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Approved For Release 2005/04/13 : CIA-RDP79M00983A001800060008-6

THE DIRECTOR OF CENTRAL INTELLIGENCE

WASHINGTON, D. C. 20505

NID 685-77

OLC #77-1180

SSCI

28 March 1977

77-0481/3

Pres Leg / NIA

National Intelligence Officers

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MEMORANDUM FOR:

[Redacted]

Deputy, Legislative Counsel

FROM

: Richard Lehman
Deputy to the DCI for National Intelligence

SUBJECT

: Senate Select Committee's Draft Bill

I am sure that a number of people will be making comments to you regarding the bill's philosophy and the implications of the changes it would make -- especially in CIA. I will defer on that, and instead point out some items that are of particular concern to the NIOs. All of my comments refer to the section by section analysis, not the bill itself which is too imprecise and unclear for useful comment.

1. The definition of "national intelligence" in Section 3 is simply inaccurate. Greater heads than the SSCI staff have wrested with defining the line between national and tactical intelligence and so far no one has succeeded. Specifically, there are indeed times when the position of a particular destroyer is national intelligence -- one has but to recall the critical situation following the mining of Haiphong when a Soviet warship turned toward Haiphong and everyone from the President on down followed that ship with great attention.

We are currently using the definition of national intelligence postulated in the new NSCID #3 which was approved by DCI Bush and sent to the NSC for approval and promulgation. It states that national

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intelligence is that intelligence required by the President, the NSC, and other officials of the US Government involved in formulating and directing the implementation of national security policy. This definition recognizes that not all national intelligence can, or indeed even should, be coordinated and of interest to more than one department. The true test instead is the use to which it is put -- that is serving the President, the NSC, and other foreign policymakers.

2. The sentence "Any preference which the Director might have, based on institutional loyalty, for the intelligence product of his own agency, would thus be eliminated.", should be deleted. It misstates the current situation and completely overlooks the requirement placed on the DCI to ensure that the national intelligence product clearly reflects any significant differences of judgmental opinion that exist among knowledgeable and responsible components of the government concerned with the matter.

3. Section 6 (10), page 5, and Section 7 (b). These two notions are inconsistent. Section 7 states that the DCI will be supported by a small staff not unlike the current IC Staff since he will no longer be able to look to CIA for staff support. Section 6, however, charges him with receiving, correlating, analyzing, and evaluating all national intelligence. He simply cannot do this without a large analytical staff approximately the size of the current DDI. Certainly the NIO staff, even if expanded, would not be equal to the charge placed on the DCI in Section 6. If it is intended that the DCI exercise this charge by giving him the analytical resources of CIA, I would suggest that this bill would for all practical purposes end the CIA as a "central" agency.



Richard Lehman

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OLC #77-1137

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77-0481

DCI/IC-77-0767
23 March 1977

Pro legs
NAT. INTELL
Authority

MEMORANDUM FOR THE RECORD

FROM :
Special Assistant to the D/DCI/IC

SUBJECT: DDCI-D/DCI/IC Conference with the Staff Director,
Senate Select Committee on Intelligence

1. Mr. Knoche, , George Cary and met at 1500 hours on 22 March in Mr. Knoche's office with William Miller, Staff Director of the Senate Select Committee on Intelligence, and Elliot Maxwell, senior staffer on the SSCI Charters and Guidelines Subcommittee. Topic of discussion was the SSCI draft bill to establish a National Intelligence Authority (NIA) headed by a Director of National Intelligence (DNI).

2. Highlights of the discussion are as follows:

a. Mr. Miller stressed that Senator Huddleston, Chairman of the Charters and Guidelines Subcommittee, wants to introduce the bill within a month. A new draft will be ready for review by 25 March. He wants to work as closely as possible with the DCI staff, recognizing that this does not bind the Executive Branch to agreement with provisions of the bill. The problem with the timing of the bill and development of the response to PRM-11 was recognized.

b. Mr. Miller said the intent of the legislation is to give the DNI the tools to enable him to be the coordinator of all national intelligence activities.

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c. Mr. Miller noted the bill was intended to take the entities now in the Intelligence Community, put them under DNI control, develop the appropriate fittings for this control, and then address charters for the various entities.

d. Question was raised whether removal of the DNI from the operating head of CIA was needed to carry out purposes of the bill. [redacted] said that if the SSCI wanted such a split, the present bill does it in part. Mr. Knoche felt that leaving the DNI as also head of the CIA would create a bureaucratic target.

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e. [redacted] noted the bill makes no provision for a DNI role in the actual production of intelligence. Mr. Miller asked that consideration be given to what the DNI would have under his direct control so he could produce national intelligence. Discussion centered around an expanded NIO group alone, the NIOs augmented by part of DDI, particularly the current intelligence personnel, or the NIOs and all of DDI. Mr. Knoche was concerned that splitting off all or portions of the DDI would "hurt the cutting edge of CIA." Mr. Maxwell asked what moving DDI out of CIA would do to the concept of competing centers of intelligence analysis.

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f. Mr. Knoche wondered, if the functions being considered for the DNI, were split off from CIA, would the Agency be left with a job which was doable.

g. In response to a question as to what Senator Stevenson's subcommittee was thinking about the DNI role, Mr. Miller said the subcommittee felt there were limitations on both the BNE and NIO concepts and that perhaps there should be two approaches:

(1) The view of the world as seen by intelligence professionals.

(2) Intelligence estimates viewed in terms of particular problem areas such as SALT negotiations, which would involve ad hoc approaches using personnel both within and from outside the Intelligence Community.

Mr. Miller said the problem of current intelligence production and crisis management had not been addressed by the Stevenson subcommittee.

25X1 h. [] noted the national/tactical discussion in the bill was "muddy" and all agreed that improvement in the definitions was required. Mr. Maxwell asked for help in this area. He also agreed to add provision that departmental and tactical intelligence be passed to the DNI.

25X1 i. [] noted the present draft would give the DNI equal authority over all entities, but there was a marked difference in the control the DNI should have over organizations such as NSA and the special reconnaissance elements, as against the intelligence elements of State, ERDA and the FBI. Mr. Miller said it was intended that organizationally NSA would remain as it is now, but the "crunch point" is whether it could be pulled out of Defense if departmental needs are still met.

j. Both Mr. Knoche and [] questioned whether or to what extent there should be a shift of DNI responsibilities to the Secretary of Defense in wartime, and Mr. Miller emphasized this would be a matter to be worked out and not dictated by the bill itself. 25X1

k. Mr. Knoche asked whether the DNI should be responsible for security risks and improprieties, as the bill suggests. He noted the IGs of agencies other than CIA do not now report to the DCI on the information they provide to the Intelligence Oversight Board. Mr. Maxwell asked that thought be given as to what the DNI role should be with respect to resolving cases of slipshod security.

25X1 l. [] thought that language to "fence" the NFIP budget needed careful consideration so that the verbs used would not be subject to varying interpretations. Mr. Miller said the bill was seeking to foster coordinated budget cycles and was meant to give the DNI control of the allocation of funds.

25X1 m. There was considerable discussion of the size of the staff the DNI might need. Mr. Maxwell said the drafters were hopeful the proposed system would develop savings in manpower and dollars, but recognized the DNI would need a sizeable staff. [] guessed this might amount to as many as 350-400 persons, and the total size would be much dependent on what production resources were provided to the DNI.

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n. Mr. Miller and Mr. Maxwell agreed the bill should not define the duties of the Assistant DNIs, but only indicate the number authorized. [redacted] agreed to provide a paper which would describe what four Assistant DNIs would do, to support an increase in the authorization from three to four.

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o. Question was raised as to why the bill is so detailed in coverage of PRC/covert action matters. Mr. Maxwell explained this was needed to face expected floor opposition if covert action handling is not set out in detail.

p. [redacted] offered help in review and improvement of the bill's provisions re counterintelligence.

q. [redacted] also agreed to provide assistance to the SSCI staff concerning the specific wording of sections of the bill that needed clarification.

r. In response to queries as to the basis for stress on DNI responsibilities to the Congress, Mr. Miller emphasized that the provisions called for reporting only; Congress will not be telling the DNI what to do. He said that the provisions were in the bill to emphasize that intelligence information is important to the Congress and Congress should be able to satisfy itself that the job is being well done.

s. Mr. Cary said attention should be given to the "atmospherics" of reporting requirements, since this could cause a reaction on the part of foreign intelligence agencies who work with U.S. organizations. Mr. Maxwell said attempt would be made to work out other wording, but that the phrase that Congress should be kept fully and currently informed is in S. Res. 400. Mr. Cary noted there should be words in the bill which would protect against House Rule 11.

3. The session broke up shortly after 1700 hours. Mr. Knoche departed at 1600 hours.



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(23 March 1977)

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Per Keys.

TAB NIA

23 Mar 77

GLC -

I closed the loop with [redacted]
[redacted] and he now has (I returned
my original note to [redacted] my note
and he will put a note on it to [redacted]
to consider the attached as guidance
in future dealings with Bill Miller.

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LLM

P.S. I also gave [redacted] a copy
and he will close the loop with DDCI.

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77-0481/2

OLC 77-1080
22 March 1977

OLC RECORD COPY

MEMORANDUM FOR: Director of Central Intelligence

VIA: Deputy Director of Central Intelligence
Deputy to the DCI for the Intelligence
Community

copy pulled for DCI

FROM:
Deputy Legislative Counsel

SUBJECT: Comments on 18 March 1977 SSCI
Staff Draft Bill

REFERENCE: Memorandum to DCI from Legislative
Counsel, Subject: Comments on
SSCI Staff Draft Bill, dated 17 March 1977

1. This draft bill is somewhat more complete than the 25 January version, which was commented upon in the referent memorandum. The revision is still far from the complete legislation which is envisaged and retains much of the ambiguities noted in the earlier draft.

2. It is essential that the concept of the bill to strengthen centralized management and control of the national intelligence mission apparatus, product, capabilities and resources be delineated with preciseness, otherwise the principal objective of the legislation of strengthening the DCI's role will not be achieved. The ambiguity in the bill may be correctable but it is impossible to do so without precise guidance, e.g., the precise nature of the DNI's directory authority is not clear nor are his relationships with entities (CIA, NSA, NRO, etc.).

3. There is nothing wrong with charters per se but they must clearly establish relations and authorities, including supporting mechanisms and proscriptions. A secondary question is whether the form should be statutory or executive document--decisions which are governed by the need for flexibility, security, permanence, etc.

4. We should enter into direct consultative relationships with the committee staffers on the Hill who will draft the charter. There must be an understanding by the Hill, however, during this consultative period of not impinging upon the decision making process

STAT

*Note! entire pack filed
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where positions are divergent from those they propose and to deal with such divergent views only after the final executive decision is made. In this connection, there is a danger that the side that won in uncovering executive abuses not prevail in watering down or impinging on Presidential authorities by placing restrictions on activities and formulating oversight procedures which tip the Constitutional balance.

5. Attached are suggested talking points for the session with Senator Huddleston.

6. Also attached are more detailed comments on the revised bill. Comments are being solicited from the NFIB agencies, through the Intelligence Community Staff and the CIA, with a due date of Friday, 25 March. This should provide us with the type of data base we need to contend with both the opportunities and problems in the bill.



STAT

Attachment:
As stated

Distribution:

- Orig - Add'e
- 1 - DDCI
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OLC:LLM:ndl (22 March 1977)

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Office of Legislative Counsel

22 March 1977

TO: Director

Regarding the attached for your meeting with Huddleston, I have avoided commitment to statutory charter. That is a threshold for you and the President to pass.

SIGNED

[Redacted Signature Box]

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17 March 1977

MEMORANDUM FOR: Director of Central Intelligence

VIA: E. Henry Knoche
Deputy Director of Central Intelligence

FROM: George L. Cary
Legislative Counsel

SUBJECT: Comments on SSCI Staff Draft Bill

STAT 1. Attached are comments on the ramifications of the 25 January 1977 SSCI staff draft proposal for a National Intelligence Authority. The comments augment and are supplemental to those submitted to you by

2. In light of the incompleteness and ambiguity of the bill from the standpoint of concept, management and control, and entities, our comments are directed to some of the more salient issues it raises.

STAT 3. disagrees with the comment on the top of page 6 that the draft bill does not grant line authority over those elements of the Intelligence Community which remain within their parent organization. Since others interpret the provisions of the bill differently, this is further evidence of the ambiguity in the language of the draft bill.

4. The threshold issue in dealing with the Committee on this matter is that PRM 11 is the most sensible approach to a subject as complex as this and that the hand of the Executive Branch should not be forced by a proposal as incomplete as the present text and prior to assurance that the text receives the thorough review such legislation merits.

George L. Cary

Attachment

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IN THE SENATE OF THE UNITED STATES

Mr. _____

introduced the following bill; which was read twice and referred to the Committee on _____

A BILL

To improve the national intelligence system of the United States by the establishment of a National Intelligence Authority, and for other purposes.

(Insert title of bill here)

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Intelligence Act of 1977".

Sec. 2. It is the purpose of this Act --

(1) to insure that all intelligence activities of the United States are properly, effectively and efficiently directed, regulated, coordinated, and administered;

(2) to provide the executive and legislative branches of the government with such accurate, relevant, and timely information and analysis as may be necessary to enable such branches to (A) make sound and informed decisions regarding the security and vital interests of the United States, and (B) protect the United States against foreign espionage, sabotage, clandestine intelligence activities, assassination, terrorism, and other forms of foreign aggression; and

(3) to insure that the intelligence activities of the United States do not infringe upon or violate those individual

DEFINITIONS

Sec. 3. (1) The term "intelligence activities"

means --

(A) the collection, file retention, analysis, production, or dissemination of information, including political, economic, scientific, technical, military, cultural, sociological, and geographic information which relates to any foreign country, or any government, political group, party, military force, movement, or other association of persons in such foreign country, and which relates to the defense, foreign policy, national security, or related policies of the United States, and any activity which is in support of any of such collection, file retention, analysis, production, dissemination, or use of information;

(B) any activity taken to counter any activity similar to any activity described in clause (A) directed against the United States;

(C) any special activity which is any activity other than the collection and production of information and analysis and related support functions, which is designed to further official United States programs and policies abroad and which is planned and executed so that the role of the United States Government is not apparent or publicly acknowledged and which is carried out under the direction of the National Security Council and subject to the oversight of the appropriate committees of the Congress.

(2) The term "national intelligence" means information and analysis related to the national defense, national security

and foreign policy interests of the United States, which information is used primarily by national policymakers such as the President, the National Security Council, and the Congress. It does not usually include that information and analysis which is used primarily by departmental or agency heads or tactical commanders of United States armed forces, and which has no significant national policy-making purpose.

(3) The term "national intelligence activity" means intelligence activities for the purpose of producing national intelligence. It includes the activities of (A) the Central Intelligence Agency, (B) the Defense Intelligence Agency, (C) the National Security Agency, (D) the intelligence components of the Federal Bureau of Investigation, (E) the Special Offices for Reconnaissance Activities, (F) the Bureau of Intelligence and Research of the Department of State, (G) the intelligence components of the Department of the Treasury, (H) the intelligence components of the Energy Research and Development Administration; and (I) such other activities as the President shall designate.

(4) The term "tactical or departmental intelligence" means information and analysis which is used primarily by departmental or agency heads or tactical commanders of United States armed forces, and which has no significant national policy-making purpose.

(5) The term "tactical or departmental intelligence activities" means intelligence activities other than special activities in support of national foreign policy objectives for the purpose of producing tactical or departmental intelligence.

(6) The term "intelligence community of the United States" means all entities of the Federal Government to the extent that such entities are engaged in national intelligence activities, including, but not limited to (A) the Central

information is used primarily by national policymakers such as the President, the National Security Council, and the Congress. It does not usually include that information and analysis which is used primarily by departmental or agency heads or tactical commanders of United States armed forces, and which has no significant national policy-making purpose.

(3) The term "national intelligence activity" means intelligence activities for the purpose of producing national intelligence. It includes the activities of (A) the Central Intelligence Agency, (B) the Defense Intelligence Agency, (C) the National Security Agency, (D) the intelligence components of the Federal Bureau of Investigation, (E) the Special Offices for Reconnaissance Activities, (F) the Bureau of Intelligence and Research of the Department of State, (G) the intelligence components of the Department of the Treasury, (H) the intelligence components of the Energy Research and Development Administration; and (I) such other activities as the President shall designate.

(4) The term "tactical or departmental intelligence" means information and analysis which is used primarily by departmental or agency heads or tactical commanders of United States armed forces, and which has no significant national policy-making purpose.

(5) The term "tactical or departmental intelligence activities" means intelligence activities other than special activities in support of national foreign policy objectives for the purpose of producing tactical or departmental intelligence.

(6) The term "intelligence community of the United States" means all entities of the Federal Government to the extent that such entities are engaged in national intelligence activities, including, but not limited to (A) the Central

Intelligence Agency, (B) the Defense Intelligence Agency, (C) the National Security Agency, (D) the intelligence components of the Federal Bureau of Investigation, (E) the Special Offices for Reconnaissance Activities, (F) the Bureau of Intelligence and Research of the Department of State, (G) the intelligence components of the Department of the Treasury, (H) the intelligence components of the Energy Research and Development Administration, and (I) such other entities as are engaged in national intelligence activities as designated by the President.

(7) The term "national of the United States" means (A) a citizen of the United States, or (B) a person, though not a citizen of the United States, who owes permanent allegiance to the United States.

(8) The term "special activities" means activities other than the collection, correlation, production, and dissemination of information and analysis and related support activities which are designed to further official United States programs and policies abroad and which are planned and executed so that the role of the United States Government is not apparent or publicly acknowledged and which are carried out under the direction and control of the National Security Council and subject to the oversight of the appropriate committees of the Congress.

(9) The term "Attorney General" means the Attorney General of the United States.

(10) The term "continuing resolution" means a joint resolution of the Congress appropriating funds for one or more departments or agencies of the government for a temporary period of time pending the enactment of the regular appropriation Act or Acts for such departments or agencies.

Sec. 4. (a) There is established in the Executive Branch an office to be known as the National Intelligence Authority which shall operate under, and be subject to the direction and control of, the National Security Council.

(b) The National Intelligence Authority shall be composed of all entities of the intelligence community of the United States.

(c) It shall be the function of the National Intelligence Authority to collect, analyze, and disseminate, to the executive and legislative branches of the government, accurate, relevant, and timely intelligence information and analysis. It shall also be the function of the National Intelligence Authority to engage in special activities in support of national foreign policy objectives of the United States pursuant to the provisions of Sec. ___ of this Act.

DIRECTOR AND DEPUTY DIRECTOR

Sec. 5. (a) The National Intelligence Authority shall have as its head a Director of National Intelligence (hereinafter referred to as the "Director"). There shall also be a Deputy Director of National Intelligence to assist the Director in carrying out the functions of the National Intelligence Authority and to act in the place of the Director during the absence or disability of the Director.

(b) The Director and the Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate, and each shall serve at the pleasure of the President. No person may serve as Director or Deputy Director for a period of more than six years unless such person is reappointed by the President, by and with the advice and consent of the Senate. No person who has served as Director or Deputy Director for a period of less than six years and is

subsequently appointed or reappointed to that same office may serve in that office under such appointment or reappointment for a term of more than six years. In no event may any person serve as Director or Deputy Director for more than a total of twelve years. At no time shall the two positions of Director and Deputy Director be occupied simultaneously by commissioned officers of the armed services whether in active or retired status.

(c) (1) If a commissioned officer of the armed services is appointed as Director, or Deputy Director, then--

(A) in the performance of his duties as Director or Deputy Director, he shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were a civilian in no way connected with the Department of the Army, the Department of the Navy, the Department of the Air Force, or the armed services or any component thereof; and

(B) he shall shall not possess or exercise any supervision, control, powers, or functions (other than such as he possesses, or is authorized or directed to exercise, as Director, or Deputy Director) with respect to the armed services or any component thereof, the Department of the Army, the Department of the Navy, or the Department of the Air Force, or any branch, bureau, unit, or division thereof, or with respect to any of the personnel (military or civilian) of any of the foregoing.

(2) Except as provided in paragraph (1) of this subsection, the appointment to the office of Director, or Deputy Director, of a commissioned officer of the armed services, and his acceptance of and service in such office, shall in no way affect any status, office, rank, or grade he may occupy or hold in the armed services, or any emolument, perquisite, right,

privilege, or benefit incident to or arising out of any
such status, office, rank, or grade. Any such commissioned

officer shall, while serving in the office of Director, or
Deputy Director, continue to hold rank and grade not lower
than that in which serving at the time of his appointment and
to receive the military pay and allowances (active or retired,
as the case may be, including personal money allowance) payable
to a commissioned officer of his grade and length of service
for which the appropriate department shall be reimbursed from
any funds available to the National Intelligence Authority.
He also shall be paid by the National Intelligence Authority
from such funds an annual compensation at a rate equal to
the amount by which the compensation established for such
position exceeds the amount of his annual military pay and
allowances.

(3) The rank or grade of any such commissioned officer
shall, during the period in which such commissioned officer
occupies the office of Director of National Intelligence, or
Deputy Director of National Intelligence, be in addition to
the numbers and percentages otherwise authorized and
appropriated for the armed service of which he is a member.

(d) The Director shall serve as an ex officio member
of the National Security Council.

AUTHORITY AND DUTIES OF THE DIRECTOR

Sec. 6. (a) It shall be the duty of the Director, under
the direction and control of the National Security Council, to
direct and control the national intelligence activities of
the United States. The President shall determine, with the
guidance and assistance of the National Security Council
and the Director which intelligence activities of the United
States constitute national intelligence activities subject
to the direction and control of the Director.

(b) The Director is authorized to review all departmental or tactical intelligence activities and all intelligence-related activities of the United States.

(c) The Director shall make such recommendations to the President, the National Security Council, and the appropriate committees of the Congress as he deems appropriate regarding any intelligence activity or any proposed intelligence activity of the United States.

(d) The Director shall also--

(1) serve as the President's primary advisor on matters relating to national intelligence and provide the President and other officials of the executive branch of the government with accurate, relevant, and timely information analysis;

(2) keep the President and the committees of Congress having jurisdiction over the National Intelligence Authority fully and currently informed of all national intelligence activities of the United States, including any significant anticipated national intelligence activity, which are the responsibility of or are engaged in by any entity of the National Intelligence Authority; but the foregoing shall not be construed as requiring the approval of any committee of the Congress prior to the implementation of any such anticipated national intelligence activity;

(3) keep the President, the National Security Council, and the appropriate committees of the Congress informed on the relationship between national intelligence activities and the departmental and tactical intelligence activities of the United States and all intelligence-related activities of the United States;

(4) provide for the effective and efficient direction, management, and coordination of the entities which make

(5) prepare an annual budget for presentation to the President which includes funds for all national intelligence activities of the United States;

(6) establish and be responsible for the allocation and control of all funds appropriated for carrying out national intelligence activities;

(7) establish requirements, develop plans, and assign priorities for all national intelligence activities of the United States, taking into account the need for the intelligence components of departments and agencies of the government to also perform departmental and tactical intelligence activities assigned by the heads of such departments and agencies;

(8) evaluate current and proposed intelligence activities to insure the efficient use of intelligence resources and the fulfillment of national intelligence requirements established pursuant to clause (7);

(9) supervise the operation of and make recommendations for, such review procedures as are consistent with the provisions of this Act and necessary for the effective review of proposals for the clandestine collection of intelligence;

(10) receive, correlate, analyze, and evaluate all national intelligence, taking into account the need to insure that diverse points of view are heard and considered;

(11) supervise the timely dissemination of national intelligence to all appropriate departments and agencies of the government, except that no dissemination shall be made of any such national intelligence which unduly infringes upon the privacy of any national of the United States or which violates any right guaranteed or

(12) make every reasonable effort to furnish to the departments and agencies of the government concerned and to all tactical commanders of the armed forces of the United States all relevant national intelligence;

(13) be responsible for all relationships between the various entities of the National Intelligence Authority and the security services of foreign governments, including any agreements, arrangements, or understandings governing such relationships; provided, however, that no component of the National Intelligence Authority shall pay, cause, or encourage any agency of any foreign government to engage in activities which are prohibited to the components of the National Intelligence Authority. The Director of National Intelligence shall not be relieved of any requirement to report any activity to the Congress or to any committee of the Congress because such activity is carried out through or by any agency of a foreign government;

(14) submit all agreements, arrangements, and understandings described in clause (13) to the appropriate committees of Congress for review as required by law;

(15) assign to the components of the National Intelligence Authority responsibility for services of common concern as can best be performed centrally;

(16) coordinate with the Attorney General the counterintelligence activities of the United States directed against foreign espionage, sabotage, clandestine intelligence activities, assassinations, or terrorism, such coordination to include the review and evaluation of proposals for such activities as well as the monitoring

insuring that such activities safeguard and do not abridge any right guaranteed or protected by the Constitution or laws of the United States;

(17) supervise the operation of, and make recommendations for, such review procedures as are consistent with the provisions of this Act and necessary for the careful evaluation of proposals for, and the monitoring and periodic review of, the conduct of special activities in support of national foreign policy objectives.

(18) develop security standards for the management and handling of national intelligence, for the granting of access to such national intelligence, and for entering into such lawful security agreements as are necessary for the protection of properly classified intelligence sources and methods;

(19) establish, in consultation with the Attorney General, procedures for the lawful protection, retention, disclosure, and dissemination of information acquired by the various entities of the National Intelligence Authority, but no such information may be retained, disclosed, or disseminated if it unduly infringes upon the privacy of any national of the United States or if it violates any right guaranteed or protected by the Constitution or laws of the United States;

(20) be responsible for (A) the establishment of security standards, priorities, and practices for the protection of United States communications, (B) monitoring the implementation of such standards, priorities, and practices by the departments and agencies of the government and contractor facilities concerned, and (C) taking all reasonable steps recommended by the Attorney General to protect the privacy of such communications;

(21) formulate, in consultation with the Secretary

of Defense of such elements of the National Intelligence Authority as may be required in time of war;

(22) terminate the employment of any officer or employee of the National Intelligence Authority whenever he shall deem such termination necessary or advisable in the interests of the United States notwithstanding the provisions of Section 652 of Title 5, or the provisions of any other law, but such termination shall not affect the right of such officer or employee to seek or accept employment in any other department or agency of the Government if declared eligible for such employment by the United States Civil Service Commission;

(23) assure (on the basis of advice given by the Attorney General) that the intelligence activities of the United States serve to safeguard and do not abridge any right guaranteed or protected by the Constitution or laws of the United States; and

(24) provide such administrative, technical, and support activities in the United States and abroad as may be necessary to carry out effectively and efficiently the duties of the Director and the functions of the National Intelligence Authority.

(e) Nothing in this Act shall be construed to prohibit any department or agency of the government from collecting, evaluating, and disseminating departmental and tactical intelligence if such department or agency is otherwise authorized to do so; and nothing in this section shall be construed to prohibit any entity of the National Intelligence Authority from producing its own analyses of national intelligence, but any such analyses shall be promptly submitted to the Director.

by and with the advice and consent of the Senate, not more than three Assistant Directors of National Intelligence.

(2) The Assistant Directors of National Intelligence shall perform such duties as the Director shall prescribe. Such duties may include, but shall not be limited to (A) the coordination and assessment of the analysis, evaluation, production, and dissemination of national intelligence, (B) the review of proposals for, and the monitoring and direction of, United States clandestine collection, special activities, and the coordination of United States counterintelligence activities, and (C) the planning, development, and management of United States technical collection systems.

(b) The Director is authorized to employ such personnel as may be necessary to assist in carrying out the functions of the National Intelligence Authority. Such staff may include, but shall not be limited to, persons employed by any entity within the National Intelligence Authority.

(c) The Director is also authorized to establish such committees or boards as may be necessary to carry out effectively the provisions of this Act, including, but not limited to, committees or boards of intelligence collectors, producers, and consumers.

(d) The Director is also authorized to establish such advisory committees as may be necessary to provide expert advice regarding the administration of this Act. The names of all persons appointed to serve on any such advisory committee shall be submitted to the committees of the Congress having jurisdiction over the National Intelligence Authority, and, except when to do so would compromise the national

security of the United States, the names of such persons
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and a description of the committee or committees to which
they are appointed shall be published in the Federal Register.

REPORT OF VIOLATIONS

Sec. 8. (a) The Director shall report to the Attorney General immediately upon the discovery of any intelligence activity which may constitute a violation of any right guaranteed or protected by the Constitution or laws of the United States, or of any other violation of law, or of any violation of an executive order, presidential directive, or departmental or agency rule or regulation.

(b) The Director and the Attorney General shall report, in a timely manner, to the President and to the appropriate committees of the Congress any violation described in subsection (a).

RECORDS

Sec. 9. (a) The Director shall maintain a complete record of all authorities, regulations, and guidelines affecting the national intelligence activities of the United States. A complete copy of such record shall be maintained in the Office of the Federal Register under conditions sufficient to protect the national security of the United States. The Director shall make such record available, upon request, to any committee of the Congress having jurisdiction over matters relating to the National Intelligence Authority.

(b) The Director shall maintain a complete record of all decisions and implementing orders pertaining to the intelligence activities of the United States under his jurisdiction. The Director shall make such record available, upon request, to any committee of the Congress having jurisdiction over matters relating to the National Intelligence Authority.

Sec. 10. (a) No funds may be appropriated for any fiscal year beginning after September 30, 1977, for the purpose of carrying out any national intelligence activity unless such funds have been previously authorized for such activities by legislation enacted during the same fiscal year or the fiscal year immediately preceding the fiscal year for which they are appropriated, except that the foregoing limitation shall not apply to funds appropriated by any continuing resolution. The Congress and the President shall make available to the public information regarding funds appropriated and expended for intelligence activities of the United States to the extent required by Article I, section 9, clause 7, of the Constitution of the United States.

(b) (1) All funds for carrying out the national intelligence activities of the United States shall be appropriated to the Director.

(2) Funds may be appropriated to the Director to cover matters relating to national intelligence activities of a confidential, extraordinary, or emergency nature; and the expenditure of such funds shall be accounted for solely on the certificate of the Director. Every such certificate shall be deemed a sufficient voucher for the amount certified therein. All other funds appropriated to the Director shall be subject to audit and review, subject to appropriate security standards, by the Comptroller General of the United States, at the request of the committees of Congress having jurisdiction over matters relating to the National Intelligence Authority, provided, however, that information resulting from such audits and reviews shall only be available to such committees of the Congress.

(c) The Director is authorized to establish a Contingency Reserve Fund and to credit to such fund any sums of money specifically appropriated to the Director for such fund. The Director is authorized to use funds from the Contingency Reserve Fund to cover the expense in any fiscal year of any national intelligence activity not anticipated at the time the President's budget for such fiscal year was submitted to the Congress and which the Director certifies are necessary to be protected against unauthorized disclosure. However, funds from the Contingency Reserve Fund may be expended only with the approval of the Office of Management and Budget and after the appropriate committees of the Congress have been given 72 hours' notice of the intent to expend such funds and the specific purposes, authorized under this Act, of such expenditure.

ANNUAL REVIEW AND REPORT

Sec. 11. (a) There is hereby established a board to be known as the National Intelligence Authority Review Board (hereinafter in this section referred to as the "Board"). It shall be the function of the Board to conduct a comprehensive review and evaluation of the work of the National Intelligence Authority each year and report the results of that study and evaluation, together with such comments and recommendations as the Board may deem appropriate, to the President and the appropriate committees of the Congress.

(b) (1) The Board shall be composed of nine members appointed by the President, by and with the advice and consent of the Senate.

(2) The term of office of the first members of the Board shall expire as follows: three at the end of one year; three at the end of two years; and three at the end of three years. The terms of office of all

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successors shall expire three years after the expiration of the terms for which their predecessors were appointed, but any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed only for the unexpired term of his predecessor.

(3) Only persons who are eminently qualified by virtue of their background, education, training, and experience to review and evaluate the work of the National Intelligence Authority shall be appointed to the Board.

(4) The Board is authorized to employ such personnel as may be necessary to assist in carrying out its functions under this Act.

CONGRESSIONAL COMMITTEE REPORTS

Sec. 12. (a) The committees of the Senate and the House of Representatives having jurisdiction over matters relating to the National Intelligence Authority shall make regular periodic reports to their respective Houses on the nature and extent of the national intelligence activities of the National Intelligence Authority. Such committees shall promptly call to the attention of their respective Houses, or to any other appropriate committee or committees of their respective Houses, any matter relating to intelligence activities which requires or should have the attention of such House or other committee or committees. In making such report, the committees of the Senate and the House of Representatives having jurisdiction over matters relating to the National Intelligence Authority shall do so in a manner consistent with the protection of the national security interests of the United States.

(b) The provisions of subsection (a) are enacted by the Congress --

(1) as exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be considered as part of the rules of each House, respectively, and shall supercede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change such rules (as far as relating to such House) at any time, in the same manner, and to the same extent as in the case of any other rule of such House.

ANNUAL REPORT OF THE DIRECTOR

Sec. 13. (a) The Director shall prepare and submit to the committees of the Senate and the House of Representatives having jurisdiction over matters relating to the National Intelligence Authority an annual report in which the activities of the various entities of the National Intelligence Authority and the intelligence activities of foreign countries directed at the United States or its interests are reviewed and discussed by the Director.

(b) The Director shall make an unclassified version of such annual report available to the public. Nothing in this subsection shall be construed as requiring the public disclosure, in any such report made available to the public, of the names of individuals engaged in intelligence activities for the United States or the divulging of intelligence methods employed or the sources of information on which any such report is based.

of, special activities in support of national foreign policy objectives and sensitive clandestine collection projects.

(1) Special activities in support of national foreign policy objectives are to be reserved for extraordinary circumstances when there are grave threats to the national security of the United States and when the overt means available to the U.S. Government would not allow the successful accomplishment of national foreign policy objectives.

(2) Special activities in support of national foreign policy objectives must be consistent with publicly defined U.S. foreign policy goals.

(3) A special committee of the National Security Council [hereinafter referred to as the Policy Review Committee (PRC)] shall be established to review special activities in support of national foreign policy objectives and sensitive clandestine collection projects. (For purposes of this section, the term "sensitive clandestine collection project" means any secret intelligence collection activity which if discovered or revealed might cause harm or embarrassment to the United States or adverse reaction from other countries.) The PRC shall consist of (A) the Director of National Intelligence, (B) the Secretary of State, (C) the Secretary of Defense, (D) the Special Assistant to the President for National Security Affairs, (E) the Chairman of the Joint Chiefs of Staff; (F) the Attorney General and the Director of the Office of Management and Budget shall be eligible to participate as observers, (G) Wherever possible and appropriate, the views of the respective U.S. Ambassador(s) will be solicited.

(4) The members of the Policy Review Committee designated by this Act can designate senior representatives to attend

(5) No special activities in support of national foreign, policy objectives or sensitive clandestine collection projects may be conducted without the approval of the PRC

(6) Each proposal for a special activity in support of national foreign policy objectives shall include: (A) a summary of the activity; (B) a statement of justification of the activity including evidence that the objectives cannot be achieved by overt means; (C) a statement as to the probability of success of the special activity; (D) a description of the expenditures required; (E) a statement of the activity's proposed duration; (F) a description of anticipated risks including the consequences of disclosure; (G) a statement of previous coordination in developing the proposal; (H) an itemized list of references to previously approved related special activities.

(7) Each proposal for a sensitive clandestine collection project shall include (A) a summary of the activity; (B) a statement of the justification of the activity including evidence that the information cannot be obtained by overt means; (C) a statement as to the probability of success of the clandestine collection project; (D) a description of the expenditures required; (E) a statement of the activity's proposed duration; (F) a description of anticipated risks including the consequences of disclosure; (G) a statement of previous coordination in developing the proposal; (H) an itemized list of references to previously approved ^{related} clandestine collection projects.

(8) Favorable recommendations to the President shall be made only upon a favorable vote of a majority of those members present after consideration of the proposed special activity or sensitive clandestine collection project in a formal meeting of the Policy Review Committee. No formal

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meeting of the Policy Review Committee may take place without a majority of the members present.

(9) Favorable recommendations to the President shall include the proposal and written statements from each of the members. This is to be forwarded to the President along with an opinion of the Attorney General on the legal aspects of the special activity or sensitive clandestine collection project.

(10) No special activity in support of national foreign policy objectives may be implemented unless and until the President certifies that it: (A) is consistent with publicly defined U.S. foreign policy goals; (B) is necessary to meet an extraordinary circumstance in which there is a grave and threat to the national security; (C) that the overt means available to the United States Government are not sufficient to allow the successful accomplishment of U.S. national foreign policy objectives; and notifies the appropriate committees of the Congress.

(11) The Director of National Intelligence is responsible for reporting to the Congress such Presidential certification and shall also be responsible for keeping a written record of the time, manner, and content of the report which he makes to the Congress including congressional reaction and responses.

(12) The Policy Review Committee shall also engage in an annual review of all special activities in support of national foreign policy objectives and all sensitive clandestine collection projects.

(13) The Policy Review Committee shall also be informed of significant or major changes in any special activity or sensitive clandestine collection project, as well as any security problems related thereto. The appropriate committees of Congress shall also be advised in a timely manner, of significant or major

(14) The Director of National Intelligence shall be required to submit a semi-annual report on all special activities in support of national foreign policy objectives and all sensitive clandestine collection projects to the committees of Congress having jurisdiction over the National Intelligence Authority.

(15) Special activities in support of national foreign policy objectives shall be conducted only by the Central Intelligence Agency unless the Director of National Intelligence certifies that the objectives cannot be achieved by the use of the Central Intelligence Agency and designates another entity within the National Intelligence Authority to conduct the particular special activity.

(16) The President must approve the choice of another component within the National Intelligence Authority to conduct the particular special activity.

(17) The notice to the appropriate committees of Congress must specifically include the fact that the special activity is being implemented by an agency other than the Central Intelligence Agency.

(18) In no case shall special activities in support of national foreign policy objectives include political assassination, efforts to subvert democratically elected democratic governments, or support of the writing or production for open distribution within the U.S. of any book, article, film, or tape, unless publicly attributed to the NIA.

(19) In no case shall any component of the National Intelligence Authority utilize (a) journalists accredited to U.S. media organizations, (b) individuals who regularly contribute material for distribution by any U.S. media

organization, (c) individuals who are involved directly or indirectly in the editing of material for any U.S. media organization, (d) individuals who act to get policy for or provide direction to any U.S. media organization (e) individuals who are receiving funds from any program of the U.S. designed to promote education, the arts, humanities, or cultural affairs, or/individuals who follow religious vocations, for special activities in support of national foreign policy objectives or for sensitive clandestine collection of intelligence.

(20) No U.S. Government personnel or U.S. citizens may be used as combatants in covert paramilitary activities unless the appropriate committees of Congress are notified pursuant to this Act and Congress authorizes their use within 60 days, provided however that the Congress may terminate their use at any time.

(21) Clandestine collection of intelligence by human sources shall be conducted only by the Central Intelligence Agency unless the Director of National Intelligence certifies that the objectives of the clandestine collection project cannot be achieved by the Central Intelligence Agency but can be achieved by the use of another entity within the National Intelligence Authority. The Director of National Intelligence must notify the committees of the Congress having jurisdiction over the National Intelligence Authority of the nature of the clandestine collection project and the reasons for the choice of an entity within the National Intelligence Authority other than the Central Intelligence Agency.

COUNTERINTELLIGENCE COMMITTEE

Sec. 15. (a) There is established within the National Security Council a committee to be known as the Counterintelligence Committee.

(b) The Counterintelligence Committee shall be composed of:

(1) the Attorney General of the United States, who shall be the chairman;

(2) one of the two Deputy Secretaries of Defense, as designated by the Secretary of Defense;

(3) the Director of National Intelligence;

(4) the Assistant to the President for National Security Affairs.

(c) The function of the Counterintelligence Committee shall be to coordinate and review counterintelligence activities.

As part of such coordination and review, such committee shall insure that all such counterintelligence activities are

conducted in strict conformity with the Constitution and the laws of the United States and shall make an annual report to the appropriate committees of Congress certifying that such activities have been so conducted, or, if the Counterintelligence Committee has reason to believe that any such activity has not been so conducted, certifying which such activities have been so conducted and which have not.

(d) The Counterintelligence Committee shall review the standards established by each intelligence agency for the recruitment of intelligence agents.

(e) The Counterintelligence Committee shall provide guidance for the protection of foreign intelligence assets which enter the United States, and the establishment of the actual status of any alien purporting to be a defector and seeking asylum in the United States.

Section 1. Title

Section 2. Purpose

The purpose of the bill is to assure that U.S. intelligence activities are properly and effectively directed, regulated and administered; to provide useful information and analysis to the executive and legislative branches to assist them in protecting United States security interests; and to assure that U.S. intelligence activities do not violate the rights of Americans and other persons. The bill thus responds to three needs which the Committee believes are the most pressing facing the intelligence community: improved management; providing reliable information in which policymakers have confidence when and where it is needed; and preventing intelligence abuses.

Section 3 Definitions

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(1) "Intelligence activities" means (a) the collection of information related generally to defense foreign affairs; (b) counterintelligence activities; and (c) covert action (referred to in this bill as "special activities").

(2) "National intelligence" means information produced for the use of national policymakers. It does not include tactical or departmental intelligence. National intelligence would thus include information regarding Soviet military strength and overall military deployment, but not the position of a particular destroyer, which would be important information for a Naval commander in the area.

(3) "National intelligence activities" means activities for the purpose of obtaining national intelligence. The activities of a number of agencies are specified as falling within this definition, but the President is authorized to designate other activities which fall within the definition as well.

(4) "Tactical or departmental intelligence" means intelligence principally used within departments or agencies or by tactical commanders in the field not used by national policymakers. The example of the position of a Soviet destroyer described above would be tactical or departmental intelligence.

(5) "Tactical or departmental intelligence activities" means activities for the purpose of obtaining tactical intelligence. The use of radar on American ships and planes, for example, falls generally within this category.

(6) "Intelligence community of the United States" means all elements of the government to the extent that they are engaged in national intelligence activities. Where some entities are engaged in national intelligence activities as well as other activities, they shall be subject to rules governing the intelligence community of the United States only with respect to their national intelligence activities, unless otherwise specified in this or other law.

(7) "National of the United States" means a citizen of the United States or permanent resident alien. Permanent resident alien is described in this paragraph as a person who, though not a citizen of the United States, owes permanent allegiance to the United States. This is the same term used in the Immigration and Naturalization Act to mean permanent resident alien.

(8) "Special activities" means activities, other than the production of information, which are designed to further the foreign policy objectives of the United States. These activities are carried out in secret and generally known as covert actions. They are to be carried out under the direction and control of the National Security Council and subject to the oversight of the appropriate committees of the Congress.

(9) "Attorney General" means the Attorney General of the United States.

(10) "Continuing resolution" means a joint resolution of Congress to fund a department or agency temporarily, pending enactment of the appropriate regular appropriation act.

Section 4.

There is established the National Intelligence Authority (NIA) which is to operate under the National Security Council (NSC), and to be composed of all entities of the U.S. intelligence community. Its function is to collect, analyze, and disseminate useful intelligence to the Executive and legislative branches, and to engage in special activities through the CIA.

The collection, analysis and dissemination of intelligence is assigned to the CIA in the National Security Act of 1947, and the CIA will continue to carry out at least some of these functions. Ultimate responsibility for producing intelligence, however, is now being placed in an authority composed of all elements of the intelligence community, the director of which will be able to manage the various agencies more effectively than the Director of Central Intelligence.

Section 5. Director and Deputy Director

A Director of National Intelligence (DNI) and a Deputy Director (DDNI) are to be appointed by the President with the advice and consent of the President. The DNI would head the NIA and assume the role currently held by the Director of Central Intelligence as chief intelligence officer of the government. The roles of chief of the CIA and chief intelligence officer would thus be separated. Any preference which the Director might have, based on institutional loyalty, for the intelligence product of his own agency, would thus be eliminated. In addition, it

is expected that the various intelligence agencies other than CIA will accept most readily the management of an official not associated with a "competing" agency, and that the DNI will have more time to devote to this important task than is presently the case with the DCI.

Because it is important that the DNI, in particular, have the confidence of the President, both officers shall serve at the pleasure of the President. To facilitate congressional oversight of the work of these two officers, neither may serve for more than six years without being reconfirmed by the Senate. In no event may either officer serve more than twelve years.

Either the Director or his Deputy, but not both, may be a commissioned officer of the armed forces. If a commissioned officer does serve in either of these posts, he shall not be subject to any military command during his tenure as Director or Deputy Director. The purpose of these provisions is to permit the President to draw from the armed services for his Director if he chooses, but to stress the importance of civilian control over intelligence. The armed services both produce and use national intelligence, but their role is not to make policy, nor are their interests always the same as those of policymakers. They should not be permitted to control the intelligence provided to policymakers.

The provisions of this section regarding the military status of the Director of National Intelligence and his deputy are identical to those governing the Director and Deputy Director of Central Intelligence in the National Security Act of 1947.

The DNI is assigned the duty and responsibility, under the guidance and control of the President, to direct and control the national intelligence activities of the United States." This language is designed to assign to the DNI more power to manage the intelligence community than is presently available to the DCI, who "coordinates" but does not "direct and control."

It is to be the responsibility of the President to establish what are national intelligence activities, and thus what is the jurisdiction of the DNI. He does so, however, with the guidance of the NSC and the DNI himself, who is authorized to review all departmental or tactical intelligence activities, and all intelligence-related activities. The DNI shall make recommendations to the President, the NSC, and the congressional committees on any intelligence activities he deems necessary, although his authority to "direct and control" extends only to national intelligence activities.

The duties of the DNI are further outlined as follows:

(1) The DNI is to serve as the President's primary advisor on national intelligence, and to provide the President and other executive branch officials with accurate, relevant, and timely foreign intelligence;

(2) The DNI is to keep the President and the committees of the Congress having jurisdiction over the National Intelligence Authority fully and currently informed of all intelligence activities of the United States, including any significant anticipated activities, but this provision does not require the approval of any congressional committee prior to the implementation of any

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intelligence activity. The language of this paragraph is very similar to that of S. Res. 400, establishing the Select Committee on Intelligence and expressing the sense of the Senate that the various intelligence agencies should keep the new committee fully and currently informed of their activities. This paragraph assigns this responsibility to one official, the DNI, and requires reporting to all committees having jurisdiction over the NIA, including any intelligence committee which may be established in the House of Representatives. Also, unlike the similar provision in S. Res. 400, this paragraph, if enacted, would have the force of law.

(3) The DNI is to inform the President, the NSC, and the "appropriate committees of Congress" on the relationship between national intelligence activities and other intelligence activities of the United States. This means informing the appropriate officials on what intelligence, at any given time, is necessary for policymaking purposes, and what is useful primarily as department or tactical intelligence. The term "appropriate committees of Congress" is used here, rather than "committees having jurisdiction over the National Intelligence Authority", as above, because committees not directly concerned with national intelligence will have an immediate and direct interest in tactical intelligence.

(4) The DNI is to provide for the effective direction, management, and coordination of the entities which make up the NIA.

(5) The DNI is to prepare an annual budget of all U.S. national intelligence activities for presentation to the President. This is a change or at least a clarification from present budget procedures as outlined in Executive Order 11905. There the DCI is charged to "ensure the development and submission of a budget" and the Committee on Foreign Intelligence is to "control budget preparation and resource allocation," but the role of each is ambiguous, and neither actually prepares the intelligence budget. That is done by the individual agencies, often with no or little thought for what is going on in other agencies. The CFI can subsequently amend the various agency budgets before they are submitted to OMB, but this does not permit the same flexibility as the initial preparation. This paragraph is part of an effort to consolidate management of the intelligence community. Control of the budget is a key element in effective management.

(6) The DNI is to provide for the allocation and control of funds appropriated for national intelligence purposes.

(7) He is to establish requirements, develop plans and assign priorities for all national intelligence activities of

the United States. This language attempts to clarify a point which is ambiguous in E.O. 11905 -- the role of the DCI in actually establishing requirements -- or assigning tasks which the intelligence agencies are obliged to perform. The authority to establish these requirements, of course, applies only to national intelligence and in assigning these requirements, the DNI is required to take into account the need for the intelligence components of various department and agencies also to perform intelligence tasks assigned by the heads of these departments or agencies.

(8) The DNI is to evaluate intelligence activities to insure the efficient use of intelligence resources and the fulfillment of national intelligence requirements;

(9) He is to establish procedures to review proposals for clandestine collection of intelligence. This paragraph recognizes that clandestine collection programs are highly sensitive and should be reviewed at the highest levels to insure that they are not undertaken to obtain intelligence which can be obtained overtly, and that the risks to the national interest inherent in each proposal do not outweigh the value of any information which is likely to be obtained. The risks to be considered should include, but not be limited to, risks of disclosure of the operation and risks that policies publicly established by the United States Government, or values widely accepted by the American people, will be compromised. It is explicitly stated that these review procedures should insure that clandestine collection activities are legal and constitutional.

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(10) The DNI is to receive, correlate, analyze and evaluate all national intelligence, taking into account the need to insure that diverse points of view are heard and considered. This means that the DNI is responsible for providing policymakers with useful intelligence. Where there is significant disagreement within the intelligence community with respect to interpreting raw data, he is responsible for providing policymakers with his own evaluation of the intelligence, and with providing that conflicting views are also presented. Thus, in the case of the dispute over estimates of Soviet military intentions, the DNI would be responsible for presenting his own evaluation of the available intelligence, and with providing for a presentation of the opposing view. If there is more than one significant opposing view, he is responsible for seeing that all are presented.

(Note that subsection (e) of this section provides that no entity of the NIA is prohibited from producing its own evaluation of national intelligence, which is to be provided promptly to the DNI for his use in carrying out his duties.)

(11) The DNI is to supervise the dissemination of national intelligence to appropriate departments and agencies, except that no dissemination shall be made of information which unduly infringes upon the privacy of any national of the United States or which violates any right guaranteed by the Constitution and laws of the United States. The purpose of this latter provision

is to assure that no information inadvertently or purposely obtained which infringes on the rights of any person shall be disseminated.

(12) The DNI is to make reasonable efforts to furnish the departments and agencies of the government and all tactical commanders all relevant intelligence produced by the NIA. This paragraph recognizes that, while the purpose of the NIA is to produce national intelligence, the NIA can be expected to produce intelligence which is useful for departmental or tactical purposes in addition to or instead of policymaking purposes. Efficiency mandates that such intelligence be provided to those departments, agencies, and commands which can use it. (The National Security Act of 1947 presently provides that the CIA shall "provide for the appropriate dissemination " of "intelligence relating to the National Security."

(13) The DNI is to be responsible for all relationships between U. S. intelligence agencies and the intelligence and security services of foreign governments. The entities which make up the NIA are prohibited from requesting, encouraging or approving any activity by an agency of a foreign government which the U. S. entity is itself prohibited from carrying out. For example, the CIA could not ask a foreign agency to wiretap an American abroad, if the CIA itself were legally prohibited from that activity.

(14) The DNI is to submit all agreements, arrangements, and understandings regarding relationships between U. S. intelligence agencies and foreign services to the appropriate committees of Congress, as required by the Case Amendment. It is intended that this responsibility apply to informal or unwritten agreements, as well as formal agreements.

(15) The DNI may assign to any entity of the NIA any "services of common concern" to be performed on behalf of all the NIA. One such service would be monitoring open foreign radio broadcasts.

(16) The DNI is to coordinate with the Attorney General the counterintelligence activities of the United States, this coordination to include review and evaluation of proposals for counterintelligence activities and monitoring and reevaluating such activities to insure that they safeguard and do not abridge any right guaranteed or protected by the Constitution or laws of the United States.

Counterintelligence activities as used in this bill do not include internal security activities. Thus the DNI has no responsibilities with respect to domestic terrorism or subversion. The DNI does, however, share with the Attorney General responsibility for foreign counterintelligence, a function carried out by both the FBI and foreign intelligence agencies, particularly the CIA. This bill does not anticipate that the DNI will assign to foreign intelligence

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agencies responsibility for counterintelligence in the United States. Because foreign counterintelligence is carried out at home and abroad by different agencies, however, it is essential that one person, the chief intelligence officer of the government, have direct responsibility for its coordination and for assigning counterintelligence requirements. The Attorney General shares this responsibility insofar as counterintelligence affects the rights of American and other persons protected by U.S. law. He does not share the DNI's responsibility for assigning counterintelligence requirements, but he does have a significant responsibility with respect to the limits within which those requirements can be carried out.

(17) The DNI is to establish procedures for evaluating, monitoring and approving proposals for conducting special activities (covert actions) specific standards for which will be established elsewhere in the bill.

(18) The DNI is to develop security standards for the management and handling of intelligence information, for granting access to such information, and for entering into such lawful security agreements as are necessary for the protection of intelligence information, sources and methods. The security agreements in question are contracts by which a person agrees, as a condition of employment or of gaining access to intelligence information, not to disclose the information to any unauthorized person.

It is not the intent of this paragraph to assign to the DNI authority to withhold information from the legislative, or judicial branches.

(19) The DNI is to establish, in consultation with the Attorney General, procedures for the lawful protection, retention, disclosure and dissemination of information acquired by the various entities of the NIA, but no information may be retained, disclosed or disseminated if it unduly infringes upon the privacy of any national of the United States or if it violates any right guaranteed or protected by the Constitution or laws of the United States.

The purpose of the last part of this paragraph is to specify the proposition implicit in the whole of this legislation, that the NIA is subject to the same laws as anyone else. It further states that the privacy of American nationals must be protected where possible, whether or not protected by the Constitution or other U.S. law.

(20) The DNI is to be responsible for establishing and monitoring security standards, priorities, and practices for the protection of U.S. communications, and taking reasonable steps recommended by the Attorney General to protect the privacy of such communications.

(21) In consultation with the Secretary of Defense, the DNI is to formulate plans for use by the Department of Defense of such elements of the NIA as may be required in time of war.

This provision is based on the assumption that certain forms of

intelligence or sources of intelligence, which in peacetime are used for policymaking purposes or to acquire national intelligence, will become essential for tactical purposes in time of war.

(22) The DNI may terminate the employment of any employee of the NIA if he deems it advisable in the interests of the United States. This language tracks that of the 1947 Act, which permits the DCI to fire any employee of the CIA, and it is considered necessary for security reasons.

(23) The DNI is to assure (on the basis of advice given by the Attorney General) that the intelligence activities of the United States serve to safeguard and do not abridge any right guaranteed or protected by the Constitution or laws of the U.S. This paragraph assigns to the DNI, as chief intelligence officer, direct responsibility to assure that the activities and agencies under his direction and control are lawful.

(24) The DNI is to provide administrative, technical and support activities in the United States and abroad as may be

necessary to perform the functions of the DNI and NIA.

(Note: Detailed administrative provisions will be set out in separate drafts and cross-referenced here. These will include: procurement, maintenance and transport; communications and data processing; recruitment and training; the provision of personnel; financial and medical services; development of cover and proprietary arrangements; entering into contracts and arrangements with appropriate private companies and institutions to provide services such as classified or unclassified research, analytical and development services and specialized expertise. The separate draft will also include appropriate limitations and procedural restrictions such as requiring knowledge of National Intelligence Authority sponsorship by the appropriate university official.

Finally, Section 6 specifies that nothing in the bill is to be construed as prohibiting collection, evaluation, and dissemination of departmental and tactical intelligence by departments and agencies otherwise authorized to engage in these activities, or prohibiting any entity of the NIA from producing its own analyses of national intelligence, but such analyses are to be promptly submitted to the DNI. The purpose of this provision is, first, to reserve the prerogatives of the individual departments and agencies with respect to departmental and tactical intelligence, which services to assist the departments and agencies themselves to carry out their own special functions, and

which is thus best managed on a departmental or agency level. At the same time, the entities of the NIA which are involved in producing national intelligence are authorized to analyze such intelligence, and thus to contribute their own perspectives to the intelligence picture which is seen by national policymakers and by the DNI.

(a) The President is authorized to appoint, with the advice and consent of the Senate, not more than three Assistant Directors of National Intelligence (ADNIs). The duties of these Assistant Directors is not mandated by the bill, for it is anticipated that the needs of the DNI and the NIA will change in time and that flexibility is needed in the functions assigned to these officials. Duties suggested for the ADNIs, however, include coordination and assessment of intelligence analysis, evaluation, production and dissemination; management of clandestine collection, special activities, and counterintelligence activities; and planning, developing and managing U.S. technical collection systems.

(b) The DNI is authorized to employ such personnel as may be necessary to assist in carrying out the functions of the NIA. This staff will be similar to the present IC staff, although it may be larger, since unlike the DCI the DNI will not be able to rely as well on the staff of the CIA to carry out some of his duties. The staff may include, but shall not be limited to, employees of any entity within the NIA. (The House Appropriation

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Committee has recently suggested that a core group representing a specified percentage of the IC staff should be career employees, not detailed from intelligence agencies. A similar provision might govern members of the NIA staff.)

(c) The Director is authorized to establish such committees or boards as may be necessary to carry out effectively the provisions of the bill.

(d) The Director is authorized to establish such advisory committees as may be necessary to provide expert advice regarding the administration of this Act. Except in those unusual circumstances when to do so would compromise the national security of the U.S., a description of each committee and the names of its members are to be published in the Federal Register. In any event, the names of all committee members are to be submitted to the appropriate committees of Congress.

Section 8. Report of Violations.

The DNI shall report to the Attorney General, and the DNI and Attorney General shall report to the President and appropriate committees of Congress any intelligence activity which may constitute a violation of law, executive order, Presidential directive, departmental or agency rule or regulation, or constitutionally or legally protected right.

Section 9. Records

The Director is to maintain a record of all authorities, regulations, guidelines, decisions and implementing orders affecting the intelligence activities of the United States. A complete copy of these records is to be maintained in the Federal Register under conditions sufficient to protect the national security of the United States. (It is intended that regulations and other authorities not properly classifiable will be published in the Office of the Federal Registry. The DNI is to make any such record available, upon request, to any committee of the Congress having jurisdiction over matters relating to the NIA.

The purpose of this section is (1) to establish clearly the legal authority under which intelligence agencies are carried out; and (2) to establish clearly responsibilities for authorizing particular intelligence activities. It is intended that these records should be specific. Thus there would be no question, in the future, as to the source of an order to carry out a specific action.

Section 10. Requirements Relating to Appropriations
for the National Intelligence Authority.

(a) Funds for national intelligence activities are required to be authorized on an annual basis. (Prior to this year, intelligence funds have been appropriated but not authorized. S. Res. 400 requires that funds approved by the Senate for intelligence purposes must also be authorized.) In addition, it is required that the Congress and the President should publish such information related to the intelligence budget as is required by the Constitution, which mandates 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."

(b)(1) All funds for carrying out the national intelligence activities of the United States shall be appropriated to the Director, who shall be responsible for their allocation to the various entities within the NIA. The purpose of this provision, again, is to consolidate management of national intelligence activities through budget control.

(2) Funds may be appropriated to the Director to cover matters relating to national intelligence activities of a confidential, extraordinary, or emergency nature, and the expenditure of such funds shall be accounted for solely on the certificate of the Director. All other funds appropriated to the Director shall be subject to audit and review by the Comptroller General.

This provision is not intended to exempt the Director from reporting to the appropriate committees of Congress on the uses of funds expended on his certificate.

(c) The Director is authorized to establish a contingency fund for uses not anticipated at the time of budget submission to Congress. However, funds from this contingency fund may be expended only with the approval of the Office of Management and Budget after notification to the appropriate committees of Congress.

Section 11. Annual Review and Report

There is established a National Intelligence Authority Review Board to conduct an annual comprehensive review and evaluation of the work of the NIA and to report to the President and the appropriate committees of the Congress.

The Committee is to be composed of nine members serving staggered terms, appointed by the President with the advice and consent of the Senate. The Board is to be provided with staff, and the members of the Board are to be particularly qualified by virtue of their background, education, training and experience to evaluate the work of the NIA. Their purpose is to provide continuing outside evaluation of intelligence work, to identify problems which inevitably will develop within the intelligence community, and to provide a mechanism by which those problems can be reviewed before they result in serious shortcoming in the production of useful intelligence.

Section 12. Congressional Committee reports

(a) The committees of Congress having jurisdiction over matters relating to the NIA shall make regular periodic reports to their respective Houses on the national intelligence activities of the NIA, and shall promptly call to the attention of their respective Houses or to any other appropriate committee any matter relating to intelligence activities which requires their attention. In making these reports, the committees are to take steps to protect their confidentiality when necessary to protect the national security interests of the United States.

This provision parallels a provision of S. Res. 400 related to the Select Committee on Intelligence. It provides a mechanism whereby the intelligence community can report on a regular basis to one committee on all of its activities, and that committee when necessary can act as a conduit for information of interest to other committees. This provision is not meant to absolve the executive branch from reporting to other committees with respect to intelligence information clearly relevant to their jurisdictions -- for example, the intelligence agencies report to the Armed Services Committee on a regular basis on matters within the jurisdiction of that committee, such as assessments of Soviet military strength, and the process by which those assessments are reached.

(b) This is a housekeeping provision providing that the provisions of subsection (a) related to committees' reports are enacted as an exercise of the rulemaking power of the Senate and House of Representatives, and may be amended by either House, as far as relating to that House, the same as any other rule of that House.

Section 13. Annual Report of the Director

The DNI is required to submit to the appropriate congressional committees an annual report of the activities of the various entities of the NIA and of the intelligence activities of foreign countries directed against the United States. The Director is further required to make an unclassified version of this report available to the public, but he is not required to make public intelligence sources and methods.

This section recognizes that the intelligence community, along with other agencies of the United States Government, must be held accountable to Congress and to the public. The amount of detail to be provided in these reports is not specified, although it is noted that the public report need not include intelligence sources and methods. It is intended, however, that reports to congressional committees will contain all information required by those committees to carry out their duties, and that the public report should be as detailed as possible, given legitimate requirements to protect the national security.

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OLC 77-1026

17 March 1977

SSCI
77-0481/1

*Complete package filed
Prop. Legislation/NIA*

MEMORANDUM FOR: Director of Central Intelligence

VIA: E. Henry Knoche
Deputy Director of Central Intelligence

FROM: George L. Cary
Legislative Counsel

SUBJECT: Comments on SSCI Staff Draft Bill

1. Attached are comments on the ramifications of the 25 January 1977 SSCI staff draft proposal for a National Intelligence Authority. The comments augment and are supplemental to those submitted to you by [redacted]

2. In light of the incompleteness and ambiguity of the bill from the standpoint of concept, management and control, and entities, our comments are directed to some of the more salient issues it raises.

3. [redacted] disagrees with the comment on the top of page 6 that the draft bill does not grant line authority over those elements of the Intelligence Community which remain within their parent organization. Since others interpret the provisions of the bill differently, this is further evidence of the ambiguity in the language of the draft bill.

4. The threshold issue in dealing with the Committee on this matter is that PRM 11 is the most sensible approach to a subject as complex as this and that the hand of the Executive Branch should not be forced by a proposal as incomplete as the present text and prior to assurance that the text receives the thorough review such legislation merits.

[redacted signature box]

George L. Cary

Attachment

Distribution:

Orig - Add'e 1 - [redacted]

1 - OLC Subject 1 - OLC Chrono (See attached note for those who rec'd in draft)
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MEMORANDUM FOR: Director of Central Intelligence
VIA : [redacted] D/DCI/IC
FROM : George L. Cary, Legislative Counsel
SUBJECT : Comments on SSCI Staff Draft Bill

Handwritten notes:
but do not agree for
W.A.

STAT

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[redacted signature box]

George L. Cary

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Attachment

This memo was redone to reflect [redacted] comments.

See OLC 77-1020

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