that only 21 such individuals have ever participated in either covert action projects or the clandestine collection of intelligence. On February 11, 1976, the CIA announced:

CIA has no secret paid or contractual relationships with any American clergyman or missionary. This practice will be continued as a matter of policy.

The Committee welcomes this policy with the understanding that the prohibition against all "paid or contractual relationships" is in fact a prohibition against any operational use of all Americans following a religious vocation.

Recommendations

In its consideration of the recommendations that follow, the Committee noted the Central Intelligence Agency's concern that further restriction on the use of Americans for operational purposes will con-

³⁹ For explanation of italics, see footnote, p. 179.

strain current operating programs. The Committee recognizes that there may be at least some short-term operational losses if the Committee recommendations are effected. At the same time, the Committee believes that there are certain American institutions whose integrity is critical to the maintenance of a free society and which should therefore be free of any unwitting role in the clandestine service of the United States Government.

42. The Committee is concerned about the integrity of American academic institutions and the use of individuals affiliated with such institutions for clandestine purposes. Accordingly, the Committee recommends that the CIA amend its internal directives to require that individual academics used for operational purposes by the CIA, together with the President or equivalent official of the relevant academic institutions, be informed of the clandestine CIA relationship.⁴¹

43. The Committee further recommends that, as soon as possible, the permanent intelligence oversight committee(s) of Congress examine whether further steps are needed to insure the integrity of American academic institutions.

44. By statute, the CIA should be prohibited from the operational use of grantees who are receiving funds through educational and/or cultural programs which are sponsored by the United States Government.

45. By statute, the CIA should be prohibited from subsidizing the writing, or production for distribution within the United States or its territories, of any book, magazine, article, publication, film, or video or audio tape unless publicly attributed to the CIA. Nor should the CIA be permitted to undertake any activity to accomplish indirectly such distribution within the United States or its territories.

46. The Committee supports the recently adopted CIA prohibitions against any paid or contractual relationship between the Agency and U.S. and foreign journalists accredited to U.S. media organizations. The CIA prohibitions should, however, be established in law.

47. The Committee recommends that the CIA prohibitions be extended by law to include the operational use of any person who regularly contributes material to, or is regularly involved directly or indirectly in the editing of material, or regularly acts to set policy or provide direction to the activities of U.S. media organizations.

48. The Committee recommends that the Agency's recent prohibition on covert paid or contractual relationship between the Agency and any American clergyman or missionary should be established by law.

I. PROPRIETARIES AND COVER

1. *Proprietary Organizations*

CIA proprietaries are business entities wholly-owned by the Agency which do business, or only appear to do business, under commercial guise. They are part of the "arsenal of tools" of the CIA's

⁴¹ This recommendation is consistent with and would extend section 4(b) (9) of E.O. 11905 which states that CIA sponsorship of classified or unclassified research must be "known to appropriate senior officials of the academic institutions and to senior project officials."

Clandestine Services. They have been used for espionage as well as covert action. Most of the larger proprietaries have been used for paramilitary purposes. The Committee finds that too often large proprietaries have created unwarranted risks of unfair competition with private business and of compromising their cover as clandestine operations. For example, Air America, which at one time had as many as 8,000 employees, ran into both difficulties.

While internal CIA financial controls have been regular and systematic, the Committee found a need for even greater accountability both internally and externally. Generally, those auditing the CIA have been denied access to operational information, making management-oriented audits impossible. Instead, audits have been concerned only with financial security and integrity.

The Committee found that the CIA's Inspector General has, on occasion, been denied access to certain information regarding proprietaries. This has sometimes inhibited the ability of the Inspector General's office to serve the function for which it was established. Moreover, the General Accounting Office has not audited these operations. The lack of review, by either the GAO or the CIA Inspector General's office, means that, in essence, there has been no outside review of proprietaries.

One of the largest current proprietaries is an insurance-investment complex established in 1962 to provide pension annuities, insurance and escrow management for those who, for security reasons, could not receive them directly from the U.S. Government. The Committee determined that the Congress was not informed of the existence of this proprietary until "sometime" after it had been made operational and had invested heavily in the domestic stock markets—a practice the CIA has discontinued. Moreover, once this proprietary was removed from the Domestic Operations Division and placed under the General Counsel's office it received no annual CIA project review.

The record establishes that on occasion the insurance-investment complex had been used to provide operational support to various covert action projects. The Inspector General, in 1970, criticized this use of the complex because it threatened to compromise the security of the complex's primary insurance objectives.

In general, the Committee found that when the CIA sought to dispose of or dissolve a proprietary, considerable effort was made to avoid conflicts of interest. However, pressures were sometimes unsuccessfully brought to bear on the CIA from without, and on one or more occasions from high level Agency officials to do a favor by disposing of an entity in a manner that would benefit a particular party. In this connection, the Committee notes that the CIA is not subject to the provisions of the Federal Disposal of Property Act which ordinarily guards against such pressures.

Management and control of proprietaries frequently required, and still do, what is termed "cooperative interface" with other government agencies, such as the SEC and the IRS. The Committee found no evidence that these relationships involved circumventing statutory or regulatory requirements. Their purpose appears to be to enable the Agency to comply with other agencies' requirements in a secure manner. However, the nature and extent of such "interfacing" has not always been completely recorded in the CIA, making it difficult to ensure the propriety of such relationships.

2. Cover

The Committee examined cover because it is an important aspect of all CIA clandestine activities. Its importance is underscored by the tragic murder of a CIA Station Chief in Greece, coupled with continuing disclosures of CIA agents' names. The Committee sought to determine what, if anything, has been done in the past to strengthen cover, and what should be done in the future.

The Committee found conflicting views about what constitutes cover, what it can do, and what should be done to improve it. A 1970 CIA Inspector General report termed the Agency's concept and use of cover to be lax, arbitrary, uneven, confused, and loose. The present cover staff in the CIA considered the 1970 assessment to be simplistic and overly harsh. There is no question, however, that some improvements and changes are needed.

The Committee finds that there is a basic tension between maintaining adequate cover and effectively engaging in overseas intelligence activities. Almost every operational act by a CIA officer under cover in the field—from working with local intelligence and police to attempting to recruit agents—reveals his true purpose and chips away at his cover. Some forms of cover do not provide concealment but offer a certain degree of deniability. Others are so elaborate that they limit the amount of work an officer can do for the CIA. In carrying out their responsibilities, CIA officers generally regard the maintenance of cover as a "nuisance."

The situation of the Athens Station Chief, Richard Welch, illustrates the problem of striking the right balance between cover and operations, and also the transparency of cover. As the Chief of the CIA's Cover Staff stated, by the time a person becomes Chief of Station, "there is not a great deal of cover left."⁴² The Chief of the Cover Staff identified terrorism as a further security problem for officers overseas, one that is aggravated by the erosion of cover.⁴³

Recommendations

49. By statute, the CIA should be permitted to use proprietaries subject to external and internal controls.

50. The Committee recommends that the intelligence oversight committee(s) of Congress require at least an annual report on all proprietaries. The report should include a statement of each proprietary's nature and function, the results of internal annual CIA audits, a list of all CIA intercessions on behalf of its proprietaries with any other United States Government departments, agencies or bureaus, and such other information as the oversight committee deems appropriate.

51. The intelligence oversight committee(s) of Congress should require that the fiscal impact of proprietaries on the CIA's budget be made clear in the DCI's annual report to the oversight committee. The Committee should also establish guidelines for creating large proprietaries, should these become necessary.

⁴² For example, the CIA was concerned about the fact that the home that Mr. Welch moved into had been previously publicly identified as belonging to the former Station Chief. CIA officials have testified that the Agency has no evidence that the recent congressional inquiries into intelligence activities had any adverse impact on Mr. Welch's cover or any relationship to his tragic death. (George Bush testimony, 4/8/76, p. 41.)

⁴³ For explanation of italics, see footnote, p. 179.

52. By statute, all returns of funds from proprietaries not needed for its operational purposes or because of liquidation or termination of a proprietary, should be remitted to the United States Treasury as Miscellaneous Receipts.

The Department of Justice should be consulted during the process of the sale or disposition of any CIA proprietary.

53. By statute, former senior government officials should be prohibited from negotiating with the CIA or any other agency regarding the disposal of proprietaries. The intelligence oversight committee(s) of Congress should consider whether other activities among agencies of the intelligence community, the CIA, and former officials and employees, such as selling to or negotiating contracts with the CIA, should also be prohibited as is the case regarding military officials under 18 U.S.C. 207.

J. INTELLIGENCE LIAISON

Throughout the entire period of the CIA's history, the Agency has entered into liaison agreements with the intelligence services of foreign powers. Such arrangements are an extremely important and delicate source of intelligence and operational support. Intelligence channels can also be used to negotiate agreement outside the field of intelligence. The Committee notes that all treaties require the advice and consent of the Senate, and executive agreements must be reported to the Foreign Relations Committee of the Senate. Because of the importance of intelligence liaison agreements to national security, the Committee is concerned that such agreements have not been systematically reviewed by the Congress in any fashion.

Recommendations

54. By statute, the CIA should be prohibited from causing, funding, or encouraging actions by liaison services which are forbidden to the CIA. Furthermore, the fact that a particular project, action, or activity of the CIA is carried out through or by a foreign liaison service should not relieve the Agency of its responsibilities for clearance within the Agency, within the executive branch, or with the Congress.

55. The intelligence oversight committee(s) of Congress should be kept fully informed of agreements negotiated with other governments through intelligence channels.

K. THE GENERAL COUNSEL AND INSPECTOR GENERAL

The General Counsel, as chief legal officer of the Central Intelligence Agency, has a special role in insuring that CIA activities are consistent with the Constitution and laws of the United States. The Committee found that, in the past, the participation of the General Counsel in determining the legality or propriety of CIA activities was limited; in many instances the General Counsel was not consulted about sensitive projects. In some cases the Director's investigative arm, the Inspector General, discovered questionable activities that often were not referred to the General Counsel for a legal opinion. Moreover, the General Counsel never had general investigatory authority.

The Inspector General not only serves as the Director's investigative arm, but he also aids the Director in attempts to increase the efficiency of Agency activities. Inspector General investigations of various Agency offices (component surveys) have been an important management tool often leading to the discovery of questionable practices. These component surveys were halted in 1973 but have recently been reinstated.

The Committee found that there were problems with the component surveys. In some situations the Inspector General was denied access to essential information. The surveys often failed to effectively cover sensitive programs cutting across component boundaries or raising issues which affected the Agency as a whole. Finally, the Inspector General's recommendations were often disregarded particularly when the directorate being investigated opposed their implementation.

Under the President's recently issued Executive Order, the Inspector General and the General Counsel are required to report to the Intelligence Oversight Board any activities that come to their attention which raise questions of legality or propriety. The Director of the CIA is charged with assuring that those officials will have access to the information necessary to fulfill their duties under the Executive Order.

The Committee also found that while both the General Counsel and Inspector General provided valuable assistance to the Director, neither had authority to provide assistance to the congressional oversight bodies.

The Committee believes that the intelligence oversight committee(s) of Congress should examine the internal review mechanisms of foreign and military intelligence agencies and consider the feasibility of applying recommendations such as those suggested for the CIA.

Recommendations

56. Any CIA employee having information about activities which appear illegal, improper, outside the Agency's legislative charter, or in violation of Agency regulations, should be required to inform the Director, the General Counsel, or the Inspector General of the Agency. If the General Counsel is not informed, he should be notified by the other officials of such reports. The General Counsel and the Inspector General shall, except where they deem it inappropriate, be required to provide such information to the head of the Agency.⁴⁴

57. The DCI should be required to report any information regarding employee violations of law related to their duties and the results of any internal Agency investigation to the Attorney General.⁴⁵

⁴⁴ The General Counsel and Inspector General should have authority to pass the information to the Attorney General without informing the head of the Agency in extraordinary circumstances, if the employee providing the information so requests and if the General Counsel or the Inspector General deems it necessary.

The Inspector General should also regularly inform Agency employees about grievance procedures.

⁴⁵ See 28 U.S.C. 535.

58. By statute, the Director of the CIA should be required to notify the appropriate committees of the Congress of any referrals made to the Attorney General pursuant to the previous recommendation.⁴⁶

59. The Director of the CIA should periodically require employees having any information on past, current, or proposed Agency activities which appear illegal, improper, outside the Agency's legislative charter, or in violation of the Agency's regulations, to report such information.

60. By statute, the General Counsel and the Inspector General should have unrestricted access to all Agency information and should have the authority to review all of the Agency activities.

61. All significant proposed CIA activities should be reviewed by the General Counsel for legality and constitutionality.

62. The program of component inspections conducted by the Inspector General should be increased, as should the program of surveys of sensitive programs and issues which cut across component lines in the Agency.⁴⁷

63. The Director shall, at least annually, report to the appropriate committees of the Congress on the activities of the Office of the General Counsel and the Office of the Inspector General.⁴⁸

64. By statute, the General Counsel should be nominated by the President and confirmed by the Senate.

65. The Agency's efforts to expand and strengthen the staffs of the General Counsel and Inspector General should be continued.⁴⁹

66. The General Counsel should be promoted to, and the Inspector General should continue to hold executive rank equal to that of the Deputy Directors of the CIA.

⁴⁶ Should the General Counsel or Inspector General determine that it would be inappropriate to notify the Director of an activity that appeared illegal, improper, outside the Agency's legislative charter, or in violation of Agency regulations, the General Counsel or Inspector General would be required to notify the appropriate committees of the Congress.

⁴⁷ The Inspector General's component surveys should consider not only the effectiveness of the component but should also examine the component's compliance with the legislative charter of the Agency, Agency regulations, and the law. The Director should be required to inform the Inspector General as to what actions have been taken on the recommendations made by the Inspector General.

⁴⁸ The report should include: (a) a summary of all Agency activities that raise questions of legality or propriety and the General Counsel's findings concerning these activities; (b) a summary of the Inspector General's investigations concerning any of these activities; (c) a summary of the practices and procedures developed to discover activities that raise questions of legality or propriety; (d) a summary of each component, program or issue survey, including the Inspector General's recommendations and the Director's decisions; (e) a summary of all other matters handled by the Inspector General.

The report should also include discussion of (a) major legal problems facing the Agency; (b) the need for additional statutes; (c) any cases referred to the Department of Justice.

⁴⁹ Efforts to recruit lawyers for the Office of General Counsel from outside the CIA should be increased. Efforts should also be made to provide for rotation of the attorneys in the General Counsel's Office to other governmental positions.

The Inspector General's Office should be staffed by outstanding, experienced officers drawn from inside and outside the Agency. Consideration should be given to establishing a greater number of permanent positions within the Office. Individuals rotated into the Inspector General's Office from another Agency office should not be involved in surveys of offices to which they might return.

The work of both offices would benefit from regular inspections from outside.

L. THE DEPARTMENT OF DEFENSE

The intelligence agencies of the Department of Defense make a major contribution to the development, management, and operation of intelligence systems and to the production of military and technical intelligence information. Additionally, the Department, with its major responsibility for the nation's defense is a major user of finished intelligence. The Committee's inquiry into the Department of Defense intelligence agencies focused on the Department's intelligence budget which comprises over 80 percent of the direct national United States intelligence budget.

The Committee also examined the Defense Intelligence Agency (DIA), the National Security Agency (NSA), and the intelligence activities of the military services. That portion of the investigation of NSA which centered on potential abuses is presented in detail in the Domestic Section of the Committee's report.

1. General Findings and Conclusions

The Committee finds that despite the magnitude of the tasks and the complexity of the relationships, most of the important collection activities conducted by the Defense Department (the reconnaissance and SIGINT systems) are managed relatively efficiently and are generally responsive to the needs of the military services as well as to the policymakers on the national level.

Defense intelligence must respond to a range of consumers—policy-makers in Washington, defense and technical analysts, and operational commanders in the field—yet the primary mission of defense intelligence is to supply the armed services with the intelligence necessary for their operations. This overriding departmental requirement creates a major problem in the overall allocation of intelligence resources throughout the intelligence community. In promulgating Executive Order 11905, the Administration has decided on a greater centralization of authority in the Director of Central Intelligence. The Committee notes that this will require some changes in the Secretary of Defense's authority over allocating defense intelligence resources. With regard to intelligence resources management within the Department of Defense, the Committee found that the establishment of a Deputy Secretary of Defense for Intelligence should enable more effective management of defense intelligence resources and help the Defense Department play an appropriate role in the new centralized interagency structure under the Director of Central Intelligence.

Increasingly, technological intelligence systems have grown capable of serving both the interests of national policymakers and planners and of field commanders. Thus, it is often difficult to distinguish between "national" and "tactical" intelligence assets, collection, or production. It is the Committee's view that while the effect of the President's Executive Order giving the DCI more authority will be to bring national intelligence assets and budgets under the DCI's control and guidance, the defense intelligence programs which are tactical

in nature and integral to the military's operational commands should remain under the control of the Secretary of Defense. The precise line drawn between the tactical and military intelligence at any given time will have a significant impact on the definition of national intelligence and on the purview of any oversight committee(s) of Congress.

2. *The Defense Intelligence Agency*

Even though the Defense Intelligence Agency has been the principal agency for the production of intelligence in the Defense Department, Secretaries of Defense and other key DOD officials have frequently looked to other intelligence sources rather than to DIA. For example, Robert McNamara relied heavily on the CIA; Melvin Laird sought analyses from the Defense Department's Directorate of Defense Research and Engineering; and James Schlesinger used a special Net Assessment Group. This tendency of Secretaries of Defense to rely on analytic resources outside of DIA is partly but not entirely, related to dissatisfaction with DIA's performance (see the detailed report on DIA). Another factor is the obvious difference between the role of the Defense Department as *manager* of military intelligence collection systems and the role of the Secretary of Defense as a *consumer* of intelligence products. For example, the Secretary's requirements for political and economic intelligence are considerably different from the intelligence needs of the operating forces and the Joint Chiefs of Staff, who are the primary military customers of DIA.

Historically, DOD has managed the bulk of all technical intelligence collection systems, but the CIA has managed many important national technical collection systems and has been in charge of much of the analytic function and is the primary producer of *national* intelligence. The largest proportion of intelligence needed by the military establishment, however, is *tactical*. Therefore, national intelligence is a secondary mission of DIA. Much of DIA's effort is directed toward producing intelligence needed by the JCS, the Unified and Specified Commands, and force planners and technical analysts in the services. The Secretary of Defense, on the other hand, is equally or more concerned with national intelligence. In this context, it is not surprising that DOD's civilian leadership has complemented DIA's product with analyses from sources in other agencies.

The Committee is of the view that the Secretary of Defense has a continuing need for a strong analytical intelligence capability within the Department of Defense. The Committee found that DIA has met this need better than the service intelligence organizations which preceded it, but that DIA has not fulfilled expectations that it would provide a coordinating mechanism for all defense intelligence activities and information.

The essential problem of the Defense Intelligence Agency was summed up in one study commissioned by the executive branch as "too many jobs and too many masters."⁵⁰ These problems have not

⁵⁰ The Report to the President and Secretary of Defense on the Department of Defense by the Blue Ribbon Defense Panel (Fitzhugh Report), 7/1/70.

been solved by the reorganizations undertaken thus far, nor has the DIA's existence led to a diminution in the size of the separate military intelligence services that was hoped for.

The Committee finds that the Defense Intelligence Agency faces serious impediments to improving the quality of, and opportunities for, its civilian and military staff. The Agency's personnel and command structure, its lack of high-level grades, and the relatively short tours for military officers are factors which make it difficult for DIA to develop and retain the high-quality analytic personnel essential for a high-quality finished product.

3. The National Security Agency

The National Security Agency is one of the largest and most technically oriented components of the United States intelligence community. Its basic function is collecting and processing foreign communications and signals for intelligence purposes. NSA is also responsible for creating and supervising the cryptography of all United States Government agencies, and has a special responsibility for supervising the military services' cryptologic agencies. Another major responsibility is protecting the security of American communications.

The Committee regards these functions as vital to American security. NSA's capability to perform these functions must be preserved. The Committee notes that despite the fact that NSA has been in existence for several decades, NSA still lacks a legislative charter. Moreover, in its extensive investigation, the Committee has identified intelligence community abuses in levying requirements on NSA and abuses by NSA itself in carrying out its functions. These abuses are detailed in the domestic portion of the Committee report. The Committee finds that there is a compelling need for an NSA charter to spell out limitations which will protect individual constitutional rights without impairing NSA's necessary foreign intelligence mission.

4. Civilian or Military Leadership

DIA and NSA have always been headed by professional military officers. In the case of DIA, Deputy Directors have also been military. This past practice should not stand in the way of appointment of any individuals, whether civilian or military, best qualified to administer these sensitive agencies.

5. Special Issues

Several important issues concerning NSA have been revealed during the course of the Committ's investigation which require regular reviews by both the intelligence oversight committee(s) of Congress and by the executive branch.

- How can the risks involved in the operations of collection systems be balanced against the value of positive intelligence information acquired through those operations?
- How far in the research/development process of collection systems should the competition between agencies continue

before it leads to unwarranted duplication? Should those who develop a system also manage its acquisition and subsequent operation, or should all operations be consolidated, for example, under the Department of Defense?

- How can the technology of advanced intelligence collection systems be better utilized to assist the civilian and domestic agencies of the Government without compromising the principal mission or security of these intelligence systems, or the open character of these portions of American government?

Recommendations

67. In order to implement the Committee's and the President's recommendations for expanding the DCI's resource-allocation responsibility appropriate adjustments should be made in the Secretary of Defense's general authority regarding Defense intelligence activities and in the Department's internal budgeting procedures. At the same time, there should be provision for the transfer to the Secretary of Defense of responsibilities, particularly tasking intelligence agencies, in the event of war.

68. By statute, the intelligence oversight committee(s) of Congress, in consultation with the Executive, should establish a charter for the Defense Intelligence Agency which would clearly define its mission and relationship to other intelligence agencies. The Committee recommends that the charter include the following provisions:

A. In order to encourage close coordination between consumers and producers of national intelligence, DIA should be a part of the Office of the Secretary of Defense, and should report directly to the Deputy Secretary of Defense for Intelligence. A small J-2 staff should be reconstituted to provide intelligence support, primarily of an operational nature, to the Joint Chiefs of Staff. The Secretary of Defense should ensure full coordination and free access to information between the two groups.

B. The Director of the DIA should be appointed by the President and subject to Senate confirmation. Either the Director or Deputy Director of the Agency should be a civilian.

C. The Congress must relieve DIA from certain Civil Service regulations in order to enable the quality of DIA personnel to be upgraded. In addition, more supergrade positions must be provided for civilians in DIA.

69. By statute, a character for the National Security Agency should be established which, in addition to setting limitations on the Agency's operations (see Domestic Subcommittee Recommendations), would provide that the Director of NSA would be nominated by the President and subject to confirmation by the Senate. The Director should serve at the pleasure of the President but not for more than ten years. Either the Director or the Deputy Director should be a civilian.

70. The Department of Defense should centralize the service counterintelligence and investigative activities within the United States in the Defense Investigative Service (DIS) in order to reduce wasteful duplication.

M. THE DEPARTMENT OF STATE AND AMBASSADORS

The Department of State and the Foreign Service have an important role in the intelligence operations of the United States Government. Because of its responsibilities in formulating and conducting U.S. foreign policy, the State Department is a principal customer for intelligence. Abroad, the Foreign Service, operating overtly, is the principal collector of political intelligence and is a major collector of economic intelligence.⁵¹

Because of its foreign policy responsibilities and its worldwide complex of diplomatic and consular installations, the Department of State is the only Washington agency potentially able to oversee other U.S. Government activities abroad—including those of the CIA. In the field, this responsibility clearly falls on the Ambassador by law. Indeed, Ambassadors are the sole mechanism available outside of the CIA itself to assure that NSC decisions are appropriately carried out by the Clandestine Service. The Committee found that the role of the Department of State and the Ambassadors constitute a central element in the control and improvement in America's intelligence operations overseas. However, the Committee also found that Ambassadors are often reluctant to exercise their authority in intelligence matters. The Department has not encouraged them to do so, and the administration has not issued directives to implement existing law covering the authority of Ambassadors.

The Committee found that in general the Department of State exercised substantial high-level influence over decisions to undertake major covert action programs. In the field, Ambassadors are generally knowledgeable and often involved in significant covert activities projects. There were, however, notable exceptions, such as the effort to prevent Salvador Allende from coming to power in Chile by means of a military coup which was concealed from the Department, the Secretary of State and the American Ambassador to Chile.

In contrast to covert action, the Committee found that neither the State Department nor U.S. Ambassadors are substantially informed about espionage or counterintelligence activities directed at foreign governments. Such coordination as exists in this respect is at the initiative of the Central Intelligence Agency and is infrequent. The Committee found that there is no systematic assessment outside the CIA of the risks of foreign espionage and counterespionage operations and the extent to which those operations conform with overall foreign policy.

In general, Ambassadors in the field are uninformed about specific espionage activities within their countries of assignment. Unlike the case of covert action, Ambassadors are not asked to appraise the risks of espionage activities, nor to assess their benefits. Often Ambassadors do not want to know the specifics of such operations, and what coordination as exists in their cases is based on a general injunction from them to the Station Chiefs that they not be confronted with any "surprises."

⁵¹ The Department has often indicated in budget documents relating to intelligence as having a budget of \$10 million, particularly for the Bureau of Intelligence and Research. However, the intelligence community staff estimates the costs attributable to the function of overt intelligence collection by the Foreign Service at \$80 million.

That is not always enough if an Ambassador wishes to participate in policy decisions. For example, a shift of resources toward recruitment of internal targets in a Western country was under consideration between Washington and the field, and the U.S. Ambassador had not been informed. In this connection, the Committee believes it would be unrealistic to use clandestine recruitment to try to establish the kind of intimate relationship with political elites in friendly countries which we have enjoyed as a result of the shared experience of WWII and its aftermath.

The Committee finds that more than a year after enactment of a statute making Ambassadors responsible for directing, coordinating, and supervising all U.S. Government employees within their country of assignment,⁵² instructions implementing this law have still not been issued by any quarter of the executive branch. A former Under Secretary of State told the Committee that the law, in effect, had been "suspended" in view of Presidential inaction. Moreover, the CIA has not modified its practices pursuant to this law. The Committee finds this thwarting of the United States law unacceptable.

The Committee finds that Ambassadors cannot effectively exercise their legal responsibilities for a wide variety of intelligence activities within their jurisdiction without State Department assistance on the Washington aspects of the activities. Such support is particularly important in the case of intelligence operations aimed at a third country. An Ambassador may be able to judge the local risks of an espionage effort, but if it is directed toward a third country the Ambassador may not be able to assess the importance or value of the effort without Washington support.

In the past, the Department of State, at least, has not had a parallel responsibility nor the right of access to information necessary to enable it to provide support to an Ambassador seeking to exercise his statutory responsibility over CIA espionage and counterespionage operations. The Committee notes section 4 in Executive Order No. 11905 of February 18, 1976 which may be intended to provide such State Department back-up for Ambassadors.

At present, the CIA handles both State Department and its own communications with overseas posts. Under this arrangement, the Ambassador's access to CIA communications is at the discretion of the CIA. The Committee finds that this is not compatible with the role assigned to the Ambassador by law; the Ambassador cannot be sure that he knows the full extent and nature of CIA operations for which he may be held accountable.

The Committee finds that Ambassadors' policies governing intelligence activities have sometimes been interpreted in a manner which vitiated their intent. For example, one Ambassador prohibited any electronic surveillance by his Embassy's CIA component. The head of the CIA component interpreted this to proscribe only CIA electronic surveillance and believed that such surveillance could be conducted in cooperation with local security services.

⁵² 22 U.S.C. 2680a. The instructions prepared by the State Department and forwarded to the NSC have been opposed by the CIA on the grounds that the CIA still has a responsibility to protect sources and methods from unauthorized disclosure. The NSC has not acted on the proposed instructions.

The Committee found evidence that CIA Station Chiefs abroad do not always coordinate their intelligence reporting on local developments with their Ambassadors. The Committee does not believe that Ambassadors should be able to block CIA field reports. However, it found that there was no standard practice for Ambassadors to review and comment on intelligence reporting from the field.

The Committee finds that the Foreign Service is the foremost producer in the United States Government of intelligence on foreign political and economic matters. The Committee believes, however, that the State Department does not adequately train Foreign Service personnel, particularly in political reporting. Nor does the Department fund their collection operations, nor manage their activities so as to take full advantage of this extremely important intelligence capability. In effect, the Department, despite being a major source of intelligence, considers this function secondary to its principal task of diplomatic representation and negotiations.

From discussions in nearly a dozen foreign service posts, the Committee established that there is inadequate funding for Foreign Service reporting officers to carry out their responsibilities. The funds available are considered "representation funds" and must be shared with the administration and consular sections of most embassies. Such representation funds have been a favorite target for congressional cuts in the State Department budget.

Recommendations

71. The National Security Council, the Department of State, and the Central Intelligence Agency should promptly issue instructions implementing Public Law 93-475 (22 U.S.C. 2680a). These instructions should make clear that Ambassadors are authorized recipients of sources and methods information concerning all intelligence activities, including espionage and counterintelligence operations. Parallel instructions from other components of the intelligence community should be issued to their respective field organizations and operatives. Copies of all these instructions should be made available to the intelligence oversight committee(s) of Congress.

72. In the exercise of their statutory responsibilities, Ambassadors should have the personal right, which may not be delegated, of access to the operational communications of the CIA's Clandestine Service in the country to which they are assigned. Any exceptions should have Presidential approval and should be brought to the attention of the intelligence oversight committee(s) of Congress.

73. By statute, the Department of State should be authorized to take the necessary steps to assure its ability to provide effective guidance and support to Ambassadors in the execution of their responsibilities under Public Law 93-475 (22 U.S.C. Sect. 2680a).

74. Consideration should be given to increasing and earmarking funds for Foreign Service overt collection of foreign political and economic information. These funds might be administered jointly by the State Department's Bureau of Intelligence and Research and the Bureau of Economic Affairs.

75. The NSC should review the question of which U.S. Government agency should control and operate communications with over-

seas diplomatic and consular posts, including the CIA, and other civilian agencies operating abroad.

76. The Department of State should establish specific training programs for political reporting within the Foreign Service Institute, and place greater emphasis on economic reporting.

N. OVERSIGHT AND THE INTELLIGENCE BUDGET

The Committee finds that a full understanding of the budget of the intelligence community is required for effective oversight. The secrecy surrounding the budget, however, makes it impossible for Congress as a whole to make use of this valuable oversight tool.

Congress as a body has never explicitly voted on a "budget" for national intelligence activities. Congress has never voted funds specifically for CIA, NSA, and other national intelligence instrumentalities of the Department of Defense.⁵⁴

The funding levels for these intelligence agencies are fixed by subcommittees of the Armed Services and Appropriations Committees of both Houses. Funds for these agencies are then concealed in the budget of the Department of Defense. Since this Departmental budget is the one Congress approves, Congress as a whole, and the public, have never known how much the intelligence agencies are spending or how much is spent on intelligence activities generally. Neither Congress as a whole, nor the public can determine whether the amount spent on intelligence, or by the intelligence agencies individually, is appropriate, given the priorities.

Because the funds for intelligence are concealed in Defense appropriations, those appropriations are thereby inflated. Most members of Congress and the public can neither determine which categories are inflated nor the extent to which funds in the inflated categories are being used for purposes for which they are approved.

Finally, the Committee believes there is serious question as to whether the present system of complete secrecy violates the constitutional provision that:

No Money shall be drawn from the Treasury but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time.⁵⁵

The Committee believes that the overall figure for national intelligence activities can be made public annually without endangering national security or revealing sensitive programs.⁵⁶ The Committee carefully examined the possible impact of such disclosure on the sources and methods of intelligence gathering and believes it to be minimal. The Committee found that the primary concern about this

⁵⁴ Funds for the intelligence activities of the Department of State, ERDA, and the FBI are reviewed by the appropriate congressional committees and are voted upon by Congress as a whole, when Congress appropriates funds for these agencies.

⁵⁵ United States Constitution, Art. I. Sec. 9 Cls. 7.

⁵⁶ The Committee noted that the Special Senate Committee to Study Questions Related to Secret and Confidential Government Documents, chaired by Senators Mansfield and Scott concluded that the aggregate figure for each intelligence agency should be made public.

level of disclosure was that it would lead to pressure for even more detailed revelation which would compromise vital intelligence programs.

The Committee believes that disclosure of an aggregate figure for national intelligence is as far as it is prudent to go at this stage in reconciling the nation's constitutional and national security requirements. Public speculation about overall intelligence costs would be eliminated, the public would be assured that funds appropriated to particular government agencies were in fact intended for those agencies, and both Congress and the public would be able to assess overall priorities in governmental spending.

The Committee's analysis indicated that ----- billion constitutes the direct costs to the United States for its national intelligence program for FY 1976. This includes the total approved budgets of CIA, DIA, NSA and the national reconnaissance program.⁵⁷ If the cost of tactical intelligence by the armed services and indirect support costs⁵⁸ which may be attributed to intelligence and intelligence-related activities is added, the total cost of U.S. Government intelligence activities would be twice that amount. This represents about three percent of the total federal budget, and about eight percent of controllable federal spending.

It should be stressed that this larger estimate represents a full cost and includes activities which also fulfill other purposes. Thus the entire amount could not be "saved" if there were no intelligence activities funded by or through the Defense Department.

The CIA's budget for the fiscal year is contained in the Defense Department budget. The Committee found that the CIA spends approximately 70 percent more than it is appropriated, with the additional funds coming from advances and transfers from other agencies. These transfers and advances are made with the knowledge and approval of OMB and the appropriate congressional committees. The use of advances and transfers between agencies is a common governmental practice. In this case the CIA receives funds as the contracting agent for agencies in the Defense Department as well as other intelligence community agencies.

Recommendations

77. The intelligence oversight committee(s) of Congress should authorize on an annual basis a "National Intelligence Budget," the total amount of which would be made public. The Committee recommends that the oversight committee consider whether it is necessary, given the Constitutional requirement and the national security demands, to publish more detailed budgets.

78. The intelligence oversight committee(s) of Congress should monitor the tactical and indirect support accounts as well as the national activities of intelligence agencies in order to assure that they are kept in proper perspective and balance.

⁵⁷ The direct costs of the intelligence activities of the ERDA, FBI, and State Department are contained in their respective budgets.

⁵⁸ Indirect support costs include costs for personnel, operations and maintenance which support intelligence activities. Examples are the operation of training facilities, supply bases, and commissaries.

79. At the request of the intelligence oversight committee(s) of Congress and as its agent, staff members of the General Accounting Office should conduct full audits, both for compliance and for management of all components of the intelligence community. The GAO should establish such procedures, compartmentation and clearances as are necessary in order to conduct these audits on a secure basis. In conducting such audits, the GAO should be authorized to have full access to all necessary intelligence community files and records.

O. CHEMICAL AND BIOLOGICAL AGENTS AND THE INTELLIGENCE COMMUNITY

The Committee investigated the testing and use of chemical and biological agents by agencies within the intelligence community. The testing programs originated in response to fears that countries hostile to the United States would use chemical and biological agents against Americans or our allies. Initially, this fear led to defensive programs. Soon this defensive orientation became secondary as the possibility of using these chemical and biological agents to obtain information from, or to gain control of, enemy agents, became apparent.

The Committee found that United States intelligence agencies engaged in research and development programs to discover materials which could be used to alter human behavior. As part of this effort, testing programs were instituted, first involving witting human subjects. Later, drugs were surreptitiously administered to unwitting human subjects.

The Agency considered the testing programs highly sensitive. The Committee found that few people within the agencies knew about them; there is no evidence that Congress was informed about them. These programs were kept from the American public because, as the Inspector General of the CIA wrote, "the knowledge that the Agency is engaging in unethical and illicit activities would have serious repercussions in political and diplomatic circles and would be detrimental to the accomplishment of its [CIA's] mission."

The research and development program and particularly the testing program involving unwitting human subjects involved massive abridgements of the rights of individuals, sometimes with tragic consequences. The deaths of two Americans resulted from these programs; other participants in the testing programs still suffer residual effects. While some controlled testing for defensive purposes might be defended, the nature of the tests, their scale, and the fact that they were continued for years after it was known that the surreptitious administration of LSD to unwitting subjects was dangerous, indicate a disregard for human life and liberty.

The Committee's investigation of the testing and use of chemical and biological agents also raised serious questions about the adequacy of command and control procedures within the CIA. The Committee found that the Director waived the CIA's normal administrative controls for this development and testing program in order to assure its security. According to the head of the CIA's Audit Branch, the waiver produced "gross administrative failures." The waiver prevented the internal review mechanisms of the Agency—the Office

of the General Counsel, the Inspector General, and the Audit Staff—from exercising adequate supervision of the program. The waiver had the paradoxical effect of providing looser administrative controls and less effective internal review of this controversial and highly sensitive project than existed for normal Agency activities.

The Committee found that the security of the program was protected not only by the waiver but also by a high degree of compartmentation within the CIA. This resulted in excluding the CIA's Medical Staff from the principal research and testing program involving the effect of chemical and biological agents on human subjects.

The Committee also found that within the intelligence community there were destructive jurisdictional conflicts over drug testing. Military testers withheld information from the CIA, ignoring their superiors' suggestions for coordination. The CIA similarly failed to provide information on its programs to the military. In one case the military attempted to conceal its overseas operational testing of LSD from the CIA and the CIA attempted surreptitiously to discover the details of the military's program.

Recommendations

80. The CIA and other foreign and foreign military intelligence agencies should not engage in experimentation on human subjects utilizing any drug, device or procedure which is designed, intended, or is reasonably likely to harm the physical or mental health of the human subject, except with the informed consent in writing, witnessed by a disinterested third party, of each human subject, and in accordance with the guidelines issued by the National Commission for the Protection of Human Subjects for Biomedical and Behavioral Research. Further, the jurisdiction of the Commission should be amended to include the Central Intelligence Agency and the other intelligence agencies of the United States Government.

81. The Director of the Central Intelligence Agency and the Secretary of Defense should continue to make determined efforts to locate those individuals involved in human testing of chemical and biological agents and to provide follow-up examinations and treatment, if necessary.

P. GENERAL RECOMMENDATIONS

82. *Internal Regulations*—Internal CIA directives or regulations regarding significant Agency policies and procedures should be waived only with the explicit written approval of the Director of Central Intelligence. Waiver of any such regulation or directive should in no way violate any law or infringe on the constitutional right and freedom of any citizen. If the DCI approves the waiver or amendment of any significant regulation or directive, the NSC and the appropriate congressional oversight committee(s) should be notified immediately. Such notification should be accompanied by a statement explaining the reasons for the waiver or amendment.

83. *Security Clearances*—In the course of its investigation, the Committee found that because of the many intelligence agencies participating in security clearance investigations, current security clearance procedures involve duplication of effort, waste of money, and inconsistent patterns of investigation and standards. The intelli-

gence oversight committee(s) of Congress, in consultation with the intelligence community, should consider framing standard security clearance procedures for all civilian intelligence agencies and background checks for congressional committees when security clearances are required.

84. *Personnel Practices*—The Committee found that intelligence agency training programs fail to instruct personnel adequately on the legal limitations and prohibitions applicable to intelligence activities. The Committee recommends that these training programs should be expanded to include review of constitutional, statutory, and regulatory provisions in an effort to heighten awareness among all intelligence personnel concerning the potential effects intelligence activities may have on citizens' legal rights.

85. *Security Functions of the Intelligence Agencies*—The Committee found that the security components of intelligence agencies sometimes engaged in law enforcement activities. Some of these activities may have been unlawful. Intelligence agencies' security functions should be limited to protecting the agencies' personnel and facilities and lawful activities and to assuring that intelligence personnel follow proper security practices. (See the Committee's Final Report on Domestic Intelligence, section on Intelligence Activities and the Rights of American Citizens, p. 304.)

86. *Secrecy and Authorized Disclosure*—The Committee has received various administration proposals that would require persons having access to classified and sensitive information to maintain the secrecy of that information. The Committee recommends that the issues raised by these proposals be considered by the new legislative intelligence oversight committee(s) of Congress and that, in recasting the 1947 National Security Act and in consultation with the executive branch, the oversight committee(s) consider the wisdom of new secrecy and disclosure legislation. In the view of the Committee any such consideration should include carefully defining the following terms:

- national secret;
- sources and methods;
- lawful and unlawful classification;
- lawful and unlawful disclosure.

The new legislation should provide civil and/or criminal penalties for unlawful classification and unlawful disclosure. The statute should also provide for internal departmental and agency procedures for employees who believe that classification and/or disclosure procedures are being improperly or illegally used to report such belief. There should also be a statutory procedure whereby an employee who has used the Agency channel to no avail can report such belief without impunity to an "authorized" institutional group outside the agency. The new Intelligence Oversight Board is one such group. The intelligence oversight committee(s) of Congress would be another. The statute should specify that revealing classified information in the course of reporting information to an authorized group would not constitute unlawful disclosure of classified information.

87. *Federal Register for Classified Executive Orders*—In the course of its investigation, the Committee often had difficulty locating classi-

fied orders, directives, instructions, and regulations issued by various elements of the executive branch. Access to these orders by the intelligence oversight committee(s) of Congress is essential to informed oversight of the intelligence community.

The Committee recommends that a Federal Register for classified executive orders be established, by statute. The statute should require the registry, under appropriate security procedures, of all executive orders—however they are labeled—concerning the intelligence activities of the United States. Among the documents for which registry in the Classified Federal Register should be required are all National Security Council Intelligence Directives (NSCIDs), and all Director of Central Intelligence Directives (DCIDs). Provision should be made for access to classified executive orders by the intelligence oversight committee(s) of Congress. Classified executive orders would not be lawful until filed with the registry, although there should be provision for immediate implementation in emergency situations with prompt subsequent registry required.