

Statement

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Before

Government Information

and Individual Rights Subcommittee

of the

House Government Operations Committee

March 5, 1975

Madam Chairwoman:

The Privacy Act of 1974 in Section 3(j) exempts the Central Intelligence Agency from all but certain of the Act's provisions. This partial exemption of the Agency followed a series of discussions with the committees during the consideration and enactment of the Privacy Act. In these discussions, the Agency pointed out that a full response to certain of the provisions of the Privacy Act would jeopardize the sensitive sources and methods used in our intelligence activities.

In discussions with the staff, some appropriate language was requested in the Act which would recognize this fact, and I am happy to say that the committees and the Congress understood this need. Two alternative ways of accomplishing this were considered. One was an exemption of the Central Intelligence Agency from all but certain of the provisions of the Act. The other was an exemption of "intelligence sources and methods" from the provisions of the Act. The Central Intelligence Agency indicated its satisfaction with either arrangement, and eventually the exemption of the Agency by name was selected by the Committee as the best way of accomplishing the end sought.

Madam Chairwoman, the Agency is fully understanding of the policy represented in the Privacy Act of 1974. As urged in this Committee's report on the bill which became the Act, we intend to respond to requests under its provisions to the extent that responses would not jeopardize intelligence sources and methods or otherwise fall within the appropriate exemptions provided by the Act. While the Act itself is not effective until September of 1975, and while the CIA does have an exemption, we will, in response to requests, furnish to requesters such material as we have to the extent that it does not reveal intelligence sources and methods or is not material subject to determination by other agencies.

Your concern which led to this hearing, Madam Chairwoman, arises understandably from extensive press allegations that CIA conducted a "massive illegal domestic intelligence operation" within the United States. I have flatly denied such a charge before three committees of the Congress, and I am confident that the Commission appointed by the President to look into these charges and the Select Committees of the Senate and of the House, which undoubtedly will cover this subject in their wider

review of U.S. intelligence activities, will support my position. I do not say that CIA never made a mistake. I do say, however, that any such actions were few and far between and were undertaken in the belief that they fell within the statutory intelligence mission or the Director's responsibility to protect intelligence sources and methods against unauthorized disclosure.

As I have explained elsewhere, the charges in the press against CIA stem from an inaccurate mixture and magnification of two separate matters. Pursuant to the National Security Act and National Security Council directives it was entirely proper for the Agency to endeavor to ascertain whether any foreign links existed with the domestic dissident groups which aroused concern starting in mid-1967. Working with the FBI, the Agency looked for such foreign links abroad and followed up leads furnished by the FBI as to such possible foreign links. Included in this was an attempt to determine whether foreign links were established with Americans who traveled or lived abroad, where the FBI capability to do so did not exist. In the course of CIA's work abroad also, the names of certain individual Americans arose in the course

of coverage of foreign conferences and other developments, and these were reported to CIA Headquarters and thence to the FBI.

In this entire program, it was clear that the responsibility for internal security belonged to the FBI and the responsibility for foreign counter-intelligence work abroad belonged to the CIA. In other words, CIA's operation, Madam Chairwoman, was neither massive, illegal, nor domestic.

The second basis for the newspaper charges stemmed from a reporter's learning, to some limited degree, that CIA, in May 1973, conducted a review of past activities which might be questionable. This material was collected and showed that there were a few incidents in which CIA may well have overstepped its bounds, even though the action was taken in a belief that it was within CIA's statutory authority. Among these were a few cases wherein CIA developed informants within the anti-war movement in the United States to establish credentials for travel into areas and among groups abroad which were of foreign intelligence or counterintelligence interest to the United States. In other cases, several informants were developed among certain elements who appeared to pose a

threat to the security of the Agency. Over the 27 years of its history, there were also a few individual instances of surveillance, wiretap, or opening of mail which have been outlined in detail in my testimony to Senate and House Appropriations Subcommittees, and the Senate Armed Services Committee, copies of which I submit herewith for your record.

These few instances were exaggerated out of all proportion into a charge that CIA was engaged in a massive domestic intelligence activity. As I stated, Madam Chairwoman, that is not true, and CIA essentially conformed to its proper foreign intelligence and counterintelligence mission over the years, complying with the provisions of its statute which proscribe it from police, subpoena or law enforcement powers or internal security functions.

I have pointed out, in particular to the House Appropriations Subcommittee, the dangers which have been created for our intelligence operations by these exaggerations and ill-founded allegations. I have indicated my full support of responsible investigations of the type being conducted by the

President's Commission and which I am fully confident, through my discussions with the leaders thereof, will be conducted by the Senate and House Select Committees as well. These inquiries will in my opinion afford a basis for better public understanding of the real nature of intelligence and place in true proportion the small number of missteps or misdeeds which CIA may have committed over its 27 years.

In this hearing, Madam Chairwoman, I would hope to describe for you CIA's files and procedures so that you may be assured that CIA is fully conscious of and intends to comply with the spirit of the Privacy Act of 1974 while recognizing the importance of protecting intelligence sources and methods so that our American intelligence activities may continue to make their contribution to the safety of the nation and the welfare of its citizens.

A report issued by the Government Operations Committee in 1973 stated that "... there is an unquestioned need for Federal agencies to avoid the release or dissemination to the public of certain sensitive types of information, the safeguarding of which is truly vital to protecting the

national defense and to maintain necessary confidentiality of dealings between our country and foreign nations." (House Report No. 93-221) The Committee's report on the Privacy Act repeated this theme in recognizing that "certain areas of Federal records are of such a highly sensitive nature that they must be exempted."

On March 5, 1974, the Government Operations Committee report on the Freedom of Information Act amendments (H.R. 12471) recognized that certain types of Governmental information are "born classified," a result of statutory enactments. The conference report on this legislation specified intelligence sources and methods [50 U.S.C. 403(d)(3) and (g)] as such an enactment. These enactments and statements recognize the inherent sensitivity of information dealing with intelligence sources and methods.

The essential mission of the Central Intelligence Agency pursuant to the National Security Act of 1947 is to provide our Government with information and assessments to assist policy decisions about developments abroad affecting the United States. The system of records established in the Agency is designed to support this mission. The

files in the Agency's possession contain information on intelligence sources and methods which the Director of Central Intelligence is charged by statute to protect from unauthorized disclosure. Clearly, a foreign intelligence service or a strategically placed individual in a foreign government or a foreign country, as well as American citizens, can not be expected to cooperate with this Agency and to provide information in confidence if such information is subject to public release.

As you know, Madam Chairwoman, there are several important provisions of the Privacy Act which do apply to the Central Intelligence Agency. These would not expose our sensitive intelligence sources and methods, so the Agency fully accepts these obligations. They include a requirement to publish in the Federal Register the record systems of the Agency. I believe the publication of such information will provide added assurances to the public that the Agency's systems of records is completely in consonance with the Agency's mission.

In addition, the Privacy Protection Study Commission, established under the Privacy Act, is

authorized to inspect the Agency's systems of records and to submit reports to the President and the Congress. One of the many important functions of the Commission is its authority to determine if specific categories of information collected violate an individual's right of privacy and should be prohibited from collection by statute.

Moreover, the President's Commission on CIA Activities Within the United States and the Senate Select Committee to Study Governmental Operations With Respect to Intelligence Activities and the House Select Committee on Intelligence, in addition to the regular CIA oversight committees in the Congress, are in the process of or about to engage in an intensive review of the mission of the Agency and its activities. These thorough undertakings can and will establish a better understanding of the intelligence process and the role of the CIA and will reassure our people of the general propriety and legality of the Agency's activities over the years.

Since your Subcommittee's concern relates most specifically to the Privacy Act, I thought you might be interested in a preview of the information which will be published about the Agency's systems of

records in the Federal Register and what the Privacy Protection Study Commission will find when it makes its review of the Agency's systems of records after the Privacy Act becomes effective next September.

CIA's records collections which are biographic in nature consist of selected information from both official reporting and open-source material. In some instances, information from CIA's predecessor organizations is included in the collections. Our records, therefore, are the products of some 34 years of intelligence collection.

The main positive intelligence biographic collection contains information on several million foreign political, military, scientific, economic, technical, and cultural personalities. Information is filed alphabetically by name of individual within country of citizenship. The names of some U.S. citizens or permanent resident aliens appear in this collection -- we do not know how many. Such names appear in the collection for a variety of reasons: they may be associated in some way with a foreign personality in whom we are interested; the information contained in a particular document may have come from a named source who is a U.S. citizen or permanent resident alien; or we may

simply have made a mistake and have begun a record on a person whom we believed to be a foreigner but who is a U.S. citizen -- nationality or citizenship cannot always be reliably determined. A number of American names came into this collection because they were incidentally acquired in the course of coverage of a foreign intelligence matter, and reported as one of its aspects or contacts.

A second biographic collection, also consisting of data collected in the course of foreign intelligence operations, including data from other federal agencies and open-source material, serves as the primary foreign counterintelligence index of the United States and as a reference to personalities of intelligence interest. An adjunct to this collection contains information on persons, including U.S. citizens, involved or suspected of being involved with foreign espionage or security services. CIA keeps this material in response to a National Security Council directive to maintain a central index of foreign counterintelligence information for the benefit of the Intelligence Community as a whole.

A third system of records is an intelligence document collection organized by data source or topic. This system contains either the full text

or extracts of intelligence documents received in CIA. The system can be searched by any word or combination of letters -- thereby permitting the retrieval of records by name (any U.S. citizens mentioned therein would thus be included). There is no way of knowing how many names of U.S. citizens it contains.

In addition to these collections of records, the Agency also maintains a number of other collections that include the names of U.S. citizens. Our Office of Personnel, of course, holds records referring to our employees, applicants, recruitment prospects, etc.

These include, for example, personnel records of present, former, and prospective employees; records maintained by Agency components responsible for security, training, medical, and financial activities; records regarding the management of Agency property; records of consultant and contractual relationships with individuals and organizations; vendor contracts for goods and services acquired from commercial firms; records of individuals and firms who cooperate with the Agency in the collection of foreign intelligence; and records of liaison with personnel of other U.S. Government agencies. Some of these collections of records are

organized so that the information they contain can be retrieved by individual name or identifying number; others by subject or topic; and still others by document number, title, or agency of origin.

The Office of the Assistant to the Director of Central Intelligence maintains a collection containing information from domestic newspapers and similar sources. These collections include articles by various journalists about or mentioning CIA, death notices of present or former employees, articles mentioning or written by present or former employees, and notations with respect to briefings and other contacts with journalists or others given by or related to CIA.

The Office of the Legislative Counsel maintains records of the Agency's contacts with members, congressional committees and their staffs and other Government agencies, departments, and commissions. In addition, the Agency keeps records containing correspondence and other documents related to the receipt, processing, and final disposition of requests received from the public by the Agency for the declassification and release of documents.

In the same vein, the Office of the General Counsel also has records collections containing

the names of U.S. citizens -- lawyers, etc. -- who have been concerned with legal matters involving the Agency. Similarly, the Office of Medical Services maintains the names of various U.S. medical personnel with whom the Agency has some contact as consultants or who otherwise provide assistance to the Agency.

The Agency's Office of Security has also maintained a number of files in which the names of citizens appear. These obviously include security investigations and clearances of employees, applicants, contractors, sources, and consultants. Some involve cover clearance for access to sensitive intelligence information by employees of other government departments, such as the military.

There are situations in which an individual's name may appear in Agency records without his or her knowledge, such as in the course of a security investigation of an applicant in which reference is made to a third party and the name is recorded in the investigation records. Similarly, a number of employees of contractor organizations may not be aware that their corporation has contracted with CIA to perform services requiring investigation and clearance. This was, for example, the situation

with respect to most of the employees who worked on the U-2 project for Lockheed, who did not know that CIA was involved.

Also, the Office of Security kept certain records as an aspect of its responsibility for the protection of the Agency. These include the normal type of crank mail that is received by any organization, reports of individuals who have threatened or otherwise were believed to be likely to threaten the Agency (one of our field offices in the United States was bombed on one occasion), and certain name lists developed at various times relating to the suitability of various individuals for possible collaboration or assistance in CIA's operations.

As a result of the review of questionable activities undertaken in the summer of 1973, specific directives were issued in the Agency that it would not maintain files on American citizens other than those developed as an incidental aspect of foreign intelligence or counterintelligence matters or as an employee, applicant, contact, etc. Any accumulation of American names for possible use in connection with foreign intelligence matters was directed to be conducted in a fashion to clearly avoid the maintenance of blacklists of any sort.

By the very nature of its activity, CIA must record certain names of individuals who do not know they are being recorded. Thus, before it approaches an American on a sensitive intelligence matter, it would be less than prudent if CIA did not determine the likely attitude of the individual with respect to the proposal of assistance. If the determination was then made not to approach the individual, a record of that consideration would undoubtedly exist, but it would not constitute a blacklist or "dossier" on him.

Madam Chairwoman, as I have indicated, I believe that some of the material which was collected by CIA over the past 27 years may not be appropriate today although undertaken then under the belief that it fell within the charge on the Director of Central Intelligence to protect intelligence sources and methods or under the belief that it was included within our charge to collect foreign intelligence and counterintelligence. Over the past several years, CIA's files have been examined with an eye to eliminating material therein which is not appropriate. In the course of this, a number of files have been destroyed. This process is not

complete, however, and of course is suspended at this time in response to the investigation being made of CIA's activities by the President's Commission and the two Select Committees. I have directed, however, that the segregation process continue in the belief that, after the investigations are completed, the best disposition of these materials is destruction. In the interim, I propose to respect the privacy of the individuals whose names may be involved in such documentation by rejecting requests to make them public. On inquiries by individuals with respect to their own names, I propose to make available to the requester such material as does not reveal intelligence sources and methods or which does not fall within the responsibility of agencies other than CIA.

Madam Chairwoman, the release of CIA information is also a matter of some interest in view of the passage of the effective date of the Freedom of Information Act amendments on February 19th. In view of this subcommittee's interest in that Act as well as the Privacy Act, I thought you would be interested in our experience under that law.

First, our experience under Executive Order 11652 demonstrates CIA's effort to be as responsive as

possible while protecting intelligence sources and methods. Of 362 requests from June 1972 through December 1974, 195 were granted in full, 58 in part, and 62 denied. In some 47 cases the documents could not be identified or located, the request was withdrawn or was referred to another agency, etc. Some 2,990 documents were released in this process. In addition, during 1974 CIA reviewed and released over 500,000 pages of World War II Office of Strategic Services records, plus films, maps, and card index files. Some 95 percent of what was reviewed was released.

We have received several requests under the new Amendments to the Freedom of Information Act. One requests records regarding "all expenditures" of the Agency "from the date of inception" of CIA. The requester asks for the "smallest transactional amounts" that are recorded, along with all clarifying data available.

Another requester sent us five different letters dated February 19, 1975. One attaches a listing of 44 matters on which the requester wishes documents. One is for a list of CIA's "ostensibly private, commercial, and funding operations." Another asks for copies "of all damage assessments of leaks."

The requester refers to the unit established within the "CIA Counterintelligence Office to look into the possibility of foreign leaks (sic) to American dissident elements" (We assume the requester means "Links.") and requests all files of this unit.

Another asks for "all CIA reports on the foreign aspects of the anti-war, youth, and similar movements and their possible links to American counterparts." Another of this requester's letters asks for inter alia, "all material relating or referring to ... all domestic corporations or associations owned or controlled or managed in whole or in part by the CIA which have functioned at any time and in any capacity as cover organizations for funds for any CIA intelligence or counterintelligence or surveillance or other covert activities in the United States during the period 1950-1974."

Another specific request would cause CIA to search through and review 900,000 files. All told, in this requester's letter, there are at least 25 or 30 specific items out of a total of 44 which ask for "all files of."

In each of the letters from this requester, he closes by stating "I will expect to receive a

reply within 10 working days." Obviously it is impossible for us to locate and identify the records requested within 10 days, much less conduct a serious review of such records to see what parts could be released. Copies of these requests and our replies will be submitted for your record.

We are endeavoring to be responsive to such portions of these requests as are reasonable. However, the result is a serious strain on the intelligence apparatus of this Government. Indeed a good-faith attempt to comply with the spirit of the new Freedom of Information Act will have serious impact on this Agency, as well as the Intelligence Community. It is clear at this early date that one of the results of the passage of the amendments to the Freedom of Information Act will be to cause numerous suits in the Federal courts simply because of the sheer inability of Government agencies to comply with the provisions of the law.

Madam Chairwoman, I hope this description of CIA's actual activities will indicate the basis for our request for special consideration in the Privacy Act for the sensitive intelligence sources and methods necessary to the operation of an intelligence agency in our free society. We in the

Intelligence Community and at CIA have undertaken the same commitment to support and defend the Constitution as have the other members of our Government. We intend to carry out the laws of the United States and at the same time to help maintain its security, the welfare of our citizens, and peace in the world to the degree we can through our intelligence operations.

In the Central Intelligence Agency, we stand second to none in our recognition of the paramount rights of our citizens, but we also believe that those rights must be protected by an effective intelligence service in the world in which we live. We consequently ask the opportunity to explain our activities in an atmosphere of serious and responsible inquiry into how to reconcile the activities of our open society and the necessity that some of our secrets be respected if this society is to endure in the worlds of today and tomorrow.

This will be a major focus of the inquiries to be made by the President's Commission and the Select Committees, and I am sure that in their findings there will be a vindication of the contribution CIA and intelligence have made and a

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reaffirmation of the need of the Agency for exemp-
tion of intelligence sources and methods from the
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