

NR, 14592 (S.3000)

This package contains:

Proxmire amdmnt to S. 3000

Open Budget for CIA

Open Appropriation for CIA ('Mr. President')

Excerpt from Schlesinger nomination

McClellan Letter from WEC 2/22/74

FOREIGN INTELLIGENCE BUDGET DISCLOSURE
(Amendment No. 1369)

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Amendments to S. 3000 Proposed by Senator Proxmire

National Intelligence Program Budget Report

1. Senator Proxmire proposes an amendment which would require the Director of Central Intelligence to submit an unclassified written report to the Congress disclosing the total amount of funds requested in the budget for the national intelligence program for the next succeeding year.

2. This matter has been reviewed repeatedly by the Senate Armed Services Committee and the Senate Appropriations Committee over the years. In fact, as recently as April of this year Mr. Colby met with a number of Senators to review this matter. At that time he stated that statutory restrictions placed upon him by the Congress in his capacity as Director of Central Intelligence to protect Intelligence Sources and Methods preclude him from recommending or agreeing to the disclosure of the figures which Senator Proxmire has suggested. He explained that disclosure of the total intelligence budget would over the years, by virtue of the trends disclosed, provide valuable assistance to our adversaries. He pointed out that if he were able to obtain similar information regarding our adversaries, he would find it useful to the United States Government.

3. I believe that disclosing such a figure would only stimulate further inquiry for greater details regarding intelligence activities, for explanations of changes or trends, and for the component elements of the total figure.

There need be no concern that budgets of other agencies are inflated with intelligence figures since all intelligence money other than that which is openly appropriated is included in the Department of Defense appropriations act. While ours is an open society, certain things must remain secret and this is one of them. I am strongly opposed to Senator Proxmire's amendment to require transmissions publicly of the total amount of the national intelligence program. Furthermore, the CIA subcommittees of the House and the Senate Armed Services and Appropriations Committees are fully aware of the details behind this overall figure and they are free to inquire into these matters as deeply as they deem appropriate. I would also point out that if any member of the Senate wishes to know what that figure is, I would have no objection to furnishing this figure to a member only on a classified basis.

OPEN BUDGET FOR CIA

Amendment No. 1369 institutes substantial changes in the process by which sums are made available to the CIA and the foreign intelligence community by requiring the annual submission of an unclassified report to the Congress disclosing the total amount of funds requested in the budget for the next succeeding year.

The Central Intelligence Agency Act of 1949 provides the basic authority for financing that Agency without impairing security. During the Senate consideration of that Act, the Chairman of the Armed Services Committee explained:

"... Ours will perhaps be the only Government having a law providing for such an activity. Other governments simply appropriate a disguised sum of money, without any authority of law, to handle the whole matter through some government official. We are writing the whole law out. I regret we cannot proceed in any other way. If the Senate knew about the details, it might be willing to do as other countries do, but we do not do business that way. We are not doing what other countries do. We are throwing every possible democratic safeguard around it as we go along." [95 Cong. Rec. 6955 (1949) (remarks of Senator Tydings).]

In line with this concept, the budgetary and appropriation process for funding CIA parallels the procedures followed for other agencies in the Executive Branch, with certain exceptions authorized by law to protect intelligence sources and methods. The annual request for funds for the Agency is not specifically identified in the United States Federal budget. These funds, nevertheless, are contained in the totals submitted to Congress in that budget. The specific amount requested by the President for the Central Intelligence Agency is made known to our committee as classified material. The specifics of CIA's annual budget are also made known to our committee and each year Agency witnesses testify before our committee. The amount of the President's budget request for CIA that is eventually approved by our committee is contained in the Defense appropriation bill, although the CIA portion is not specifically identified as such.

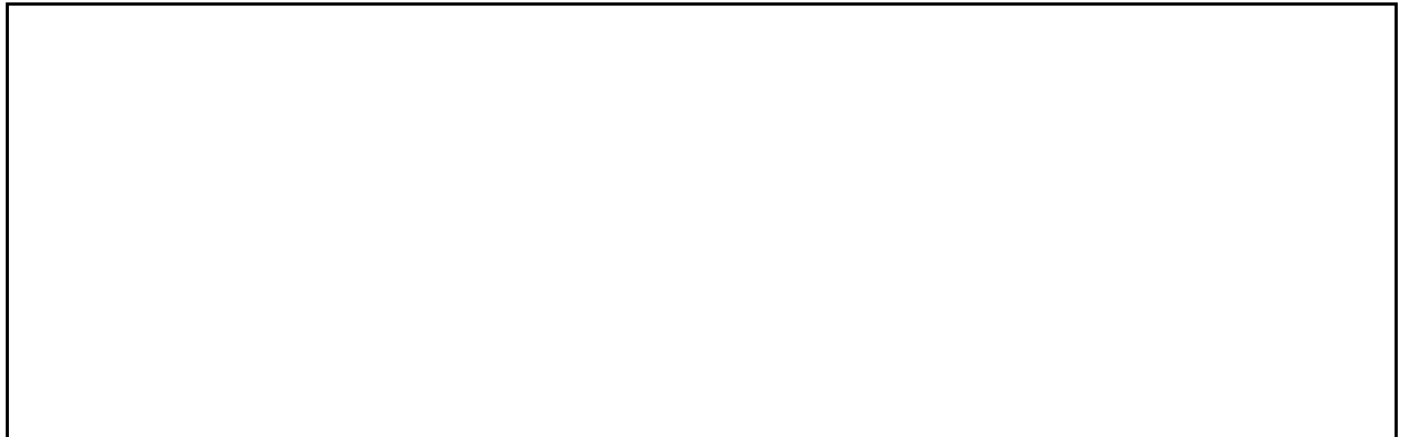
The CIA's budget that our committee reviews in detail consists of programs inextricably involved with intelligence sources and methods. Our committee is strongly committed to protection of these intelligence sources and methods from unauthorized disclosure. This committee objective is wholly consistent with one of the principal objectives of the Central Intelligence Agency Act of 1949 and any legislative change, affecting as it does intelligence sources and methods, is deserving of the closest scrutiny.

It has been argued that the mere existence of the budget of CIA and the foreign intelligence community as a total figure will lead to a public determination on the amount of Federal resources to be allocated for foreign intelligence purposes. This desirable objective does not appear to be achievable without unacceptable diminution and degrading of the sources and methods of intelligence on which we so heavily depend. If a public judgment is to be reached on the amount of resources to be allocated to CIA, a specific public analysis of CIA's programs and resource requirements would be required so that an informed judgment could be reached. Without such detail it is difficult to perceive how CIA and other sensitive programs and requirements could either be evaluated on their merits or compared with other Federal programs with which they presumably would be competing for funds. Clearly, making such detail public would be in complete conflict with present law and practice and destructive of the very intelligence sources and methods that are, have been, or are to be funded.

It has also been argued that publicizing the National Intelligence Program budget would not communicate useful information to potential adversaries. Our committee is not sure what portions, if any, of this budget has been identified or accurately estimated by potential adversaries to whom this information would be useful against the interest of the United States. However, the precise total may aid in verifying estimates in hand and in filling in critical gaps in information. Also the year to year trends

could provide warning or tip-off of significant developments which could bear on such life and death issues as our national means of verification of disarmament agreements.

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In view of the foregoing, I am strongly opposed to the proposal for an unclassified report on the National Intelligence Program budget. I hold that its enactment would nullify provisions of existing law which directly and effectively serve our nation's interest through the protection of intelligence sources and methods from "disclosure" to our potential adversaries.

It is true the success of our system of Government is dependent upon an informed public. But I submit that an equally fundamental postulate is the need to retain the capability to insure the survivability of our system from potential foreign threats. And in a case such as we have

pending before us today, there is no question in my mind which of the two fundamental concepts must be preserved, especially in view of the fact that we have four separate committees in the Congress who know the intimate details of what we are discussing and who I believe are willing to share needed information with their colleagues, who are the public's agents in this and other sensitive matters.

Open Appropriation for CIA

Mr. President:

I rise in opposition to Amendment Number 1369 proposing an unclassified report to Congress of the total National Intelligence Program, including CIA's budget.

The funding of the foreign intelligence programs of the Central Intelligence Agency follows substantially the procedures that apply across the board to other Executive Branch agencies. Certain procedures have been adopted, of course, pursuant to law in the interest of providing necessary security.

The United States Federal budget does not specifically identify funds for CIA. These funds, nevertheless, are contained in the totals submitted to Congress in that budget.

The gross amount requested by the President for CIA is communicated on a classified basis directly to the House and Senate Appropriations Committees subcommittees responsible for CIA matters. In addition, the specific details of CIA's annual budget is presented to these subcommittees and Agency witnesses testify in an executive hearing on the budget request. The amount of the President's budget request that is eventually approved for CIA by these subcommittees is carried in the Defense appropriation bill, but is not specifically identified.

These procedures for handling the CIA budget and appropriations are consistent with and in furtherance of provisions of law setting forth

the responsibilities of the Director of Central Intelligence. Section 6 of the Central Intelligence Agency Act of 1949, as amended (50 USCA 403g) states:

Sec. 6. In the interests of the security of the foreign intelligence activities of the United States and in order further to implement the proviso of section 403(d)(3) of this title that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure, the Agency shall be exempted from the provisions of section 654 of Title 5, and the provisions of any other law which require the publication or disclosure of the organization, functions, names, official titles, salaries, or numbers of personnel employed by the Agency: Provided, That in furtherance of this section, the Director of the Bureau of the Budget shall make no reports to the Congress in connection with the Agency under section 947(b) of Title 5.

Obviously, CIA's budget is revealing of foreign intelligence programs and the sources and methods used in their implementation. The CIA Act of 1949 as well as the National Security Act of 1947 is a national commitment to the need to protect intelligence sources and methods from disclosure to our potential enemies. This statutory commitment in these two acts is wholly consistent

with the principles of the Central Intelligence Agency Act of 1949 and any legislative change, affecting as it does intelligence sources and methods, is deserving of the closest scrutiny.

The question has been raised that an unclassified report of the National Intelligence Program would lead to public acceptance of the amount of Federal resources to be allocated to CIA. Unfortunately, this objective is not possible without also degrading of the very sources and methods of intelligence on which our country so heavily relies. Beyond doubt, public acceptance of the resources to be allocated to CIA would require public analysis of CIA's programs and resources requirements if the acceptance is to be based upon informed judgment. If we really intend to be serious about evaluating or weighing the programs of the Central Intelligence Agency against the programs of other Federal agencies for the expenditure of resources, we need details. Yet, providing such public detail would be not only in complete conflict with present law and practice but more importantly destructive of the very intelligence sources and methods that are to be funded.

I am also fearful that such a public report would only be a precursor of an open appropriation for these same programs. This would require committee recommendation and action by both Houses. Difference between the Houses would require conference action. Each step in the legislative process subjects the overview subcommittees to the burden of justifying their action. Thus, it is doubtful that a security curtain can be tightly closed once the total figure has been revealed.

Finally, an open appropriation for CIA means that funds for unforeseen contingencies (which are usually of an extremely sensitive matter--not susceptible to debate in the public forum) may require a supplemental appropriation bill. Thus the open budget could destroy existing flexibility and adaptability to meet critical situations.

In summary, a public report of the National Intelligence Program is likely to precipitate overwhelming pressure for specific information on costs and operations. The revelation of a gross figure is an invitation to questions and disclosures. Inexorably these disclosures will conflict with the existing congressional mandate--set forth in law--that the Director of Central Intelligence protect and preserve U.S. foreign intelligence sources and methods.

Mr. President,

I rise in opposition to the amendment by the senior Senator from Wisconsin. The proposal has the lure of simplicity but consequences, I am fearful, that run deep and against our Nation's fundamental interests. It contains the promise of informing the public while preserving the essential security of our foreign intelligence capabilities. In fact, I believe it would serve both interests poorly.

A constant in the needs of sovereign nations is to possess intelligence about the intentions and capabilities of adversaries. General Washington wrote one of his intelligence chiefs, Colonel Elias Dayton, that:

"The necessity of procuring good intelligence is apparent and need not be further urged--all that remains for me to add, is, that you keep the whole matter as secret as possible. For upon Secrecy, Success depends in most Enterprizes of the kind, and for want of it, they are generally defeated, however well planned and promising a favorable issue."

The tragic experience of Pearl Harbor taught us a number of painful lessons. In the 1947 National Security Act the Congress took a giant step toward assuring that executive action or inaction in the international field would be based upon the best information available. Insofar as it is possible for the Congress to direct the Executive Branch in the conduct of essentially an executive responsibility, the National Security Act of 1947

provided the authority needed for an effective foreign intelligence establishment.

The CIA Act of 1949 provided additional administrative authority for CIA and provided for its funding. The funding of CIA was particularly important from the point of view of Congress since it establishes the second of the two principal relationships between an executive branch agency and the Congress--legislation and appropriations.

I believe that our Nation is unique in the intention its legislature has given to specifying and circumscribing the activities of the agency designated to perform its foreign intelligence mission. In the process of working out legislation for CIA it was necessary to somewhat change the procedures followed in the case of the more normal Federal agency. This was particularly true in connection with provisions concerning the authorization and appropriation of funds.

Public revelation in these areas would alert potential adversaries to programs, needs, and accomplishments. This knowledge could be used against our Nation's interest to offset the value of intelligence collected or to neutralize the sources and methods used.

The 1949 CIA Act permits the allocation of sums for the CIA to carry out its activities without publicly revealing the secret purpose to which such funds may be put.

As a matter of fact, the arrangements worked out are completely responsive to the major elements of the Federal budgetary systems. Changes from the norm are designed to provide a reasonably controlled environment so as to protect and preserve the sources and methods which necessarily must be resorted to in collecting foreign intelligence.

As a matter of fact, I know that the budget of CIA is scrutinized with greater care than the budget of any other agency of the Federal Government.

Similar procedures have been used over the years to fund other governmental activities of an extremely sensitive nature when the public interest would not be served through the use of more common explicit procedures. Examples of this include the Manhattan Project for the development of the atomic bomb and the development of the U-2 airplane.

On May 10, 1960, following the loss of the U-2 over the Soviet Union, the Chairman of the House Appropriations Committee, Clarence Cannon, explained that:

"The plane was on an espionage mission authorized and supported by money provided under an appropriation recommended by the House Committee on Appropriations and passed by the Congress.

"Although the Members of the House have not generally been informed on the subject, the mission was one of a series and part of an established program with which the subcommittee in charge of the appropriation was familiar, and of which it had been fully apprised during this and previous sessions.

* * * * *

"The appropriation and the activity had been approved and recommended by the Bureau of the Budget and, like all military expenditures and operations, was under the aegis of the Commander in Chief of the Armed Forces of the United States, for whom all members of the subcommittee have the highest regard and in whose military capacity they have the utmost confidence.

"The question immediately arises as to the authority of the subcommittee to recommend an appropriation for such purposes, and especially the failure of the subcommittee to divulge to the House and the country the justifications warranting the expenditure and all details connected with the item at the time it was under consideration on the floor.

"The answer of the subcommittee is--absolute and unavoidable military necessity, fundamental national defense.

* * * * *

"This appropriation, and its purpose, is justified by honored and established precedent. This subcommittee, including the same personnel with the exception of two members who have since died, was the same committee which for something like 3 years provided in the annual appropriation bills a sum which finally totaled more than \$2 billion for the original atomic bomb. Session after session the money was provided, and the subcommittee visited Oak Ridge where the work was in progress without any Member of the House with the exception of the Speaker of the House being aware of this tremendous project or the expenditure of the money. According to the testimony of all military authorities that bomb ended the war and saved the lives of not less than half a million men who would have had to be sacrificed in the conquest of Japan. No one has ever said that the subcommittee was not justified in expending an amount that eventually aggregated more than the assessed valuation of some of the States of the Union for that purpose.

* * * * *

"And now the most gratifying feature of the entire incident.

"The world has always recognized the remarkable success of our form of government. It has been the wonder and admiration of mankind. But they have said that it was at a great disadvantage in a war with an authoritarian dictatorship.

"We have here demonstrated conclusively that free men confronted by the most ruthless and criminal despotism can under the Constitution of the United States protect this Nation and preserve world civilization. "

The CIA is held tightly accountable within the executive and legislative bodies. There may be disagreement as to whom the members should be or more particularly what committee they should be from in the Congress, but I think such disagreements can only be resolved on the basis of giving priority to the special constitutional roles of the Congress--the appropriation of funds--the enactment of legislation--and the oversight of legislation already enacted. It is difficult to perceive how enlarging a somewhat small group into a somewhat larger group would assure that these congressional responsibilities are being fulfilled. Clearly information on the activities of the CIA should not be displayed in a public arena. To do so would defeat our national interest.

Response to assertions that former CIA Director Schlesinger and present CIA Director Colby have stated that disclosure of total intelligence budget figures would not pose a security problem.

Statements made by Dr. Schlesinger, during the course of the hearing on his nomination to be Secretary of Defense, to the effect that he might support the disclosure of total figures of the National Intelligence Programs have been taken out of context. I would point out that in the portions of his statement which were omitted he said and I quote:

"... I would lean against it. But I think that it could be done. The problem that you get into, you see, as you well know, Senator, is that it would be just a free floating figure, unsupported and unsupportable in public, with nobody except the members of the Oversight Committees or members of the Armed Services Committee and Appropriation Committees who would know the details. Those are circumstances which under certain conditions would elicit the strong tendency for a flat 10 percent, 20 percent, 50 percent, 100 percent, cut in intelligence activities because there is an identifiable target with no broad understanding of what the components are and it is that aspect that I think concerns me."

Mr. Colby has indicated that while it is his view that a disclosure of the total intelligence budget figures would not in and of itself present a security problem, disclosure of these figures annually would reveal fluctuations in the total intelligence effort. Over a period of years trend lines could be established which would give our adversaries information which they do not now have and lead to pressures for further public explanation of intelligence programs. Much information is now readily available but as a professional, Mr. Colby has said he could not agree to giving our adversaries further help by providing the additional information Senator Proxmire has suggested.

In sum, Mr. Colby has indicated to the members of the CIA oversight Committees that statutory restrictions (i. e., the statutory requirement that he protect intelligence sources and methods from unauthorized disclosure) placed upon him by the Congress in his capacity as Director of Central Intelligence preclude him from recommending or agreeing to the disclosure of these figures.

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**NOMINATION OF JAMES R. SCHLESINGER,
TO BE SECRETARY OF DEFENSE**

HEARING
BEFORE THE
COMMITTEE ON ARMED SERVICES
UNITED STATES SENATE
NINETY-THIRD CONGRESS
FIRST SESSION
ON
NOMINATION OF JAMES R. SCHLESINGER, TO BE
SECRETARY OF DEFENSE

JUNE 18, 1973

Printed for the use of the Committee on Armed Services



U.S. GOVERNMENT PRINTING OFFICE
WASHINGTON : 1973

97-561

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Dr. SCHLESINGER. I think that in the past, perhaps, for a variety of reasons, reflecting the psychology of the country at that time that there may have been a tendency to overclassify within the Department of Defense and within some other components of Government.

That is my response.

May I add to that the word that I would intend to avoid or reduce excessive classification during my tenure, if that is achievable. I think we can reduce some of the propensities to overclassify.

Senator BYRD. I think that would be very desirable. I think that there is, I understand, the tendency, there is a certain tendency, great tendency to greatly overclassify.

Senator SYMINGTON. Would the Senator yield?

Senator BYRD. Yes.

Senator SYMINGTON. I thank you. I have a friend from Virginia.

The questions that you supply for the record, this is an open hearing. We would like to have the record on the Floor when your confirmation comes up and I know that the Pentagon will only be too glad to cooperate with you to get the record out at the earliest possible time. So we would appreciate it if you would do that.

Dr. SCHLESINGER. Yes, sir, indeed. This is not a time I would encourage delays in response. [Laughter.]

Senator SYMINGTON. Thank you.

Senator BYRD. I am glad to notice your statement that you will claim attempt to do something in regard to the overclassification. I think that will be very helpful all down the line. I may tend to go in the opposite direction. I am too objective, being a newspaper editor most of my life, but, I think that the Defense Department has gone too far in the classification direction.

When you were before the committee for confirmation as Director of the Central Intelligence Agency, I raised a point as to whether it might not be appropriate without damaging our intelligence activities, to make available to the public the total amount of funds being appropriated to the CIA with major breakdowns but not detailed breakdowns. I think there is a need for classification as to how certain funds are used but I have not been able to establish in my own mind the need to say that x numbers of dollars, you cannot say that x numbers of dollars is being spent for the CIA. You have had an opportunity to look at that from the point of view of the CIA. You are going into the Defense Department which is involved in this also because it adds to the defense budget. I am wondering if you would comment on that this morning.

Dr. SCHLESINGER. I think that it might be an acceptable procedure, Senator, to indicate the total figure of the national intelligence programs. I would not personally advocate it but it may be an acceptable procedure. I think, as you well know, that this has been discussed not only with the Armed Services Committees in the two Houses but also with the Appropriation Committees. There is the feeling that it might be wise to give the gross figure. I have come to share that feeling at least in this time frame but that does not say that it is not a possibility.

Senator BYRD. You are not strongly opposed to that, I take it?

Dr. SCHLESINGER. I would say that that is something that could be done on balance. I would lean against it. But I think that it could be

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done. The problem that you get into, you see, as you well know, Senator, is that it would be just a free floating figure, unsupported and unsupportable in public, with nobody except the members of the Oversight Committees or members of the Armed Services Committee and Appropriation Committees who would know the details. Those are circumstances which under certain conditions would elicit the strong tendency for a flat 10 percent, 20 percent, 50 percent, 100 percent, cut in intelligence activities because there is an identifiable target with no broad understanding of what the components are and it is that aspect that I think concerns me.

Senator BYRD. There would be no security reasons why it should not be done.

Dr. SCHLESINGER. For the gross figure I think that the security concerns are minimal. The component figures I would be more concerned about but for the gross national intelligence program figures I think we could live with that on a security basis, yes.

Senator BYRD. Dr. Schlesinger, if you are confirmed as Secretary of Defense will you provide to the appropriate committees all information and data that the committees deem necessary to adequately evaluate the requirements and utilization of tax funds?

Dr. SCHLESINGER. I think the answer to that is generally yes.

Senator BYRD. I thought it would be well to have it on the record.

Just one additional question.

The Senate last year passed legislation, and I assume it will do so again this year, specifying that if U.S. troops are used they can only be used without the consent of Congress for a specified period of time.

At the end of that time, at the end of the beginning of the emergency, the Congress would have to give approval. In principal, would you favor or oppose that legislation?

Dr. SCHLESINGER. I think, Senator, although I have not studied it carefully, I would oppose that legislation. The reason for that is it is very difficult to put this into a specific time frame and an arbitrary, single procedure may well not serve the country satisfactorily.

I would say this: That at the present time the Congress if it wishes, can pass legislation to forestall any activities almost immediately. It doesn't have to wait for months. So that there is within the present system the opportunity for Congress to exercise its powers without setting a specific time period. I think that there is concern about the war powers but I think that this particular legislation on balance, to the extent that I understand it, would not tend to serve a fruitful purpose. But I underscore the fact that I have not looked very deeply into that, and my opinion might be different in 3 weeks' time if I were to study it carefully.

Senator BYRD. Thank you.

Thank you, Mr. Chairman.

Senator SYMINGTON. Thank you, Senator.

Dr. Schlesinger, I ask this question for Senator Cannon, who is chairman of the Subcommittee on the Tactical Air Committee that meets tomorrow.

Did you participate or support Secretary Clements' decision on the F-14 that will be discussed before the subcommittee tomorrow?

Dr. SCHLESINGER. I did not participate in that decision save to the extent that Secretary Clements discussed the decision with me.

CENTRAL INTELLIGENCE AGENCY

WASHINGTON, D.C. 20505

22 FEB 1974

Honorable John L. McClellan
Chairman, Committee on Appropriations
United States Senate
Washington, D. C. 20510

Dear Mr. Chairman:

In your letter of 5 February 1974 you asked for my views on proposals made by Senator William Proxmire in a letter to you dated 30 January 1974 that the Intelligence Operations Subcommittee release an aggregate figure broken down by agency which indicates the total amount spent on intelligence by the U.S. yearly.

Senator Proxmire goes on to say he agrees that the release of manpower statistics and budgetary information that indicates the relative priorities of the intelligence community cannot be permitted. His basic purpose is to show to the American public the rough apportionment of intelligence dollars to defense and civilian agencies while fully protecting intelligence programs.

You will recall that on 27 July 1973 I responded to a similar request from you regarding the disclosure of the budget figures for the National Intelligence Program which I presented to the Subcommittee on 11 July 1973. I believe the considerations which I outlined in that letter still apply. I stated my view that disclosure of the total figure would not in and of itself present a security problem. I went on to explain, however, that I felt it would establish a precedent for the disclosure of this figure annually. If this were to occur, the annual fluctuations in our total intelligence effort would be revealed and it would not be in the national interest to disclose that kind of information to foreign nations.

I pointed out that such disclosure of total figures for all programs would reveal considerable information about the distribution of our intelligence resources among different types of intelligence activity and an annual update of those figures would provide insights into the changes and trends in our intelligence programs which could be damaging to intelligence sources and methods.

I am still concerned that public disclosure of total intelligence figures on an annual basis would lead to pressures for further public explanation of the programs for which the monies were appropriated. In my judgment this is the very kind of information which Senator Proxmire has indicated in his letter to you should not be released.

I feel that the final determination of how information on these funds should be handled within the Congress is a matter for the Congress to decide. I feel quite strongly, however, that because of the responsibility placed upon me by the Congress in the National Security Act of 1947 for the protection of intelligence sources and methods, I could not authorize the release of the figures which Senator Proxmire has proposed.

Sincerely,

SIGNED

W. E. Colby
Director