

# EXCERPTS FROM REPORT

Special to The New York Times

WASHINGTON, April 26—Following are excerpts from the Report on the Foreign and Military Intelligence Activities of the United States, the final report of the Senate Select Committee on Intelligence Activities. Passages that were changed by the committee at the request of executive agencies appear in italics.

TUESDAY, APRIL 27, 1976

## INTRODUCTION

The Senate Select Committee on Intelligence Activities has conducted a 15-month-long inquiry, the first major inquiry into intelligence since World War II. The inquiry arose out of allegations of substantial, even massive wrongdoing within the "national intelligence" system. This final report provides a history of the evolution of intelligence, an evaluation of the intelligence system of the United States, a critique of its problems, recommendations for legislative action and recommendations to the executive branch. The committee believes that its recommendations will provide a sound framework for conducting the vital intelligence activities of the United States in a manner which meets the nation's intelligence requirements and protects the liberties of American citizens and the freedoms which our Constitution guarantees.

The shortcomings of the intelligence system, the adverse effects of secrecy and the failure of Congressional oversight to assure adequate accountability for executive branch decisions concerning intelligence activities were major subjects of the committee's inquiry. Equally important to the obligation to investigate allegations of abuse was the duty to review systematically the intelligence community's overall activities since 1915, and to evaluate its present structure and performance.

An extensive national intelligence system has been a vital part of the United States Government since 1944. Intelligence information has had an important influence on the direction and development of American foreign policy and has been essential to the maintenance of our national security. The committee is convinced that the United States requires an intelligence system which will provide policy-makers with accurate intelligence and analysis. We must have an early warning system to monitor potential military threats by countries hostile to United States interests. We need a strong intelligence system to verify that treaties concerning arms limitation are being honored. Information derived from the intelligence agencies is a necessary ingredient in making national defense and foreign policy decisions. Such information is also necessary in countering the efforts of hostile intelligence services and in halting terrorists, international

# OF INTELLIGENCE

c 21

## UNIT

drug traffickers and other international criminal activities. Within this country certain carefully controlled intelligence activities are essential for effective law enforcement.

The United States has devoted enormous resources to the creation of a national intelligence system, and today there is an awareness on the part of many citizens that a national intelligence system is a permanent and necessary component of our Government. The system's value to the country has been proven, and it will be needed for the foreseeable future. But a major conclusion of this inquiry is that Congressional oversight is necessary to assure that in the future our intelligence community functions effectively, within the framework of the Constitution.

The committee is of the view that many of the unlawful actions taken by officials of the intelligence agencies were rationalized as their public duty. It was necessary for the committee to understand how the pursuit of the public good could have the opposite effect. As Justice Brandeis observed:

"Experience should teach us to be most on our guard to protect liberty when the Government's purposes are beneficent. Men born to freedom are naturally alert to repel invasion of their liberty by evil-minded rulers. The greatest dangers to liberty lurk in insidious encroachment by men of zeal, well-meaning but without understanding. *Olmstead v. United States*, 277 U.S. 438, 479 (1928).

## The Mandate of the Committee's Inquiry

On Jan. 17, 1975, Senate Resolution established a select committee "to conduct an investigation and study of governmental operations with respect to intelligence activities and of the extent, if any, to which illegal, improper or unethical activities were engaged in by any agency of the Federal Government." Senate Resolution 21 lists specific areas of inquiry and study:

(1) Whether the Central Intelligence Agency has conducted an illegal domestic intelligence operation in the United States.

(2) The conduct of domestic intelligence or counterintelligence operations against United States citizens by the Federal Bureau of Investigation or any other Federal agency.

(3) The origin and disposition of the so-called Huston Plan to apply United States intelligence agency capabilities against individuals or organizations within the United States.

(4) The extent to which the Federal Bureau of Investigation, the Central Intelligence Agency and other Federal law enforcement or intelligence agencies coordinate their respective activities, any agreements which govern that coordination and the extent to which lack of coordination has contributed to activities or actions which are illegal, improper, inefficient, unethical or contrary to the intent of Congress.

(5) The extent to which the operation of domestic intelligence or counterintelligence activities and the operation of any other activities within the United States by the Central Intelligence Agency conforms to the legislative intent of that agency and the intent of the Congress.

(6) The past and present interpretation by the Director of Central Intelligence of the responsibility to protect intelligence sources and methods as it

relates to that provision of the National Security Act of 1947 which provides that " . . . that the agency shall have no police, subpoena, law enforcement powers or internal security functions. . . ."

(7) The nature and extent of executive branch oversight of all United States intelligence activities.

(8) The need for specific legislative authority to govern the operations of any intelligence agencies of the Federal Government now existing without that explicit statutory authority, including but not limited to agencies such as the Defense Intelligence Agency and the National Security Agency.

(9) The nature and extent to which Federal agencies cooperate and exchange intelligence information and the adequacy of any regulations or statutes which govern such cooperation and exchange of intelligence information.



The Senate Intelligence committee meeting yesterday. From left are Democratic Senators Gary Hart of Colorado, Robert Morgan of North Carolina and Walter Mondale of Minnesota; then F.A.O. Schwarz 3d, chief counsel; William G. Miller,

staff director; Senator Frank Church, Democrat of Idaho and committee chairman; then Republican Senators Howard H. Baker Jr. of Tennessee, Charles McC. Mathias of Maryland and Richard S. Schweiker of Pennsylvania.

The New York Times/George Fames

(10) The extent to which United States intelligence agencies are governed by executive orders, rules or regulations, either published or secret, and the extent to which those executive orders, rules or regulations interpret, expand or are in conflict with specific legislative authority.

(11) The violation or suspected violation of any state or Federal statute by any intelligence agency or by any person by or on behalf of any intelligence agency of the Federal Government, including but not limited to surreptitious entries, surveillance, wiretaps or eavesdropping, illegal opening of the United States mail or the monitoring of the United States mail.

(12) The need for improved, strengthened, or consolidated oversight of United States intelligence activities by the Congress.

(13) Whether any of the existing laws of the United States are inadequate, either in their provisions or manner of enforcement, to safeguard the rights of American citizens, to improve executive and legislative control of intelligence and related activities and to resolve uncertainties as to the authority of United States intelligence and related agencies.

(14) Whether there is unnecessary duplication of expenditure and effort in the collection and processing of intelligence information by United States agencies.

(15) The extent and necessity of overt and covert intelligence activities in the United States and abroad.

In addressing these mandated areas of inquiry, the committee has focused on three broad questions:

(1) Whether intelligence activities have functioned in accordance with the Constitution and the laws of the United States.

(2) Whether the structure, programs, past history and present policies of the American intelligence system have served the national interests in a manner consistent with declared national policies and purposes.

(3) Whether the process through which the intelligence agencies have been directed and controlled have been adequate to assure conformity with policy and the law.

Over the past year, the committee and its staff have carefully examined the intelligence structure of the United States. Considerable time and effort have been devoted in order to understand what has been done by the United States Government in secrecy during the 30-year period since the end of World War II. It is clear to the committee that there are many necessary and proper governmental activities that must be conducted in secrecy. Some of these activities affect the security and the very existence of the nation.

It is also clear from the committee's inquiry that intelligence activities conducted outside the framework of the Constitution and statutes can undermine the treasured values guaranteed in the Bill of Rights. Further, if the intelligence agencies act in ways inimical to declared national purposes, they damage the reputation, power and influence of the United States abroad.

The committee's investigation has documented that a number of actions committed in the name of "national security" were inconsistent with declared policy and the law. Hearings have been held and the committee has issued reports on alleged assassination plots, covert action in Chile and the interception of domestic communications by the National Security Agency. Regrettably, some of these abuses cannot be regarded as aberrations.

## The Purpose of the Committee's Findings and Recommendations

It is clear that a primary task for any successor oversight committee and the Congress as a whole will be to frame basic statutes necessary under

the Constitution within which the intelligence agencies of the United States can function efficiently under clear guidelines. Charters delineating the missions, authorities and limitations for some of the United States' most important intelligence agencies do not exist. For example, there is no statutory authority for the N.S.A.'s intelligence activities. Where statutes do exist, as with the C.I.A., they are vague and have failed to provide the necessary guidelines defining missions and limitations.

The committee's investigation has demonstrated, moreover, that the lack of legislation has had the effect of limiting public debate upon some important national issues.

The C.I.A.'s broad statutory charter, the 1947 National Security Act, makes no specific mention of covert action. The C.I.A.'s former general counsel, Lawrence Houston, who was deeply involved in drafting the 1947 act, wrote in September 1947, "we do not believe there was any thought in the minds of Congress that the act contemplated covert action." Yet, a few months after enactment of the 1947 legislation, the National Security Council authorized the C.I.A. to engage in covert action programs. The provision of the Act often cited as authorizing C.I.A. covert activities for the agency "... to perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct."

Secret Executive Orders issued by the N.S.C. to carry out covert action programs were not subject to Congressional review. Indeed, until recent years, except for a few members, Congress was not fully aware of the existence of the so-called "secret charter for intelligence activities." Those members who did know had no institutional means for discussing their knowledge of secret intelligence activities with their colleagues. The problem of how the Congress can effectively use secret knowledge in its legislative process remains to be resolved. It is the committee's view that a strong and effective oversight committee is an essential first step that must be taken to resolve this fundamental issue.

## The Dilemma of Secrecy and Open Constitutional Government

Since World War II, with steadily escalating consequences, many decisions of national importance have been made in secrecy, often by the executive branch alone. These decisions are frequently based on information obtained by clandestine means and available only to the executive branch.

Recent Presidents have justified this secrecy on the basis of "national security," "the requirements of national defense" or "the confidentiality required by sensitive, ongoing negotiations or operations." These justifications were generally accepted at face value. The Bay of Pigs fiasco, the secret war in Laos, the secret bombing of Cambodia, the anti-Allende activities in Chile, the Watergate affair, were all instances of the use of power cloaked in secrecy which when revealed provoked widespread popular disapproval. This series of events has ended, for the time being at least, passive and uncritical acceptance by the Congress of executive decisions in the areas of foreign policy, national security and intelligence activities. If Congress had met its oversight responsibilities some of these activities might have been averted.

An examination of the scope of secret intelligence activities undertaken in the last three decades reveals that they ranged from war to conventional espionage. It appears that some United States intelligence activities may have violated treaty and covenant obligations, but more importantly the rights of United States citizens have been infringed upon. Despite citizen and Congressional concern about these programs, no processes or procedures have been developed by either the Congress or the executive branch which would assure Congress of access to secret information which it must have to carry out its constitutional responsibilities in authorizing and giving its advice and consent. The hindsight of history suggests that many secret operations were ill-advised or might have been more beneficial to United States interests had they been conducted openly, rather than secretly.

The committee stresses that these questions remain to be decided by the Congress and the executive jointly:

What should be regarded as a national secret?

Who determines what is to be kept secret?

How can decisions made in secret or programs secretly approved be reviewed?

Two great problems have confronted the committee in carrying out its charge to address these issues.

The first is how our open democratic society, which has endured and flourished for 200 years, can be adapted to overcome the threats to liberty posed by the continuation of secret Government activities. The leaders of the United States must devise ways to meet their respective intelligence responsibilities, including informed and effective Congressional oversight, in a manner which brings secrecy and the power that secrecy affords within constitutional bounds.

For the executive branch, the specific problem concerns instituting effective control and accountability systems and improving efficiency. Many aspects of these two problem areas which have been examined during the committee's inquiry of intelligence agencies are addressed in the recommendations. It is our hope that intelligence oversight committees working with the executive branch will develop legislation to remedy the problems exposed by our inquiry and described in this report. The committee has already recommended the creation of an oversight committee with the necessary powers to exercise legislative authority over the intelligence activities of the United States.

It is clear that the Congress must exert its will and devise procedures that will enable it to play its full constitutional role in making policy decisions concerning intelligence activities. Failure to do so would permit further erosion of constitutional government.

In a meeting with President Ford at the outset of our inquiry in February 1975, the committee agreed not to disclose any classified information provided by the executive branch without first consulting the appropriate agencies, offices and departments. In the case of objections, the committee agreed to carefully consider the executive's reasons for maintaining secrecy, but the committee determined that final decisions on any disclosure would be up to the committee.

The select committee has scrupulously adhered to this agreement. The Interim Report on Alleged Assassination Plots Involving Foreign Leaders, the report on C.I.A. activities in Chile, the report on illegal N.S.A. surveillance, and the disclosures of illegal activities on the part of F.B.I. Cointelpro, the F.B.I. harassment of Dr. Martin Luther King, Jr. and other matters revealed in the committee's public hearings, were all carefully considered by the committee and the executive branch working together to determine what information could be declassified and revealed without damaging national security. In those reports and hearings, virtually all differences between the committee and the executive were resolved. The only significant exception concerned the release to the public of the Assassination Report, which the executive branch believed would harm national security. The committee decided otherwise.

Some criteria for defining a valid national secret have been agreed to over the last year. Both the committee and the executive branch now agree that the names of intelligence sources and the details of sensitive methods used by the intelligence services should remain secret. Wherever possible, the right of privacy of individuals and groups should also be preserved. It was agreed, however, that the details of illegal acts should be disclosed and that the broad scope of United States intelligence activities should be sufficiently described to give public reassurance that the intelligence agencies are operating consistent with the law and declared national policy.

## SUMMARY: FINDINGS AND RECOM- MENDATIONS

### 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 insure 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 insure that intelligence agencies carry out their necessary missions in accord with constitutional process.

In order to provide firm direction for the intelligence agencies, the committee finds that new statutory charters for these agencies must be written which 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. However, further action by Congress is necessary.

### Recommendations

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 Con-

gress and the intelligence agencies of the executive branch. This revision should be given the highest priority by the intelligence oversight committee of Congress, acting in consultation with the executive branch.

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.

### The National Security Council and the Office of the President

The National Security Council 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 action 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.

## Clandestine Activities

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

¶The principal N.S.C. 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.

¶As high-level Government officials, 40 Committee members have had neither 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 C.I.A. regards as major or sensitive) are so approved and/or reviewed. This 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 N.S.C. 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 previewed outside the Central Intelligence Agency, at the N.S.C. 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.

## Counterintelligence

There is no N.S.C.-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.

## 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 Intel-

*Continued from preceding page*

ligence, there was no effective N.S.C.-level mechanism for any of these purposes.

## 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.

## 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 adviser to the National Security Council in order to facilitate discharging his responsibility to insure 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 N.S.C. should establish an appropriate committee, such as the new Committee on Foreign Intelligence, with responsibility for allocating intelligence resources to insure efficient and effective operation of the national intelligence community. This committee should be chaired by the D.C.I. and should include representatives of the Secretary of State, the Secretary of Defense, and the Assistant to the President for National Security Affairs.

8. By statute, an N.S.C. 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 O.A.G. 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 O.M.B., 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 C.I.A.

11. Each covert action project should be reviewed and passed on by the group. In addition, the group would review all ongoing 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 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 D.C.I. should submit a semiannual 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 national intelligence budget, the Hughes-Ryan Amendment (22 U.S.C., 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 N.S.C. 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 F.B.I. 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 F.B.I. and the C.I.A. The goal would be to insure strict conformity with statutory and constitutional requirements and to enhance coordination between the C.I.A. and F.B.I. This committee should review the standards and guidelines for all recruitments of agents within the United States for either 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 that 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 F.B.I. and C.I.A. which either agency brings to that forum for Presidential level consideration.

## The Director of Central Intelligence

The 1947 National Security Act gave the D.C.I. responsibility for "coordinat-

ing the intelligence activities of the several Government departments and agencies in the interest of national security." In addition, the D.C.I. 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 D.C.I. 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 pre-

*Continued on next page*

pare for war. Thus, while the D.C.I. 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.

Because the D.C.I. 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 D.C.I. 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.

In the area of providing finished intelligence, the committee discovered that the D.C.I., in his role as 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 D.C.I. to alter his intelligence judgments. One example of such pressure investigated by the committee occurred in the fall of 1969, when the D.C.I. 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 D.C.I.'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 D.C.I.'s national intelligence judgments.

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 insuring that the D.C.I.'s national intelligence judgments are available to the appropriate Congressional committees on a regular basis without compromising the D.C.I.'s role as personal adviser to the President.

Finally, the committee has found concern that the function of the D.C.I. in his role 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 C.I.A. Potential problems exist in a number of areas. Because the D.C.I. as head of the C.I.A. 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 D.C.I. as community leader is in "a conflict of interest" situation when ruling on the activities of the over-all intelligence community.

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

## Recommendations

16. By statute, the D.C.I. 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 D.C.I. 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 D.C.I. from pressures to alter or modify his national intelligence judgments. To advise and assist the D.C.I. in producing national intelligence, the D.C.I. would also be empowered to draw on other elements of the intelligence community.

17. By statute, the D.C.I. 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 N.S.C. committee, such as the C.F.I. and should have the following powers and responsibilities:

a. The D.C.I. 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 D.C.I. should provide general guidance to the various intelligence agency directors for the management of intelligence operations.

b. The D.C.I. should have responsibility for preparing the national intelligence program budget for presentation to the President and the Congress. 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 D.C.I. should also have responsibility for issuing fiscal guidance for the allocation of all national intelligence resources. The authority of the D.C.I. to reprogram funds within the intelligence budget should be defined by statute.

c. In order to carry out his national intelligence responsibilities the D.C.I. 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.

d. The D.C.I. 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 D.C.I. 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 No. 11905. This Deputy Director should be subject to Senate confirmation and would assume the DCI's intelligence community functions in the D.C.I.'s absence. Current provisions regarding the status of the D.C.I. and his single deputy should be extended to cover the D.C.I. 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 D.C.I., 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 10 years.

21. The committee also recommends consideration of separating the D.C.I. from direct responsibility over the C.I.A.

## The Central Intelligence Agency The Charter for Intelligence Activities: Espionage, Counterintelligence and Covert Action

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

While the legislative history of the 1947 act makes clear that the C.I.A.'s mandate would be limited to "foreign intelligence," the act itself does not so specify. Covert action, in the past a major C.I.A. 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 C.I.A. to undertake "such other functions and duties related to the intelligence affecting the national security as the N.S.C. may from time to time direct." 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 of foreign intelligence.

The Congress's confusing and ill-defined charge to the agency in these areas resulted in conflicts of jurisdiction with other governmental agencies. The lack of legislative specificity also opened the way to domestic activities such as Operation Chaos, which clearly went beyond Congress's 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.

## Foreign Espionage

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

The committee believes that the United States cannot forgo clandestine human collection and expect to maintain the same quality of intelligence on mat-

ters 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 C.I.A.'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.

## Foreign Intelligence Collection in the United States

The C.I.A. engages in both overt and clandestine activity within the United States for the purpose of foreign intelligence collection. The agency's Domestic Collection Division is responsible primarily for overt collection, while the Foreign Resources Division 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 D.C.D. 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 discreetly as possible.

The committee notes that due to the recent revelations about C.I.A. 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

Counterintelligence is defined quite broadly by the C.I.A. 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 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 block nations (from 416 in 1960 to 798 in 1975).

Coordination between C.I.A. and F.B.I. counterintelligence units is especially critical. The history of C.I.A.-F.B.I. 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 C.I.A. on a regular basis. The sources of friction between the C.I.A. and F.B.I. in the early days revolved around such matters as the

frequent unwillingness of the bureau to collect positive intelligence for the C.I.A. within the United States or to help recruit foreign officials in this country.

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 F.B.I. counterespionage results have been less than satisfactory; and (3) counterintelligence has infringed on the rights and liberties of Americans.

## 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.

¶The conduct of foreign counterintelligence.

¶The conduct of foreign covert action operations.

¶The production of finished national intelligence.

23. The C.I.A., in carrying out foreign intelligence mission I, 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. 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, C.I.A. foreign intelligence activities conducted within the United States.

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 recommendations to the C.F.I. with regard to the scope, policies, and priorities of U.S. clandestine human collection operations and choices between overt and clandestine human collection. This committee would be composed of a representative of the Secretary of State as chairman, the other statutory members of the C.F.I., 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 such 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 C.I.A.'s regulations should require that the D.C.D.'s overt contacts be informed when they are to be used for operational support of clandestine activities;

¶The C.I.A.'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 counterintel-

ligence. 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.

## C.I.A. 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 policymakers. 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 C.I.A., finished intelligence is produced by the Directorate of Intelligence and Directorate of Science and Technology.

Certain problems and issues in the area of the production of intelligence in the C.I.A. 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 analyst responsible for producing finished intelligence have 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 1970's, the committee encountered evidence that the analysts were so deprived.

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 D.C.I. (who is still to be the President's chief intelligence adviser), C.I.A. analysts may well report through the Deputy for the C.I.A. 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 D.C.I. may be preoccupied with greater communitywide 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 should be authorized to continue to report directly to the Director of Central Intelligence.

30. The committee recommends that a system be devised to insure 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

*Continued on next page*

*Continued from preceding page*

and the intelligence oversight committee(s) of Congress should re-examine 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 analytical capabilities.

32. The Directorate for Intelligence should seek to bring more analysts into the C.I.A. 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.

## 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 "standby" assets (agents of influence or media assets) who can be used in major operations—such as in Chile. These "standby" assets are part of ongoing, most often routine, projects. There are no inactive assets.

## Covert Action

The committee has found that the C.I.A. 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 retrospect public judgments, such as the support given Western European democratic parties facing strong Communist opposition in the late 1940's and 1950's. 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.

### 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 C.I.A. without being authorized or approved by the Congress as a whole.

Covert U. S. paramilitary combat operations frequently amount to making war, but do not come under the War Powers Act since they usually do not involve uniformed U. S. military officers. American military officers engaged in C.I.A.-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 civilians 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 1950's are examples of such paramilitary failures. Others, such as Laos, are judged successes by the C.I.A. 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 C.I.A. 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 C.I.A. 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.

### Recommendations

35. The legislation establishing the charter for the Central Intelligence Agency should specify that the C.I.A. 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 insure 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.

¶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 N.S.C. committee (e.g., the Operations Advisory Group) should review every covert action proposal.

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 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 committee should be notified prior to any withdrawal from the Contingency Reserve Fund.

30. 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.

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.

## Reorganization of C.I.A. The Position of the D.C.I.

The committee recommendations regarding the Director of Central Intelligence 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 D.C.I. from direct management responsibility for the Central Intelligence Agency. This would free the D.C.I. 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 C.I.A.

### The Structure of the C.I.A.

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 C.I.A.—in particular, separating national intelligence production and analysis from the clandestine service and other collection functions. Intelligence production could be placed directly under the D.C.I., while clandestine collection of foreign intelligence from human and technical sources and covert operations would remain in the C.I.A.

### 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 D.C.I. and the Director of the C.I.A. and to dividing the intelligence analysis and production functions from the clandestine collection and covert action functions of the present C.I.A.

## 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 C.I.A. subsidized, and even helped develop "private" or nongovernment organizations that were designed to compete with Communists around the world. The C.I.A. 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 C.I.A. 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.

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

The Central Intelligence Agency is now using several hundred American academies, 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 score are used in an unwitting manner for minor activities.

These academies 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 C.I.A. link. At the others, at least one university official is aware of the operational use made of academies on his campus. In addition, there are several American academies abroad who serve operational purposes, primarily the collection of intelligence.

The C.I.A. 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 academies provide valuable assistance in this activity.

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

## Government Grantees

C.I.A. regulations adopted in 1967 prohibit the "operational" use of certain narrow categories of individuals. The C.I.A. is prohibited from using ceiving grants from the Board of Foreign Fellowships under the Fulbright-Hayes Act. There is no prohibition on the use of individuals participating in any other federally funded exchange programs. For example, the C.I.A. 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.

## 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 (longrange) 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 C.I.A. 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.

## 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, C.I.A. 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, C.I.A. press placements that are picked up by an international wire service, and publications resulting from direct C.I.A. funding of foreign institutes. For example, a book



written for an English-speaking foreign audience by one C.I.A. operative was reviewed favorably by another C.I.A. agent in The New York Times.

## 4. Covert Use of American Religious Personnel

The committee has found that over the years the C.I.A. has used very few religious personnel for operational purposes. The C.I.A. informed the committee that only 21 such individuals have ever participated in either covert action projects or the clandestine collection of intelligence. On Feb. 10, 1976, the C.I.A. announced: "C.I.A. 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 constrain 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 C.I.A. amend its internal directives to require that individual academics used for operational purposes by the C.I.A., together with the President or equivalent official of the relevant academic institutions, be informed of the clandestine C.I.A. relationship.

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 C.I.A. 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 C.I.A. 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 C.I.A. Nor should the C.I.A. 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 C.I.A. prohibitions against any paid or contractual relationship between the agency and U.S. and foreign journalists accredited to U.S. media organizations. The C.I.A. prohibitions should, however, be established in law.

47. The committee recommends that the C.I.A. 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.

## Proprietaries and Cover

### Proprietary Organizations

C.I.A. 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 C.I.A.'s 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 C.I.A. financial controls have been regular and systematic, the committee found a need for even greater accountability both internally and externally. Generally, those auditing of the C.I.A. 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 C.I.A.'s Inspector General has, on occasion, been denied access to certain information regarding proprietaries. This has sometimes inhibited the ability of the inspector 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 G.A.O. or the C.I.A. 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 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 C.I.A. 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 C.I.A. 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.

## Cover

*The committee examined cover because it is an important aspect of all C.I.A. clandestine activities. Its importance is underscored by the tragic murder of a C.I.A. station chief in Greece, coupled with continuing disclosures of C.I.A. 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 C.I.A. 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 C.I.A. 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 C.I.A. 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 C.I.A. In carrying out their responsibilities, C.I.A. 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 C.I.A.'s cover staff stated, by the time a person becomes chief of station, "there is not a great deal of cover left. 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.*

## Recommendations

49. By statute, the C.I.A. 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 C.I.A. audits, a list of all C.I.A. 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 C.I.A.'s budget be made clear in the D.C.I.'s annual report to the oversight committee. The committee should also establish guidelines for creating large proprietaries, should these become necessary.

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 C.I.A. proprietary.

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

## Intelligence Liaison

Throughout the entire period of the C.I.A.'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 C.I.A. should be prohibited from causing, funding, or encouraging actions by liaison services which are forbidden to the C.I.A. Furthermore, the fact that a particular project, action, or activity of the C.I.A. 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 committees of Congress should be kept fully informed of agreements negotiated with other governments through intelligence channels.

## 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 C.I.A. 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 C.I.A. 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 often were not referred to the general counsel for a legal opinion. Moreover, the general counsel never had general investigatory authority.

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 C.I.A.

## Recommendations

56. Any C.I.A. 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.

57. The D.C.I. 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.

58. By statute, the director of the C.I.A. should be required to notify the appropriate committee of the Congress of any referrals made to the Attorney General pursuant to the previous recommendation.

59. The director of the C.I.A. 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 C.I.A. 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.

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.

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.

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 C.I.A.

# The Department of Defense

## 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 policy makers on the national level.

Defense intelligence must respond to a range of consumers—policymakers 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 over-all 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 De-

*Continued on next page*

*Continued from preceding page*

fense'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 interest 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 D.C.I. more authority will be to bring national intelligence assets and budgets under the D.C.I.'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 of Congress.

## The Defense Intelligence Agency

Historically, DOD has managed the bulk of all technical intelligence collection systems, but the C.I.A. 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 D.I.A. Much of D.I.A.'s effort is directed toward producing intelligence needed by the J.C.S., the United 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 D.I.A.'s product with analyses from sources in other agencies.

## 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. N.S.A. 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. N.S.A.'s capability to perform these functions must be preserved. The committee notes that despite the fact that N.S.A. has been in existence for several decades, N.S.A. still lacks a legislative charter. Moreover, in its extensive investigation, the committee has identified intelligence community abuses in levying requirements on N.S.A. and abuses by N.S.A. itself in carrying out its functions. The committee finds that there is a compelling need for an N.S.A. charter to spell out limitations which will protect individual constitutional rights without impairing N.S.A.'s necessary foreign intelligence mission.

## Recommendations

67. In order to implement the committee's and the President's recommendations for expanding the D.C.I.'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, D.I.A. 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 constituted to provide intelligence support, primarily of an operational nature, to the Joint Chiefs of Staff. The Secretary of Defense should insure full coordination and free access to information between the two groups.

B. The Director of the D.I.A. 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 D.I.A. from certain civil service regulations in order to enable the quality of D.I.A. personnel to be upgraded. In addition, more supergrade positions must be provided for civilians in D.I.A.

69. By statute, a charter for the National Security Agency should be established which, in addition to setting limitations on the agency's operations, would provide that the Director of N.S.A. would be nominated by the President and subject to confirmation by the Senate. The director should serve at the pleasure of the President but for not more than 10 years. Either the director or the deputy director should be a civilian.

should centralize the service counterintelligence and investigative activities within the United States in the Defense Investigative Service in order to reduce wasteful duplication.

## 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.

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 C.I.A. In the field, this responsibility clearly falls on the ambassador by law. Indeed, ambassadors are the sole mechanism available outside of the C.I.A. itself to assure that N.S.C. 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.

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 C.I.A. of the risks of foreign espionage and counter-espionage 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."

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, 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 C.I.A. 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.

At present, the C.I.A. handles both State Department and its own communications with overseas posts. Under this arrangement, the ambassador's access to C.I.A. communications is at the discretion of the C.I.A. 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 C.I.A. 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 C.I.A. component. The head of the C.I.A. component interpreted this to proscribe any C.I.A. electronic surveillance and believed that such surveillance could be conducted in cooperation with local security services.

The committee found evidence that C.I.A. 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 C.I.A. 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, how-

ever, 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 C.I.A.'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 committees 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 N.S.C. should review the question of which U.S. Government agency should control and operate communications with overseas diplomatic and consular posts, including the C.I.A. 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.

## 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 C.I.A., N.S.A., and other national intelligence instrumentalities of the Department of Defense.

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 is the 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."

The committee believes that the overall figure for national intelligence activities can be made public annually without endangering national security or revealing sensitive programs. 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 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.

## 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.

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 G.A.O. 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 G.A.O. should be authorized to have all access to all necessary files and records of the intelligence community.

## 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 unwitting 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 C.I.A. wrote, "the knowledge that the agency is engaged in unethical and illicit activities would have serious repercussions in political and diplomatic circles and would be detrimental to the accomplishment of its [C. I. A.'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 also found that within the intelligence community there were destructive jurisdictional conflicts over drug testing. Military testers withheld information from the C.I.A., ignoring their superiors' suggestions for coordination. The C.I.A. similarly failed to provide information on its programs to the military. In one case the military attempted to conceal their overseas operational testing of LSD from the C.I.A. and the C.I.A. attempted surreptitiously to discover the details of the military's program.

### Recommendations

80. The C.I.A. 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.

### General Recommendations

82. **Internal Regulations** — Internal C.I.A. 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 D.C.I. approves the waiver or amendment of any significant regulation or directive, the N.S.C. 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 intelligence 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 pro-

grams 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.

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 committees of Congress and that, in recasting the 1947 National Security Act and in consultation with the executive branch, the oversight committees 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 secrets; 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 classified 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 and all Director or Central Intelligence Directives. 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.