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MEMORANDUM FOR: Director of Central Intelligence

THROUGH: Inspector General
Deputy Director (Support) Ltr w/- 1 Nov 58

SUBJECT: Joint Congressional Committee for Foreign Intelligence

1. This memorandum contains a recommendation submitted for approval of the Director of Central Intelligence. Such recommendation is contained in paragraph 12.

2. The question of a Joint Congressional Committee for Foreign Intelligence is certain to arise in the 86th Congress. While it was defeated on the floor of the Senate in the 84th Congress, there were 22 separate measures for a Joint Committee in the 85th Congress. The Executive Branch's position on a Joint Committee on Foreign Intelligence was established after National Security Council action on February 1, 1956, with the President approving the report of the Director of Central Intelligence dated 6 January 1956. In substance, the approved recommendations were that a Joint Committee would be an unnecessary supplement to existing congressional review and that the present mechanisms are adequate. In addition, it was concluded that a Joint Committee would create jurisdictional problems due to the large number of Government agencies with responsibilities in the intelligence field and such a Committee could raise substantial security problems and hamper the conduct of foreign relations by the Executive Branch.

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3. While the Agency has the problem common to all Executive agencies of establishing proper relations with the Congress in order to inform them and obtain necessary funds, there are four aspects of the problem which are peculiar to the Agency.

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a. Security. CIA is the only agency where security applies to such basic matters as personnel, budget, organization, and expenditures. This tends to breed suspicion and distrust on the part of Congressmen who are not informed. The security problem, therefore, is different in nature as well as degree from that of other Executive agencies.

b. Finished Intelligence. The end product of the Agency is finished intelligence for the policymakers in the Executive Branch. Sound arguments can be made that such finished intelligence is the exclusive property of the President in view of his responsibility for the conduct of foreign affairs. A serious question is raised whether the Congress has a legitimate interest in finished intelligence except to determine whether a valuable return is received for the funds appropriated. Since intelligence is only one factor in policy decisions, providing Congress with finished intelligence alone could well lead to serious political difficulties in which the Agency would be caught in the middle between the Executive and Legislative Branches.

c. Jurisdiction. Most agencies can deal with the Congress representing their entire functional responsibilities whereas CIA is a focal point of the intelligence community comprised of components of other departments and agencies which have their own direct responsibility to the Congress. A formidable jurisdictional problem is thus presented and while it is one for the Congress to resolve, it is pertinent to our consideration of relations with the Congress.

d. Covert Operations. In addition to the intelligence mission, the Agency is charged with the conduct of covert operations. Such operations are carried out in accordance with policy directives from appropriate Executive elements. In possible congressional review of such activities there would be involved policy decisions for which CIA does not have responsibility.

4. We shall attempt to appraise the relative merits of handling CIA congressional relations under the existing system and under a Joint Committee system utilizing the above four factors.

a. Security. Under the existing system, security of the CIA subcommittees has been excellent, but it cannot be assumed that a Joint Committee would be less secure and under the Mansfield

type resolution the membership would be comprised solely of members of our subcommittees. (The staff problem will be discussed later.) The establishment of a Joint Committee might have some adverse affect on relations with foreign intelligence services, but probably this would be of short duration as they could be brought to understand that fundamentally nothing had been changed.

b. Finished Intelligence. On the question of producing finished intelligence on demand from the Congress, there would seem to be little difference in the fundamental problem between our present subcommittee system and a Joint Committee. Our present subcommittees have not raised this issue although they could at any time. There is somewhat more likelihood that the Joint Committee would immediately raise the issue but the issue is the same under either system. In fact, a Joint Committee might tend to preclude other committees such as Foreign Relations from requesting the material which could happen under the present system.

c. Jurisdiction. There are two sides to the question of jurisdiction. On the one hand is the question of extent of jurisdiction over intelligence matters which could be claimed by the Joint Committee. The extent of asserted jurisdiction by a Joint Committee over the intelligence activities of other agencies which have responsibilities to other committees is a matter of conjecture and concern. On the other hand there is the question of how many committees properly can assert jurisdiction over the Agency at the present time. For example, a subcommittee of House Foreign Affairs on State Department Organization and Foreign Operations lists one of its responsibilities in the Legislative Calendar as ". . . liaison with Central Intelligence Agency . . . ." Also, legislation affecting CIA personnel might well be claimed by the Post Office and Civil Service Committees, whereas a Joint Committee could probably assert exclusive jurisdiction over the Agency in all matters except appropriations. Generally we have not been subject to any serious jurisdictional difficulties under the present system, but it is likely that a Joint Committee would tend to cause jurisdictional questions to be raised.

d. Covert Operations. On the question of covert operations, again there seems to be little basic difference in dealing with our subcommittees or with a Joint Committee. However, the existence

of a Joint Committee would tend to bring the issue into focus. So far the subcommittees have not seriously considered policies under which CIA conducts its covert activities. A Joint Committee could almost certainly be expected to study such problems more carefully and might well be critical of policies, instructions, or particularly limitations put on by State or Defense. The problem of such policy guidance is delicate enough without having a third party, particularly a congressional group, enter the debate. So, on balance, the subcommittees' system may be preferable from this point of view, although there is nothing to prevent the problem from arising with them also.

5. The present subcommittees have not moved actively to dispel what seems to be a growing distrust and suspicion of the Agency within the Congress. The Agency has not requested specific action by our subcommittees in this regard. The level of lack of knowledge of the Agency, its activities and its relations with Congress is illustrated by the fact that certain senior Congressmen on the Armed Services Committee were not aware that there was a CIA subcommittee. The publicity attendant upon the establishment of a Joint Committee would tend to lessen some of the suspicions as would the reports which presumably would be forthcoming. It is also likely that the Joint Committee would be of considerable assistance in guiding through the congressional mill the relatively few items of needed legislation.

6. The most serious problem and the most difficult to assess concerns the fundamental constitutional question of the relationship between the President and the Congress, particularly with regard to the President's function in the conduct of foreign affairs. This point is discussed in more detail in the DCI memorandum of 6 January 1956 to the National Security Council. A Joint Committee in all likelihood would tend to bring these issues into sharper focus although it is impossible to predict the approach which would be taken by a Joint Committee. However, it is true that the existing subcommittees could raise the same issues. Since they have not, the constitutional question remains a distinct negative factor in assessing the desirability of a Joint Committee.

7. The membership on a Joint Committee raises many doubts. The various measures proposing a Joint Committee have specified determination of membership in different ways. In some cases it is left open except for the usual relationship between majority and minority parties, and in all

likelihood seniority rules would apply. Under this arrangement there would be increased dangers arising from the inflexible nature of selection. In the present system, the selection of membership on subcommittees is handled more informally and there have been no serious problems. Under the Mansfield type of resolution the membership includes only the members of the existing CIA subcommittees so no additional membership problem is raised. However, it does raise the question of responsibility to additional committees. The Mansfield type resolution does not eliminate supervision of the Armed Services Committees but simply imposes the Joint Committee on top of the existing system, thus increasing our burden.

8. Some of the above problems are further emphasized by the fact that a Joint Committee would have its own staff. Presently the staffs working with the subcommittees have as much as they can handle in the way of work for other defense activities and tend to leave CIA alone. A staff for a Joint Committee, however, even if it were one man, would have but a small portion of its time taken up with the few legislative problems this Agency has. There is little doubt that the staff's time would, therefore, be devoted to informing itself on intelligence activities and inquiring into substantive matters. The staff in turn would promote the interest of Committee members, and we could expect a far more active give and take than exists between the Agency and the subcommittees. This would be time consuming and the probable detriments would probably tend to outweigh the benefits, as the increased security exposure and the tendency of the Joint Committee to interfere would probably have more effect than any support we might wish the Committee to lend. However, the problem of the staff is not insoluble and the selection thereof could probably be worked out by mutual agreement between the Chairman and the Director. The staff problem is additionally unique in that to do their job properly they would gain access to the most sensitive of clandestine activities on an across-the-board basis, whereas even within the Agency these activities are compartmented and very few people in the Agency have full access. The normal turnover of staff people possessing such broad knowledge of Agency activities adds to the security problem.

9. Aside from the Agency's view on a Joint Committee, we must consider the position of the Executive Branch as a whole as expressed by the approved National Security Council action recommending against a Joint Committee. It is believed that certain people in the White House and the Bureau of the Budget are strongly against the Joint Committee concept as inevitably leading to invasion of the prerogatives of the Executive

Branch by the Congress. There have been some indications that active efforts may have to be undertaken in this regard with respect to the Joint Committees on Atomic Energy and Internal Revenue Taxation. We have also heard strong expressions of opinion against the Joint Committees by various members of Congress. Certainly Senator Saltonstall, as an example, was strong in his belief when he was prompted to say "a Joint Committee would wreck CIA." Any consideration by the Agency of actions outside of the Agency on the question of a Joint Committee must consider these opinions.

10. Certain of the advantages claimed for a Joint Committee could be accomplished under our existing subcommittee system. A more careful review of Agency activities can be accomplished by our present subcommittees, whereas in the past there has not been a thorough review on an annual basis. Some of the members of our subcommittees have conceded that possibly they have not lived up to their responsibilities in this respect. A review of Agency activities (not simply a briefing on world affairs) accompanied by a statement or report issued to the membership of the Congress as a whole that a review has been conducted would go a long way to alleviate some of the pressures and meeting the stated objectives of a Joint Committee. Other possible action would be more frequent briefing of the key staff members of the subcommittees. Such a procedure could, in part, answer Chairman Cannon's outstanding request on the Agency for some method of briefing the staff and, in turn, the subcommittee.

11. Most of the problem areas which we have discussed raise the same fundamental issues whether there is a Joint Committee or whether the existing subcommittee system remains -- the difference being that a Joint Committee system would be more likely to [illegible] the issues thus giving the problem greater emphasis. Although some advantages no doubt would accrue from a Joint Committee system, it is concluded that on balance a Joint Committee would be undesirable. However, it is believed that the establishment of a Joint Committee would not be disastrous for the Agency. Certainly it would create some new problems particularly as the result of the permanent staff but in all probability we could resolve most of the difficulties.

12. Therefore, the Agency should take affirmative action to alleviate the pressures for a Joint Committee by working more closely with the existing subcommittees and urging them to take positive actions on our behalf. In view of the established position of the Executive Branch

and the opinions of congressional leaders who also serve on our sub-committees, the Agency should not take direct action to forestall a Joint Committee. As in the past, responses to queries as to the CIA position on a Joint Committee generally should be that the matter is one for the Congress to decide. In certain special situations the response could include a discussion of the factors listed herein. In addition, I would recommend that this study be placed before the President's Board of Consultants on Foreign Intelligence for their comments.

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JOHN S. WARNER
Legislative Counsel

cc DDCI

17 NOV 1958

The recommendation in paragraph 12 is approved.

Date

ALLEN W. DULLES
Director