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PROJECT -- CURRENT



SCHEDULE - NEXT FEW DAYS

|           |      |  |      |
|-----------|------|--|------|
| Thursday  | 8/7  | <del>10:15 a.m., DDA Conference Room. Brief meeting to hand out "New Structure" papers if completed (otherwise to [ ] by c.o.b.) and to discuss problems as desired.</del><br><i>NEW STRUCTURE<br/>NO MEETING. PAPERS TO LEHMAN (and [ ]) by 4 PM.</i> | STAT |
| Monday    | 8/11 | No meeting. Redraft of all sections of the "Organization and Management" paper to all members by c.o.b. Lehman to get a consolidated "New Structure" paper to us by c.o.b.   |      |
| Tuesday   | 8/12 | <i>(10:15)</i><br>Meeting to discuss entire "Organization and Management" paper (please read Monday p.m.).   |      |
| Wednesday | 8/13 | <i>EVENING MEETING - 6:30 (IF NEEDED)</i><br>Discuss two [ ] papers-"External Oversight" and "Sources and Methods."  | STAT |
| Thurs     | 8/14 | DISCUSS Redraft of CARVER PAPER (CONSUMERS)  |      |

STRUCTURE

7 August 1975

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MEMORANDUM FOR: [REDACTED]  
Mr. Dirks  
[REDACTED]  
Mr. Lehman  
[REDACTED]

SUBJECT : The Structure Paper

Attached is my input to our continuing dialogue on the optimum outline of a new structure. In deference to Mr. Lehman's needs and to keep him from committing technical illegalities over the coming weekend, I have not stamped a classification on any of the pages of this memorandum. Nonetheless, it is a sensitive working document. In the interest of time, I have not bothered to retype the few corrections and marginal insertions made in ink.



George A. Carver, Jr.  
Deputy for National Intelligence Officers

A NEW STRUCTURE

I. POSTULATES:

The Study Group's assessments of the management and organizational requirements of a national intelligence structure adequate to meet the demands likely to be placed on it over the next quarter century have been framed in light of certain postulates. These may not be entirely self-evident, but they are propositions which the Group considers so readily demonstrable that there is little point in developing arguments to support them:

- As a major world power, the United States will need the best intelligence attainable both to protect itself from surprise attack (particularly nuclear attack) and to assist in the formulation and execution of its foreign and national security policy.
- As used here, "intelligence" means not only raw information but -- even more -- assessed, analyzed and collated information distilled into appreciations, judgments and estimates.
- The information required as a basis for the quality of intelligence needed will have to be collected by overt means, by technical devices and by covert human sources -- i.e., espionage.

- The past two decades' quantum increases in technological resources and capabilities have not diminished the need for intelligence from human sources; for the latter remain the most reliable and satisfactory fount of information about the intentions of foreign groups, leaders and nations.
- The intelligence developed by those U.S. Government components responsible for its collection and production will frequently be used by policy-level officials as the basis for military or political action, often action which the U.S. Government will want and try to implement covertly.
- To protect its own intelligence collection and production capabilities, the United States will need concomitant capabilities in the field of counterintelligence.
- The United States will also need counterintelligence capabilities to ascertain the extent to which, and the means through which, foreign groups and nations are attempting to influence U.S. policy and actions by their own covert action programs.

(C&P) II. Givens in the Equation:

There are other considerations which bound and define the problems we have to address which are not exactly postulates

but which constitute, at least at this writing, "givens." Some of these may be ephemeral and may change markedly within a relatively brief span of time. Others are likely to be more durable or change at a much slower pace.

(A) Public Attitudes:

Public attitudes are, of course, not homogeneous. Different sectors of the public have different perceptions of various aspects of the problems posed by an intelligence service in a free society. Not all of these attitudes are mutually consistent and some sectors of the public give scant, if any, consideration at all to these problems. Furthermore, the most vocal and articulate segments of the public who address such issues -- including journalists and editorial writers -- are often far less representative of public attitudes than they claim or presume themselves to be. To the limited extent that generalizations are meaningful, "the public" probably:

- Wants the benefits and protections of a strong intelligence structure, but has little detailed understanding or sophisticated appreciation about what that desire means in concrete terms.
- Is perplexed and confused by a number of the issues which are currently the focus of both press and Congressional attention -- covert action, proprietaries, domestic collection, etc.



- Wants to be reassured that the U.S. intelligence structure is not an uncontrolled, rogue elephant and is, in some way, both accountable to and effectively controlled by the public's elected representatives, i.e., the President and Congress.

(B) Congressional Attitudes:

At this writing, Congress also speaks with a multiplicity of voices and should not be thought of as a monolithic body with any single set of opinions. To the extent that we can make generalizations about Congressional attitudes, they appear to include the following:

- A desire for a strong intelligence system, or at least for the benefits of a strong intelligence system.
- A less than perfect understanding of the organizational and structural requirements necessary for attaining these benefits, especially for preserving and protecting the degree of secrecy essential if they are to be attained.
- A desire for an independent analytical and production entity under the control of any single Cabinet department, especially the Defense Department or (above all) the military services.
- A recognition of the need for at least some degree of clandestine collection, but without a matching willingness to face up to the secrecy requirements

thus entailed.

- A recognition of the need for covert action in some contexts, ~~though~~ <sup>also</sup> Congress wants -- or thinks it wants -- a larger voice in the approval of such actions, but is uncomfortable about accepting the accountability and responsibility such a voice in approval entails or the need for discretion it imposes.
- A desire to a larger share in the intelligence product, ~~though the~~ <sup>though the</sup> ~~there will be~~ implications of and obligations imposed by receiving classified intelligence are also matters Congress is reluctant to face.

(C) The Presidency:

In discussing "the President's" attitudes, a distinction has to be drawn between the abstract needs of the office and the concrete attitudes of any specific incumbent therein. The former -- especially as perceived or defined ~~by~~ by persons never likely to hold that office -- may not always square with the latter. Generically, any President will probably

- Want a strong intelligence system, including a strong, flexible and responsive covert action capability.
- Will want reassurance that that system is under control -- meaning his control and not anyone

- Will want that system run efficiently, with due regard for budgetary considerations.
- Will not want the intelligence system or its activities to be a source of political difficulty or embarrassment.
- Will want independent advice, particularly in times of crisis, from capable people primarily loyal to the Presidency.
- Will need a system that can function in peace as well as war, though the problems here involved -- e.g., the national/tactical question -- have not been thought through extensively or clearly articulated.

(D) A Given President:

The particular requirements or attitudes of any specific, given President will be very much shaped by his own personality, working style and confidence in ~~(or lack thereof)~~ <sup>(contact thereof)</sup> his immediate associates. Here, sweeping generalizations are of little value. Given the formidable pressures and obstacles involved in being elected the President, however, there is one generalization which probably has some validity. The holders of this office, especially those who attain it via their own election, are likely to be strong-minded men with considerable vanity, inclined to place a high premium on loyalty in their

confidence. No President is likely to be charitably disposed toward, ~~use or~~ <sup>to make extensive use of or to</sup> support any intelligence organization -- or head thereof -- ~~who~~ <sup>that</sup> does not acknowledge the primacy of its, or his, responsibilities to the Executive Branch and the President.

(E) The Defense Department:

There are several fertile sources of inherent conflict between the Department of Defense (including the senior officials thereof, both civilian and military) and an independent intelligence structure reporting directly to the President and/or the NSC, particularly one headed by a civilian or any person not subordinate to the Secretary of Defense and the military services.

-- For a number of reasons, including the high cost of technical collection systems, the bulk of the national foreign intelligence program budget involves Defense Department funds, controlled by that Department, plus personnel and physical assets also belonging to it.

-- In a wartime situation, the military services' need for certain types of intelligence will be paramount, and neither they nor their civilian chiefs will be comfortable with any arrangement which does not give them control over the assets providing this needed support.

-- Even in peacetime, the military services are geared toward insuring that the intelligence needs of major US force commanders are met (again, the national/tactical problem reappears).

-- The wartime/peacetime problem is complicated by a conceptual ambiguity inherent in the Defense Department's notion of the "National Command Authorities," a concept which includes the President -- but as Commander-In-Chief -- and the Secretary of Defense, but does not include other offices or officers of the government such as the Secretary of State and the DCI.

-- There is an inevitable human tension generated by the Defense Department's irritation, to which the uniformed military services are understandably most susceptible, ~~at~~ any group -- especially a group of "civilians" -- providing independent interpretations and analyses to the President on matters with military dimensions or which affect decisions regarding the size, composition, funding and use of U.S. military forces.

(F) The Heisenberg Factor:

The Heisenberg phenomenon, a staple of modern physics, is the complication engendered in the conduct of certain experiments by the fact that the observer inevitably becomes a distorting part of the process. It has its

analogue in the intelligence profession when intelligence officers have to address situations in which the actions (or non-actions) and behavior of their own government is a major factor influencing if not determining these situations' evolution and outcome. One given in our intelligence equation, however, is the fact that the foreign situations in which the US Government, particularly its Executive Branch, are likely to be most interested or ~~with~~ have the most direct bearing on US interests are almost invariably situations in which this "Heisenberg" factor ~~looms~~ <sup>looms</sup> very large.

(G) The Access Problem:

Section 102 of the National Security Act of 1947 was written in part to prevent another Pearl Harbor by insuring that there would be some independent collating and analyzing entity, not under departmental control, which would have access to all information known to all components of the US Government. This ideal never has been realized nor will it ever be:

- Some departmental, especially military, information will always be regarded as "too sensitive" for the eyes of uninitiated outsiders.
- In all government components, especially the military services, departmental definitions of what constitutes "operational" as opposed to "intelligence" data will

be used to deny pertinent information to any independent (or even departmental) intelligence entity.

- At the Presidential/NSC level, detailed knowledge of what the US is doing -- e.g., the status or even existence of delicate negotiations -- will not be surfaced to the Intelligence Community or, sometimes, any members thereof, including the DCI.
- This problem is greatly compounded by the personal attitudes and working style of Dr. Kissinger, but the problem would exist if he were still a Harvard professor.
- A problem will always be affected by the work style and attitudes of any given President and his true <sup>inner</sup> corps of advisors (i.e., those to whom he actually listens, regardless of what offices they may or may not hold). It will also be affected by the degree of ~~discretion~~ and trust the President feels he can place on his Intelligence Community and/or its head, ~~including the President's confidence that what he tells the~~ Intelligence Community will not be passed without his prior approval -- or, indeed, save at his express direction -- to Congress or the press.

including trust in the latter's discretion, and the degree to which the President can feel confident

(H) Secrecy and Surrogates:

Regardless of what provisions are made or what institutional mechanisms are developed for approval and

oversight -- Congressional, Executive or public --  
two facts will remain unalterable:

- Anything told to "the American people" will be almost instantaneously known to every interested government, general staff or foreign group around the world.
- The degree of secrecy essential for the operation of an intelligence structure cannot be maintained unless a circle of people with access to certain types of information or knowledge is kept very small.

Given the above, if the US is to have an intelligence structure; approval, supervision and oversight will have to be conducted by surrogates. In other words, members of Congress -- and the public -- will have to be willing to delegate these supervisory and oversight responsibilities to a small number of people (e.g., peers) whom they are willing to trust, and will have to accept these surrogates' judgments, including judgments implicit in their silence. Such a system may not be palatable in our society or possible in our current national mood and political climate. Without it, however, we will not have a functional intelligence structure.



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### III. THE BUILDING BLOCKS

An intelligence structure able to meet the US Government's intelligence needs over the next two to three decades -- including its needs for the "services" (from covert action to secure message passing) which intelligence organizations are best equipped to <sup>provide</sup> and have traditionally provided -- will have to be simple, flexible and adaptable. Its shape and nature will also have to be framed in light of the postulates and "givens" outlined above. Such a structure can be developed from four basic elements:

(1) A principal intelligence officer, who can serve as the President's principal advisor on intelligence ~~and~~ intelligence-related matters, vested with sufficient authority to be able to ensure that all of the US Government's intelligence organizations function as an integrated system in servicing national needs and requirements, even though many of those organizations will also have departmental responsibilities.

(2) One independent intelligence organization not subordinate to any Cabinet department which can be solely devoted to national <sup>requirements</sup> ~~tasks~~ and be vested with responsibility for performing those functions and tasks best performed centrally.

(3) A viable Congressional oversight structure which strikes a workable balance between the requirements dictated by constitutional considerations ~~and~~<sup>plus</sup> the practical considerations of the current political climate and the requirements of secrecy essential to the functioning existence of any intelligence structure.

(4) Some form of review and audit mechanism capable of serving the public's interests and, in the current political climate, requirements while -- again -- preserving a threshold of essential discretion and secrecy.

#### IV. THE BASIC STRUCTURE

##### A. The Principal Officer.

If the US Government's intelligence structure is to work as an organic entity, it has to have a head with no other duties and responsibilities. There is, hence, a need -- perceived by the drafters of the National Security Act of 1947 -- for an office whose holder would be the US Government's principal intelligence officer.

(1) He can be called by any of a variety of titles. Director of Central Intelligence is fine; but if, for cosmetic reasons, the title needs to be

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changed, he could be styled either the Director of National Intelligence or the Director General of Intelligence.

(2) This office should be created by statute and its incumbent appointed by the President with the advice and consent of the Senate.

(3) The DGI, on the one hand, has to have some measure of independence from the President in order to be able to resist the kind of pressures engendered during President Nixon's administration. At the same time, he cannot be totally independent or regarded by <sup>an</sup> ~~the~~ incumbent President as a potentially alien force not subject to that President's direction and control. Perhaps the best way to achieve this is to have the DGI appointed for a term of five years. <sup>\*</sup> He could be eligible for re-appointment at the end of that period to one additional term, provided the Senate advises and consents to that re-appointment. To prevent any President from saddling his successor <sup>(throughout</sup> ~~the latter's term)~~ with <sup>(of the former's choosing)</sup> ~~an unreplaceable~~ DGI, however, there should also be a provision in the statute that no appointment

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to the office of DGI may be made within one calendar year of the quadrennial Presidential election or during the period between an election and the new President's inauguration. There should also be a proviso that the President may require the resignation of the DGI if a majority of the Congressional Joint Committee on Intelligence (see below) so concurs.

-- This last proviso is designed to make it possible for a President to remove a DGI without going through the cumbersome process of impeachment but, at the same time, making the process sufficiently difficult so that no President can remove a DGI without very good reason (going well beyond an unwillingness to carry out improper Presidential instructions).

(4) The DGI would be the President's principal substantive foreign intelligence officer and advisor on foreign intelligence matters. He would also be the fount through which intelligence services -- including covert action -- were provided and commissioned.

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He would report to the President in the latter's capacity as Chairman of the National Security Council and would be -- by statute -- an advisory member of the NSC. (The current climate may not permit this, but the system would work best if the DGI had personal Cabinet rank.)

(5) The DGI would be responsible annually for submitting a National Foreign Intelligence Program Budget to the President and the NSC and for presenting to the Congressional Joint Committee on Intelligence the NFIPB<sup>✓</sup> approved by the President acting as Chairman of the NSC.

(6) In time of hostilities or imminent hostilities, the DGI could be made responsible to the Secretary of Defense if the President should so direct by Executive Order (which the President would be empowered by statute to issue at his discretion), provided that the DGI ~~did~~ retain<sup>ed</sup> his statutory role as an advisory member of the NSC and ~~was~~ <sup>remained</sup> responsible for providing the President and the NSC with independent intelligence appreciations and appraisals.

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(7) The DGI would have line control over our system's second building block -- the independent intelligence organization described below. He would also be vested with the chairmanship of all major Community committees -- e.g., the USIB, IRAC or their restructured successors -- and be at least a member of all intelligence-related EXCOMs.

B. The Independent Organization.

The functions performed over the past 28 years by CIA need to be performed and need to be performed centrally, even though the current political climate may necessitate some cosmetic re-arrangement and a new name. There should thus also be created, by statute, a successor organization to the CIA for which the best name might be the National Foreign Intelligence Agency.

(1) Its Director should be appointed by the President with the advice and consent of the Senate to serve at the President's pleasure. The Director of the NFIA should be one notch in the executive hierarchy below the DGI. Also, ~~it should be~~

(2) The NFIA's Director should report to the National Security Council through the DGI and be recognized as the latter's line subordinate. He should be designated as the DGI's principal deputy

Would be well if there were some rule or precedent obliging a President to consult with the DGI in selecting the D/NFIA. A statutory provision to this effect would be too timid (besides be of doubtful constitutionality), but it would be helpful if the legislative history behind any new statute could make clear the desire and intent.

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and act for the DGI whenever the latter is absent.

(3) Should the office of DGI fall vacant within one calendar year of a quadrennial Presidential election (or during the period between <sup>an</sup> election and <sup>an</sup> inauguration), the Director of <sup>the</sup> NFIA would assume the duties of Acting DGI until a new DGI was appointed (by the new <sup>or incoming</sup> President) and confirmed by the Senate. The NFIA should have collection, analysis, production and support responsibilities essentially similar to those now discharged by CIA. It should also have responsibilities for carrying out sensitive actions, including covert action programs, and the other intelligence services discussed earlier in this paper.

C. Congressional Oversight.

It may not be politic for us to recommend how Congress should structure itself, but the only possible route we see through the contrary demands for <sup>a</sup> thorough supervision, on the one hand, and the needs of minimal security, on the other, is via a joint committee of both Houses of Congress with virtually full jurisdiction over intelligence-related matters.

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(1) This joint committee would have to be of manageable size but nonetheless would also have to include appropriate representation (say, three members each) from the Senate and House Committees on Appropriations, Armed Services and Foreign Affairs/International Relations. It should probably also include about three other members chosen at large from either House, making a total membership of about 21.

(2) This joint committee should have a small permanent staff, selected for judgment and discretion and required to sign secrecy agreements analagous to those now signed by CIA employees.

R (3) This committee should be charged by the Congress as a whole with continuing oversight of the national foreign intelligence program and, simultaneously, with ~~of~~ ensuring the maintenance of the degree of secrecy essential to the conduct of such a program.

(4) Current statutes <sup>and Congress</sup> should be amended so that it is this committee (alone) with which covert action proposals are checked or to which they are reported.

(5) The four current oversight committees -- e.g., the Intelligence Subcommittees of the House and Senate Committees on Armed Services and



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Appropriations -- should yield their oversight responsibilities to the new joint committee. When the joint committee is considering the appropriation of funds, however, and reviewing intelligence budget presentations, the Chairman plus one majority and minority member of the Senate and House Committees on Appropriations should sit with the Joint Committee on Intelligence, with the Acting Chairmanship of that <sup>Joint</sup> Committee being assumed, by some mutually agreeable principle of rotation, by the respective chairmen of the Senate and House Committees on Appropriations.

D. The Public's Surrogates.

To protect the public's interest and to meet the current demand for public oversight of the US Government's intelligence activities -- without compromising the essential secrecy -- the present PFIAB should be expanded and changed in both nature and function.

(1) There should be established by statute a Board of Intelligence Overseers, consisting of five public members appointed by the President with the advice and consent of the Senate.

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(2) Each member of that Board should serve for a term of three years, once renewable -- except that on the initial Board, two members should serve for one year, two for two, and one for a full term, with the determination to be made by lot.

(3) the Board should elect its Chairman who should serve in that capacity for two years. (At the outset, the member elected Chairman should probably be the one to serve a full three-year term as a member, with the other initial-term determinations then being made by lot.)

(4) The Board should have a small but suitable permanent staff, appropriately cleared and signing appropriate secrecy agreements as a condition of employment.

(5) The Board should be responsible for advising the President and the Chairman of the Joint Congressional Committee on Intelligence, on a continuing basis, on the adequacy, effectiveness and propriety of the National Foreign Intelligence Program. Public concerns, complaints or allegations of improper actions could be submitted directly to the Board for consideration and for such subsequent

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action recommendations as the Board deems it advisable to submit to the President, the DGI and/or the Congressional Joint Committee.

(6) The DGI should be required to meet regularly with the Board to give at least <sup>annually</sup> a summary account of the whole national foreign intelligence program.

E. Interrelationships Among the Above.

(1) This structure, in effect, splits the DCI's two hats. It makes the DGI and the head of the NFIA two separate people. The split is not total, however, because it leaves the DGI <sup>in</sup> control of the NFIA by making the latter's head the DGI's line subordinate and principal deputy. This degree of control is essential if the DGI is to have the staff support and directly taskable resources necessary to do his job.

(2) The DGI's immediate staff -- separate from the NFIA apparatus -- ~~sh~~ould be fairly small. I am against moving the bulk of what are now CIA's analysis and production components to the new DGI's office. If this route were taken, the Director of the NFIA would probably feel compelled to develop at least some complementary capabilities within his

own organization and the end result would almost certainly be unnecessary duplication and bureaucratic layering.

(3) Instead, we should build on the present serviceable models of the NIO structure and the IC Staff, i.e., have the DGI supported by two staff entities, one assist him in the field of substance and action, the other in the sphere of resource management. Both of these entities can be fairly small but <sup>should be</sup> composed of able, broad-gauged, experienced senior officers. Through such a mechanism the DGI would be able to draw on, and utilize, all the resources of the entire Intelligence Community, preserving the independence of those elements under his line jurisdiction but at the same time not giving them a judgmental or product monopoly which would be both resented and resisted by other Community components and would probably encourage particularly the Secretary of Defense strong-minded NSC members to develop large parallel structures within their own departments.

(4) These schematic outlines of the basic structure obviously do not address, let alone answer, all of the organizational questions and problems

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involved in developing a new Intelligence Community adequate to meet both the political and substantive needs of our government during the balance of this century. Once a basic core structure is agreed on, however, it will be much easier to tackle the remaining problems seriatim and to ascertain how ~~their~~ <sup>solutions</sup> ~~they~~ can best be fitted within or related to that basic core.

KEY ISSUES DEFINING "NEW STRUCTURE"

There are a number of basic principles which must be taken into account in any restructuring of the Intelligence Community.

1. The need for an independent organization charged with production of national intelligence. Independent here refers to independent from DOD operating elements and responsive directly to the National Security Council and the President.

2. The need for coordination of all intelligence production. Coordination in this sense does not imply resolution of differences, but rather implies management of the process to insure appropriate representation of differing views on important issues when they exist. Also it is important to insure that a process exists whereby alternative interpretations of events receive adequate attention and resolution.

3. Independent collection resources. Just as in the case of production, it is important to insure that no one organization has total control of all principal collection resources. This is particularly true in the case of technical collection, but may also have some parallels in human resources.

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4. Overall resource management and/or allocation. Given the large budgets required to support current and projected intelligence requirements, it is critical that one senior official be in a position to review resource allocation and defend the total budget to congress.

5. Coordination of collection operations.

6. Coordination and rationalization of intelligence support to military commanders.

7. Acceptable and practical management of covert action.

8. Evaluation/audit of the entire Intelligence Community including both collection and production elements.

In all of the above considerations, the role of the DCI is critical. The fundamental issues having to do with specific form that the new structure should assume largely hinge on judgments on how strong the DCI needs to be in his various areas of responsibility and in the practical world how best to arrange institutions and mechanisms so as to provide the DCI with the necessary strength to carry out his assigned responsibilities. For a number of reasons, which will not be reviewed here, none of the key points mentioned above can be totally relegated to the DOD. Therefore the new structure must provide the DCI with some authorities and equities in resource management, collection management, intelligence production, military commander intelligence support, and evaluation and audit of the entire community.

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In broad terms there are three ways the DCI could be placed in relationship to the President and the NSC on the one hand, and the Intelligence Community on the other. These will be discussed in more detail later in this paper, but for now these three different positions can be defined as:

1. Current DCI with two deputies and some increase in the IC Staff.
2. A DCI who reports directly to the President as a member of the NSC and is directly supported by a large staff including major elements of the current DDI. In this case a Director of Foreign Intelligence (D/FIA) would be established to manage the remainder of the current CIA plus perhaps an augmented National Reconnaissance Organization.
3. DCI reporting directly to the President and a member of the NSC as in Option 2, but with a much smaller staff, with the major intelligence production staff replaced by an NIO-like organization.

One of the major differences among these three options is the degree to which the DCI can take an objective view of his various responsibilities (or perceived to have an objective view by other elements of the community). In option 1 he has under his direct management, both major collection and major production resources. He has line management responsibilities as well as coordination and resource allocation roles to play, and a senior staff role to the President and the NSC. In

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option 2 he is divested of a major set of management responsibilities, but retains a large direct equity in the production of national intelligence. Option 3 establishes the DCI in a position of maximum objectivity while retaining through an arrangement of boards, committees, and staffs visibility and leverage.

Another variable across these several options is the degree of real influence that the DCI can achieve over intelligence resources and quality of the intelligence product. In the practical world where the DCI cannot achieve total line authority over the entire community, it is important to assure that no other agency or other department gains total control over the entire community or even over critical segments of the community with no counter-balancing external forces.

Common to all three options outlined above is a need for certain mechanisms or instruments through which the DCI can acquire visibility and exercise influence. These mechanisms are of three kinds and focus respectively on resources, production and technical coordination. In the resources area there is a need for two or perhaps three EXCOMs. First, the current NRO EXCOM should be continued and expanded to three members including a "White House" member drawn from the NSC or the newly constituted President's Science Adviser. There is a need for a new EXCOM to function as the Board of Directors for NSA. Membership probably should be essentially the same

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as the NRO EXCOM. Both cases, however, there is a question about the appropriate DOD member. There is also a question as to the appropriate authority of the Secretary of Defense. There is a possibility of a third EXCOM to serve as the Board of Directors for human resources. Membership of the Human Resource EXCOM, however, should be different in that there should be a senior State Department official as a participating member, and a different DOD member, or perhaps no DOD member at all.

The USIB in its current form should be abolished and reconstituted into three entities. As has been suggested in other papers, the USIB for production coordination is required without the AEC, FBI and perhaps Treasury as members. A USIB for collection also is needed and probably should have some common membership with the production coordination USIB, but also should be augmented to include membership from the collection community. These will be discussed in more detail later. The concept of collection requirements needs to be re-evaluated in the current and projected world of essentially real-time technical collection systems. The USIB for collection should focus principally on insuring that adequate mechanisms exist for coupling collection managers to the production community and evaluating the performance of the collection community against production needs.

A third USIB-like group may also be needed to address the intelligence support to military commanders. As was discussed in an earlier paper, these needs are similar to the national

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community in some regards and very different in other regards. The membership on the USIB for military commander intelligence support would be different and draw heavily on the military as well as the collection community.

The utility of IRAC is a mechanism need to be carefully examined. The IR&D Council has proven to be extremely useful for information exchange and coordination. This mechanism needs to be continued in any case. In the increasingly technologically complex world of the future, the DCI must have some mechanism for overseeing the technical establishment separate from the other mechanisms provided by EXCOMs and USIBs. IRAC and subsidiary committess may well be the best way of accomplishing this function.

To operate and participate in all this machinery, the Director will continue to need the IC Staff. The Staff needs to be strengthened, if not necessarily expanded, and depending upon other features of the new structure, it may be preferable to establish the Director of the IC Staff as a civilian. In any case a strong DOD participation both civilian and military will be essential.

In addition to establishing the appropriate community level instruments for management and cooridnation, there is a need to examine the structure of the community itself. Particularly in the world of technical collection and related processing, it is important to establish clear authoritative management structures. NSA is a good example of such a structure with

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respect to SIGINT. NSA through NSCID 6 has a clear management handle on all of the CCP. The CCP in turn, includes most of the relevant resources. However, even in this case there are problems. NSA has an organization includes major telecommunications security functions which are more naturally related to telecommunications in the DOD than to the intelligence. The reason for this arrangement is historical and has no practical, current rationale or significance.

The NRO in its current form is an anomolous arrangement which was cobbled together out of considerable bureaucratic strife and cannot persist in its current form. Two major alternatives exist which are important to discuss in this paper only because the DCI authority over the NRP is at stake. There are two major alternatives for the NRO. One is to continue the organization in its current form with essential staff and a director, but no operational capability [redacted]

[redacted] In any case the Director, NRO should not occupy a military billet. The D/NRO could either report directly to the Secretary of Defense or to the DCI. The second major alternative is to establish the NRO as operating organization including all the staffing and support necessary to manage programs. This organization could either report to the Secretary of Defense analogous to DARPA or to the DCI in the case of option 1 or the D/FIA in the case of options 2 and 3.

An NRO restructured along the lines of NSA has considerable appeal. First, there is growing consensus the NRO in its current form is no longer viable. The competitive elements within the

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NRP are not as important in the present and future as they were in the past. Therefore, the problems of coordinating within a competitive structure are becoming increasingly difficult. Second, the needs for military commanders to derive direct support from satellite collection resources are becoming increasingly important. At the same time the cost and efficiency of allowing each military service to pursue its own satellite collection programs are prohibitive and unnecessary. Again the current NRO organization with the Under Secretary of the Air Force as director is not well suited for providing efficient and effective military support. There are a collection of other reconnaissance programs, both ground based and aircraft based, strewn throughout the DOD which relate to NRP programs in terms of technology and capabilities, but are not managed through the same organizational structure. These include U-2s, SR-71s, ground based radars, reconnaissance equipment for RF4s, S3s, etc. Again the NSCID 6 model has considerable appeal in that it provides a solid charger for the Director of NSA to coordinate and direct as necessary the activities of the various services in this case the security agencies, without directly assuming line management on each and every project and program.

The main argument in favor of retaining some semblance of the current structure, is that the current DCI has managed to achieve considerable direct line leverage over a large segment

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of the NRP. This has been in the past and still is a source of considerable strength for the DCI. On the other hand, with the current organizational arrangement, it is extremely improbable that the DOD would surrender all control over the NRP and hand total management of the DCI. In the cases of organizational options 2 and 3, a different situation exists. Here a newly constituted NRO could be the equalizer balancing the DOD control of NSA. The NRO in its line organizational realization under the D/FIA or staff realization directly under the DCI might be politically feasible objectives. It serves as an excellent technique for distributing responsibility for intelligence collection without generating needless duplication and competition.

Another area which needs critical attention is collection management. The current scheme has USIB through its various committees establishing collection requirements. These requirements are intended to drive on the one hand the day to day operations of current collection assets and on the other hand stimulate development of new assets and the phasing out of old. While the USIB committees spend large amounts of time exercising this process, it in fact is a fiction. The only area where USIB collection guidance has any serious impact is in the area of targeting guidance to the photographic satellite systems. USIB has little or no influence over SIGINT resources and human resources. On the other hand, it is not clear that photography is better for USIB guidance or SIGINT or human resources worse

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for the lack of it. In any case two alternatives for the future exist: (1) beef up the USIB process and all the support it requires down through the various production offices and agencies, or (2) formally charge the collection managers with responsibility for understanding intelligence needs sufficiently well so as to efficiently employ the collection resource under their direct control. This approach would require the establishment of effective communications between production elements of the community and collection elements of the community. It would also require that the DCI take on responsibility for evaluating the performance of the collectors in managing their programs and the effectiveness of the production community in supporting collection.

In any case, the current world of essentially real time technical collection systems is likely to defacto obsolete all the current requirements processes and force a rethinking of the collection management function.

A concept which has been eluded to several times in the preceding pages has been that of evaluation and audit. Evaluation in this context is referring to substantive evaluation of performance and assessment of effectiveness when applied to collection activities, this process would have as its objective (a) the efficiency of the collection operation, (b) the effectiveness of the collection operation, (c) its relevance to the needs of the production community and the needs of the military commanders. Evaluation would also be looking for major gaps in the total collection program, duplications in the

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program, and collection capabilities which have outlived their usefulness. Another key aspect of evaluation would be the effectiveness of disseminating the collected information to the users whether it would be elements of the production community or military commanders. In this context processing and exploitation elements would be included as part of the total collection process.

The audit function cannot and should not be separated from the evaluation function. Here, however, the major focus is dollars. Audit in this context does not refer to the bookkeepers use of the term where the objective is insuring adherence to standards and the law, but rather is concerned with efficient money management in the broadest sense. There are dramatic differences throughout the hardware community that spends intelligence budgeted monies some of which are justified and appropriate and others which are not. While there is considerable concern in congress and the executive branch about efficient use of money, particularly in the face of rapidly increasing cost in the intelligence community, there is at present time no good mechanism for directly examining the management process from this perspective.

The evaluation/audit function needs to be studied in considerable detail in order to define the type of activity that would be constructive and useful and the level of effort that should be expended on these tasks. But it is clear that



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the DCI will be stronger and more effective if he has under his direct control a staff group performing evaluation and audit tasks. Not only will it assist him in influencing community effectiveness, but will be a mechanism for him to acquire access to data and information. It will also put him in a better position to defend the intelligence community programs and budgets, both to the OMB and ultimately to Congress.

(The remainder of this paper will address the pros and cons of organizational options 1, 2 and 3.)

## A NEW STRUCTURE

The preceding papers have explained the nature of the roles played by the DCI within the collection, production, and action elements of the Intelligence Community. We have discussed the DCI's role with respect to resource review in the Community as set forth in the Presidential letter of November 1971 and some of the problems presented by the "national-tactical" issue. We have also explained that the DCI is himself the head of an independent Agency and thus responsible for its actions, and that he is an advisor on substantive matters to the National Security Council (NSC).

In considering the possibility of organizational/management change, it is important first to consider what, exactly, such change is intended to accomplish. The preceding papers suggest five principal problem areas which merit improvement if an opportunity should arise, or if the Administration should find it desirable to create such an opportunity. These are set forth below. Identification of these problem areas also suggests the basic principles we believe should guide any consideration of options for structural change in the Intelligence Community.

1. An important problem identified in developing the 1947 Act was that existing intelligence organizations were unwilling to share with each other raw data on the various problems with which they were concerned. Recognition (after Pearl Harbor) of the need for access to and analysis of information by a central authority led to the creation of the Central Intelligence Agency in 1947. Twenty-eight years after passage of the 1947 Act, this problem is still with us, though to a much lesser degree than formerly. Organizational and managerial changes in the structure of American intelligence for the future should improve the ability of the DCI (or whoever is designated to exercise his substantive correlation and coordination role) to solve this information flow problem. Because knowledge is so

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often perceived as power, there can never be a total solution to this problem, and the sensitivity of certain information will always require limiting the number of people who have access to it. But improvements are still possible, and organizational/managerial changes in the Intelligence Community should help improve the ability of some overall manager to solve the information flow problem.

2. Partially because if this information flow problem, it has often not been easy for managers within the American intelligence structure as it has evolved to identify important new substantive problems, which should be the object of collection and production efforts, or to orchestrate the coordinated management steps which will permit these problems to be solved. The KIQ process linking information gaps to programs and resources is a credible attempt to grapple with this problem, but it is (of necessity under present arrangements) a collaborative effort depending upon cooperation; no one has real authority to enforce adherence to this, or a like, approach.

3. CIA and the various Defense intelligence agencies have long seen their most important customers as different. The "targeting" of all collection, processing, and analytical activity within the Intelligence Community has been subject to relatively constant debate between those in CIA who would like to see all organizations in the Community focusing their efforts on major problems of interest to so-called "national" (mostly civilian) customers and those in Defense who would use those organizations to solve the intelligence problems considered by military leaders to be of greatest importance. This conceptual difference as to the importance of various customers of information is the basis for most major differences of opinion as to how limited collection, production, and other resources should be employed. Because no one in the Community has overall responsibility for balancing the needs of all customers (and hence for balancing how all available resources will be employed) decisions reached all too often do not stand the test of reason. If there is an opportunity, or the need, to change present organizational/managerial arrangements within the Community, this issue should be squarely addressed.

4. Related to this is the point that the American intelligence apparatus which was partially established by the 1947 Act and which has evolved in the intervening years lacks machinery to force rational decision making about a large number of problems in which both CIA and Defense have important interests. We do not now have a management process in which it can be said that all decisions about resource use across the Intelligence Community are made with an eye to reasonableness or cost effectiveness. The continuing debate between CIA and Defense over how (or whether) to make available information derived from [redacted] to theater commanders is a good example of this problem. (Better examples needed.) CIA manages the system which will provide the data in the first instance, but it is not responsible for insuring that the data gets to military customers outside of Washington. There is uncertainty as to whether the data should leave Washington at all; yet the recognition that the Services will find a way to get it leads ultimately to the conclusion that it must be supplied. In considering basic change, it would be desirable to produce arrangements which can reduce or at least contain the management problems which surround consideration of issues of this type involving both Defense and CIA. Steps should be taken to produce an organizational structure in which American intelligence can accomplish its fundamental missions with the greatest efficiency commensurate with quality product.

5. Finally, attempts over the years to give the DCI a role in coordinating the Intelligence Community as a whole while he simultaneously serves as the head of an independent Agency have not been satisfactory. Both the 1947 Act and the President's letter of November 1971 give the DCI important responsibilities in the Community as a whole. His ability to exercise these responsibilities has been compromised by his role as head of the CIA both externally in the Community and internally within the Agency. Major changes in the overall organization and management "rules" for the conduct of American intelligence should reduce, if not eliminate, this continuing problem.

#### Three Broad Approaches to the Intelligence Organization/Management Problem

Broadly speaking, there would appear to be three basic approaches which might be taken to solve the problems outlined above. We could:

-- Transfer most intelligence activities out of the Department of Defense into a reconstituted and renamed Central Intelligence Agency responsible for servicing the fundamental intelligence needs of both the nation's top civilian and military leadership.

-- Absorb the Central Intelligence Agency within the Department of Defense, eliminating the DCI's role as it has been conceived since 1947 and placing responsibility for effective coordination of all American intelligence within a Deputy Secretary of Defense for Intelligence who would absorb the Community responsibilities now exercised by the DCI as well as those exercised by the present Assistant Secretary of Defense/Intelligence.

-- Leave essentially unchanged the division of labor between Defense and CIA which has evolved since 1947, while making a series of changes to enhance the ability of the DCI to play a more effective role in the overall direction of the Intelligence Community while at the same time reducing his direct involvement in managing the CIA program.

The first of these basic approaches would involve consolidating all or most existing US intelligence into a new independent agency under the command and control of one individual responsible to the President or the National Security Council. This approach is appealing in that it would create an organization with control over all aspects of the intelligence process, establishing the preconditions for solution of the management problems outlined above. In the real world, however, we believe this basic approach is a "loser," for several reasons. First, we doubt Defense (for good reasons) could be persuaded to give up all control over the intelligence program now conducted within DoD. Military leaders who are entrusted with our nation's defense must have a measure of control over their "eyes and ears," in peace time as well as war time. Second, over the short term (and probably for many years to come) the manpower needs of the programs now carried out in Defense, but incorporated by this approach into a new agency, could probably only be met by military personnel, except at extraordinary cost. Thus, some continuing Defense involvement would be required in any event. Finally, and most fundamentally, there is the political problem. We doubt either the President or Congress could be persuaded to

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The second broad approach identified above would involve consolidating all US intelligence, including CIA, within the Department of Defense. This approach too would allow control over all US intelligence to be consolidated in the hands of one individual, though it is questionable how "real" such control would be unless all existing intelligence organizations were placed under his line command--a remote possibility at best. There are, however, more fundamental disadvantages to this approach. First, there is the question of the "objectivity" or "independence." This approach would effectively repeal the most basic provision, insofar as intelligence is concerned, of the 1947 Act: the establishment of an independent CIA. We doubt anyone would seriously consider this a good idea. The need for an independent intelligence view seems well accepted everywhere. Second, we do not believe that intelligence as a discipline would receive the attention it ought to have in Defense, where it always has been, and always will be (legitimately) regarded as a support function. Finally, although we can envision steps which might be taken to allow the new head of CIA within Defense a measure of independence, in the real world bureaucratic, budgetary, and other pressures would build to deny that independence.

The third broad approach--trying to find a way to assert greater central control over the whole intelligence process while leaving both Defense and CIA in the intelligence business--seems to us the only one which offers much hope. This approach recognizes that two basic facts must be confronted in trying to set forth any suggestions for overall improvement in the management and organization of American intelligence. Simply stated, these are: first, that there exist important arguments for the continuing existence of an intelligence organization (CIA) not subject to the control of any other line department or agency within the USG; and second, that the Department of Defense, charged with responsibility for defending the nation, requires (or will not relinquish without a fight no one will be willing to start) a measure of control over important collection, processing and other intelligence activities which also contribute in major ways to the solution of problems faced by CIA.

These two facts are on the one hand the basis for many of the problems which have characterized the overall management of American intelligence since World War II and, on the other hand, the reason why workable solutions to these problems are so difficult to develop.

### Toward a Solution

Before considering options within the third broad alternative suggested above, two important points should be addressed. The first relates to the relationship between Defense and CIA during peace and during war. The second involves certain tactical aspects of any recommendation to change existing organizational and/or management arrangements within the Community.

With respect to the first point, the role of the Secretary of Defense in war time is very clearly established and is embodied in the NCA concept. The role of the DCI in war, on the other hand, is fuzzy indeed. This is the basis for many differences between Defense and CIA. It causes bureaucratic guerrilla warfare across a wide front. There is much skirmishing for authorities, access, systems, resources--Defense because it will need them in war time, CIA because it needs them in peace.

As a result of this and other factors, we still do not have a truly national intelligence system. Moreover, at the onset of war, or at various undefined points in a major crisis, national intelligence assets would be transferred piecemeal to Defense control under chaotic conditions. The nation would not be well served. If we consider the question of reporting relationships from the war time end rather than, as we have since 1947, from the peace time one, the problem is more easily solved. The National Security Act of 1975 might read more or less as follows:

The DCI shall be responsible to the President through the National Security Council, except that in the event of major hostilities he shall be responsible to the President through the Secretary of Defense, unless the President directs otherwise. When he is subordinate to the Secretary of Defense he shall retain the right to render substantive assessments independently to the President.

Such a formulation would help to cause the interests of the SecDef and DCI to converge where they are now adversary. The SecDef would be more interested in seeing that the DCI built a strong national intelligence system in time of peace; the DCI would be more concerned that the system be designed to meet Defense's needs in peace time or war. In the event of war, the entire system, including the DCI, would move to Defense as a unit with far less disruption of internal command mechanisms than would take place under present understandings. The door would be open to develop a more unitary system, with a unitary budget, in peace. At the same time, the Congress could be assured that the peace time DCI was in fact independent of the Department of Defense.

The second issue to be considered in this section concerns the tactics which must surround any discussion of major changes in existing arrangements. We are faced with a paradox: there are strong pressures to strengthen the DCI, and we believe this would be desirable; there appear also to be some pressures to weaken him. The two may be reconcilable, however. The solution may be to balance a needed increase in the DCI's overall management powers with a decrease of his line authority where he can do without.

A particular issue is CIA itself. Some would argue that the organization is so tarnished in the public eye that total reorganization and/or dismemberment is called for. We do not agree, but we believe that organizational arrangements that permit the DCI to distance himself from CIA, or portions thereof, should be considered.

CIA's public reputation is unfortunately a fact. A DCI not closely identified with it would be far more politically acceptable and available as the senior national intelligence officer. Indeed, a President would find it easier to give a DCI the access and confidence upon which his power must ultimately rest if the DCI were not himself considered an intelligence operator. Moreover, we have already noted that present arrangements require the DCI to carry out a number of very complex responsibilities; if we increase further his overall management and budgetary role, these arrangements must change if he is to cope.



On the other hand, the DCI cannot do his job by himself. If he is to manage national intelligence, he must have strong staffs in the resource and collection guidance fields. If he is to be the President's intelligence officer, he must have a strong substantive staff. In fact, we believe these three functions so closely depend on one another that they must be maintained under single management in any case. Thus, it appears essential that the DCI retain under his direct control the production elements (or portions of them) of CIA.

At the opposite end of the scale is the DDO. It is the primary target of outside criticisms, and thus the element of CIA with which the DCI should have the least association. This must be balanced, however, against the DDO's usefulness--and contribution to the DCI's power--as an agent of covert action.

### Two Options

We have argued that consolidating command and control of all intelligence operations in the hands of one man, either within a reconstituted and renamed CIA or within Defense, is both unwise and impractical. Within a broad requirement to preserve important roles for both Defense and CIA in the intelligence business, are there options available which might advance some or all of the goals discussed above? While there are an infinite number of variations, we see only two basic options. The first involves definitively separating the DCI from CIA and appropriating most intelligence funds to him under rules established by Congress while requiring him to turn over or delegate those funds to existing organizations for program operation. The second would separate the DCI from CIA less definitively but give him a vote in EXCOM arrangements for the NRO and [redacted] (as now) and the CCP. Further discussion of these two options follows.

Option 1. In summary, this option would provide for the creation of a new intelligence organization headed by a Director with production and overall Community management responsibilities. Residual elements of CIA would be consolidated, together with the [redacted] NRO, into a new Foreign Intelligence Agency headed by a Director. This is a "clean" arrangement, given the constraints above. In detail:

a. Amend the National Security Act of 1947 to create a new Intelligence Production and Management Agency (with some such deliberately "unacronymic" and unpronounceable title) headed by a Director who is by law a member of the NSC. Transfer existing CIA production components, the NIOs, and the IC Staff to this organization and make the Director IPMA responsible for meeting the basic production requirements of top civilian and military leaders (though this effort will obviously need to be supplemented by various departmental production components), collection guidance for all collection organizations in the Community, and preparation of an overt total intelligence budget covering his own organization, residual CIA programs, the NRO [redacted] and the Consolidated Cryptologic Program. Leave budgetary responsibility for the GDIP (except [redacted]) entirely within Defense.

b. Simultaneously, create a new civilian Foreign Intelligence Agency to be responsible for operation of [redacted] the NRO, the CIA Clandestine Services and related support, and other residual CIA programs under a Director FIA responsible to the President through the NSC for operational matters and to the Director IPMA for resource matters. Funds for this organization would be appropriated by Congress to the Director IPMA but transferred to the FIA for expenditure under rules established by the amended Act.

c. Leave Defense in charge of actual operation of the Consolidated Cryptologic Program. Give the D/IPMA a strong hand in CCP operation by appropriating funds for these programs to him while requiring that he transfer them to the head of the CCP for actual operations in accordance with applicable Defense law and procedures.

This approach would be similar to one established during the 1960's under which funds were appropriated to the Director of the Office of Economic Opportunity but then delegated to the Department of Labor for actual program operation. A similar procedure is followed today in the case of

Advantages. This option would:

-- Give the Director command and control over the intelligence production process while eliminating his direct association with, or management responsibility for, all Community operational activities.

-- Give the Director IPMA a strong role in the overall management of the Community while leaving day-to-day operations in the hands of individual program managers. It would do this by giving the Director effective authority over the budget process within which most questions of broad direction and resource use--but not the details--could be decided. Thus, the Director IPMA would use his control over the broad directions of the resource process to "manage" collection rather than relying on actual command and control authority.

-- End the divided management of NRO programs and reduce the associated bureaucratic battles about resource use within that program.

-- Further remove residual CIA elements from the White House, interposing another management layer short of the NSC.

-- Place responsibility for meeting the important substantive needs of the nation's military leaders in the hands of one individual, giving him the authority to balance these needs against the needs of top civilians but requiring him to do so.

-- Separate present CIA production elements from operational components, reducing some of the problems of "guilt by association" which have affected the production world and those with whom it deals in the public.

Disadvantages.

-- This approach calls for major change, never easy.

-- It remains to be proven that the D/IPMA could meet military needs adequately, even if the military could be persuaded in the first instance that this should be tried.

-- This option may suggest to some a variation which could substantially reduce the overall effectiveness of American intelligence, namely, the idea that the [ ] NRO should be managed by the Air Force and that the balance of CIA not transferred to the D/IPMA should be folded into either State or Defense.

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-- It would separate producers and collectors more fully than they now are, increasing problems of access to information and--particularly in the highly technical programs--reducing the important interaction between these two groups.

Option 2 is a less ideal, but still desirable, approach which again emphasizes the DCI's production and Community management roles. In summary, this option would involve reorganization within CIA to emphasize the DCI's production and Community management roles while removing him further (but not separating him entirely) from remaining CIA responsibilities. His actual authority over other components in the Community would be increased slightly from the status quo but not enough to give him a definitive voice. In detail:

a. Reorganize CIA to consolidate all DDI and DDS&T production elements, and the NIOs, into one directorate reporting to the Director. Establish a civilian Deputy Director as the line manager of the DDO, the DDA, and the balance of DDS&T, legally reporting to the DCI but, de facto, an independent individual.

b. Create (in statute) three Executive Committees to make resource decisions about the NRO, [ ] and the CCP. As in the first option above, ignore the GDIP except as regards [ ]. Give the DCI a vote in each Executive Committee (as now) but leave final decisions up to the Secretary of Defense (with a right of appeal by the DCI to the President). Make major changes in existing procedures for budgetary review of the CCP within Defense by taking program out of the Joint Review Process and consolidating it in the CCP EXCOM. Transfer funding of CIA third-party programs to Defense.

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c. Reorganize the DCI's Intelligence Community Staff to support the DCI's role in the three EXCOMs and to review the resource requirements of his Deputy Director of Central Intelligence.

d. Amend the 1947 Act to make the DCI a statutory member of the National Security Council.

e. Physically separate the DCI, the IC Staff, and the new production organization from the rest of CIA.

f. Leave responsibility for meeting the production needs of the nation's senior military with Defense (avoid the "national-tactical" problem).

Advantages.

-- The DCI's role with respect to the existing two EXCOM programs would remain essentially untouched; he would gain a voice in broad decision making about the CCP.

-- CIA as an institution would remain largely unchanged in overall size, though it would be managed quite differently.

-- The DCI's responsibilities would be better focused on the Community aspects of his job, and he could rely on a civilian manager to handle CIA operational activities directly.

-- Requires considerably less legislative and other change than Option 1 above.

Disadvantages.

-- No one individual would be empowered to cope with the "national-tactical" problem, though military officers would no doubt consider it a plus that the DCI was not given this task.

-- DCI's ability to affect decision making on a wide variety of issues would be considerably less than under the arrangements outlined in Option 1 above, though more than at present.

STAT -- The EXCOM arrangement for management of NRO and [ ] which many consider awkward and unwieldy at best, would be perpetuated and even expanded.

-- The DCI would not be definitively separated from the CIA. This will reduce his credibility in carrying out his Community role while leaving him more "troops" to carry out that or any other responsibility.

Recommendation. Try for Option 1; settle for Option 2.

[REDACTED]  
7 August 1975

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### COMMENT ON STRUCTURE

1. This paper is prepared without options. I see three levels of command authority which have to be dealt with in any discussion of revising the 1947 National Security Act. These are: the policy decision level; the resource requirements and review level; and the implementation level.

2. The policy decision level. Ultimate policy decision lies with the President. Paradoxically we wish to protect the President from his decisions in intelligence and covert action matters. It is, therefore necessary to include at the policy decision level an organizational structure which will protect the President. The framers of the 1947 Act set up the National Security Council. We may need to restructure the duties of the Council. It was created, apparently, for peace-time administration. The Defense Department has recently established a National Command Authority to be exercised in the event of major hostilities. There is good reason to be clear about the policy decision level in both peace and war. The 1947 Act could be rewritten to include provisions for a National

Security Council in peace-time and a National Command Authority in war-time. The membership of each will be the same; the President, the Secretary of Defense, the Secretary of State and a newly constituted member of the Council and the Authority, the DCI. The DCI will be appointed by the President, confirmed by the Senate and will be the President's principal intelligence advisor. He will be responsible for submission to the President of an annual budget (to be prepared by the Resource and Collection Board of his office). The DCI will administer the intelligence community (as discussed below) through three boards constituting his office.

3. The resource requirements and review level. The functions of the Director of Central Intelligence should include the administration of three boards--a production board, a resource and collection board, and a review board.

A. The production board will have the task of research, analysis and preparation of finished intelligence documents for the use of the policy decision level, primarily, and, as appropriate, for the rest of the government. All information available to the U.S. Government will be provided to the production board. The production board will establish requirements for the entire U. S. Government collection program.

B. The resource and collection board will have the responsibility to determine the extent of the basic



collection program to be undertaken by the United States and the amount of resources which will be obligated to accomplish these collection programs. The resource and collection board will work closely with the Office of Management and Budget. This board will have both budgetary and audit functions.

C. The review board. The review board will undertake for the DCI the inspection and review of the intelligence community at both the resource and requirements level and at the implementation level. Its review powers will be plenary for the Intelligence Community, and it will report through the DCI to the NSC and to the President. The review board will also work directly with the joint oversight committee of Congress should the latter decide to create a joint oversight committee and will publish annual public statements on national intelligence activities.

D. The tasking of both human and technical intelligence will be done by the production board and the resource and collection boards acting in concert. All human source collection responsibilities will be placed under the Foreign Intelligence Agency except field intelligence for combat units in war-time. The requirements for technical collection at both the national and tactical level will be established by the production board (except for covert action) and placed on the FIA, the Defense Department and the JCS by the resource and collection board. The responsibility for

implementation of technical collection will be worked out between the FIA and the JCS in an EXCOM relationship which will consider each collection mechanism and present its planning to the resource and collection board. Problems which cannot be resolved by committee action will be referred to the DCI for resolution. Some portions of the NRO, the  and the CCP will continue to be administered under SECDEF.

4. The implementation level will consist of the current Central Intelligence Agency which will be renamed the Foreign Intelligence Agency and the Departmental level Defense Intelligence organizations and agencies responsible to the Joint Chiefs of Staff including the Defense Intelligence Agency which should be restructured to report directly to the JCS and serve the joint departmental responsibilities of the Joint Staff. The DCI production board will provide similar services for the Secretary of Defense.

5. The Foreign Intelligence Agency will have two primary responsibilities--collection and action. Collection will include both technically-procured and human source intelligence. The technical collection effort would include some portions of NRO, programs currently administered by the DDS&T and third party technical programs (liaison with foreign intelligence); technical efforts now undertaken by the DDO.

The human collection program would include the current DDO programs in both positive intelligence and

counterintelligence fields and those portions of the military-run human source program not an integral part of the combat commander's force structure.

6. This would be the general structure. Under this plan the separate units would have the following authorities and would include parts of or all of the following current organizations:

A. The Office of the DCI would include;

1) An intelligence briefing officer to keep the DCI up to date, a legal advisor, a small support staff to provide communications, transport (including interface with military transport)<sup>AND</sup> a security staff, all located in an office in the immediate vicinity of the President.

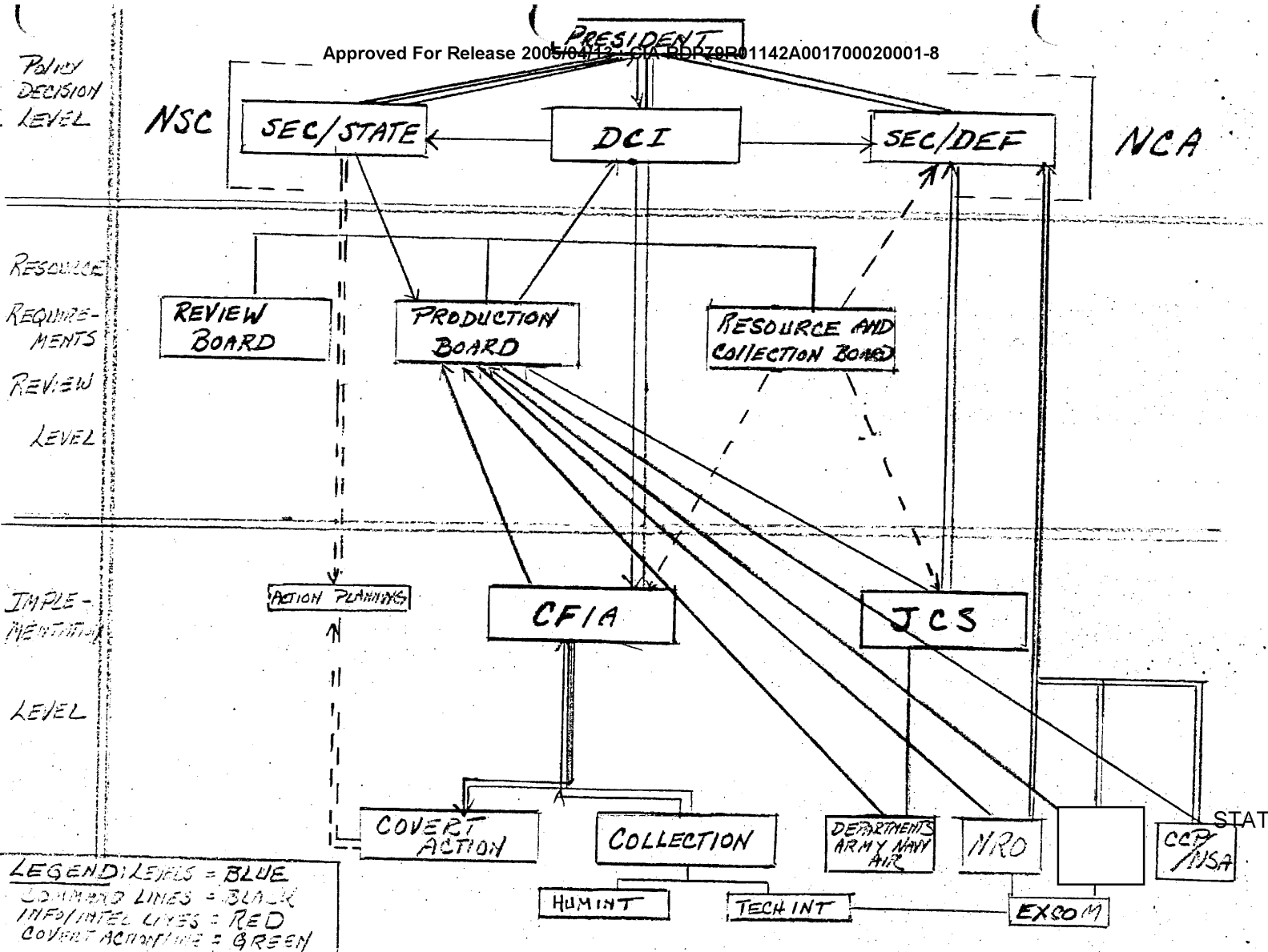
2) A production board co-located with the Office of the DCI and including portions of OCI, OER, OSR, OPR and the CIA operations center. (Elements of DIA would also be co-located in the production board including portions of the current Office of the Deputy Director for Intelligence, the Deputy Director for Attaches and Human Resources and the Deputy Director for Estimates. Most of the officers and structure of the DIA would remain in DIA to serve JCS. The purpose of moving portions of DIA into the production board would be to create a complete production board to serve the Secretary of Defense as a separate intelligence and analysis function. The Secretary of Defense, of course, would be free to draw upon JCS and DIA through Defense channels).

The production board would also include the National Intelligence Officers and portions of the intelligence community staff, specifically those involved in establishing production policy. Some portions of NPIC, OSI and OWI should probably be placed in the production board, but just how would await the organization of that board. Portions of the Department of State's Bureau of Intelligence and Research would be included.

B. The Resource and Collection Board would include a part of the Office of the Comptroller of the CIA, the USIB function which together with the Collection Guidance and Assessments Staff would be reformed into an active collection allocation staff, portions of the CIA Office of Finance, portions of the Office of Joint Computer Support, officers from the Plans and Operations Staffs of the DDO, and portions of the Office of the Deputy Director for Collection and Surveillance of the DIA.

C. The review board would include the PFIAB, the CIA IG Staff, and portions of the Inspector General Staff of DIA.

7. The Foreign Intelligence Agency would include the remaining offices of the CIA/DDI, the CIA/DDO, the CIA/DDS&T, the CIA/DDA and portions of the DOD DIA Deputy Director for Attaches and Human Resources, portions of the U.S. Army Intelligence Agency, ONI and the Office of the Air Assistant Chief of Staff for Intelligence.



OTHER PROBLEMS

7 August 1975

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External Oversight Mechanisms

The Need

Oversight of the intelligence mechanism of a democracy is a vital function. Even in an open society such as ours, there is a need for secrecy in the collection of intelligence and the conduct of intelligence operations. This condition of secrecy can be used as a means of subverting the intelligence organ into an instrument of power if there are no checks upon its activities. We believe further that the existence of a strong oversight mechanism guarantees the credibility of the intelligence process to the public. As we believe, an oversight mechanism performs three functions. It assures the executive and congressional branches that the intelligence component of government is performing its job properly and well. Secondly, it provides a vehicle for establishing credibility of the need for an intelligence organization and the quality of its product with the public. Thirdly, it provides the means for assuring the people of the U.S., including those engaged in governing, that the actions of the intelligence agency are carried out with appropriate

regard for the society's standards of propriety.

The Basic Dilemma

We do not believe that the existence of an intelligence organization is inconsistent with the principles of American democracy. Indeed, we strongly believe that such an organization is essential to the preservation of the American nation in which such a democracy exists. We do believe also that the existence of a central intelligence organ coupled with the need for oversight poses a basic political dilemma to those who would oversee whether within the executive branch or within Congress. The overseer can be credible only if he is totally aware of the broad spectrum of intelligence activities. He may become aware of these activities before or after the fact. In either event, the requirements of secrecy limit him to silence about these activities. Such silence can be construed as acquiescence in the conduct of the activities. If the activities prove to be failures or unpopular, his knowledge and his attendant silence can politically affect him adversely in his relationship with his constituents. The basic contradiction is that those involved with oversight need to know all to provide credibility but cannot know all if they are to be politically effective.



The Present Situation

The Central Intelligence Agency has been and is presently undergoing a considerable degree of investigations. One investigation, that of the commission on CIA Activities Within the United States, has been completed. The findings of that commission have resulted in certain recommendations which would improve oversight mechanisms relative to the Central Intelligence Agency. These include strengthening the President's Foreign Intelligence Advisory Board, an enlarged role for the Inspector General Staff, the infusion of broader experience into the General Counsel Staff and the establishment of a joint congressional oversight committee, presumably modeled along the lines of the joint committee on atomic energy. These measures will undoubtedly be instituted by executive action during the next 60 days. Such measures probably will be viewed as stop gaps by Congress. The congressional urge to reestablish a degree of parity with the executive branch will force that former institution to devise feasible means of effective external oversight in which it is involved. Then Congress will be in a position individually to assure their constituents that the "rogue elephant" is indeed being controlled by congressional vigilance.

In order to develop the means of oversight which will be effective, we need to explore several facets of the inter-

relationship between CIA and its masters. Immediately, we have identified one problem because the Central Intelligence Agency reports to many masters. The pluralism of our society is reflected in the plurality of our intelligence institutions. Just as there are many consumers of intelligence, so there are many who exert some form of subordination over some aspects of the intelligence community. The DCI, in any of his several roles, is subject to this pressure from above from several sources. The National Security Act of 1947 stipulates that the Director of Central Intelligence shall report to the National Security Council. Who is the National Security Council? The National Security Council consists of the Secretaries of State and Defense, and is chaired by the President of the United States. In practice the influence of the President's Assistant for National Security Affairs can be dominate depending upon the President's style and the personality of this Assistant. Presently, the same person occupies the role of Presidential Assistant and Secretary of State. We can see that the Director of Central Intelligence reporting through this specific mechanism serves the Secretary of State, Secretary of Defense, some segments of the White House Staff and the President of the United States. But in addition to this channel, we have already seen that the Director of Central Intelligence is, or should be, the chief

intelligence advisor to the President. The President needs a direct access to intelligence which is not colored by the specialized departmental views of the Secretary of State or of the Secretary of Defense.

There has always been an oversight relationship with Congress. Part of that oversight mechanism is interleaved in the normal legislative actions of that body, particularly the appropriation procedure. In addition, Congress established a specialized oversight mechanism which functioned with a degree of success which varies directly with one's point of view. The history of legislative efforts to oversee the Central Intelligence Agency also included the utilization of the General Accounting Office for some portions of the Agency's activities. This effort proved to be ineffective without access to the totality of the Agency activities.

The Director of Central Intelligence clearly reported and reports to the Congressional oversight mechanism. From all we know, those committees were kept fully advised of all Central Intelligence Agency activities to the extent that they wanted to be advised. Essentially, the chairmen of those oversight committees took the position that there were some things about which they did not want to know. This position was taken for essentially two reasons, both of which we have

noted in our previous discussion. They felt that the interests of security could be best protected if they didn't know all facts. In effect, Congress maintained its oversight by delegating the responsibility to a small group of men. They in turn relied upon the probity of the DCI to protect both intelligence activities and the political effectiveness of the congressmen concerned.

The DCI, like any other head of a large institution, is subject to being called to account by the media and by the public when something commands the attention of these elements. We see that phenomena taking place today with a vengeance. In addition, we have currently a DCI who feels strongly that we should find some way of serving the public by intelligence. He would like some means of making the intelligence product available to at least selected parts of the public such as the academic community.

The question of oversight is further complicated in this country by a change in the locus for responsibility of intelligence actions. The tradition in all nations has been to preserve the chief executive's capability for political action by protecting him from involvement in intelligence failures. Thus, the executive has always reserved for itself as an option the action of disavowal. This has been true of all nations. It was true of the

United States, too, until President Eisenhower changed that tradition by publicly admitting his knowledge of and responsibility for the flights of the U-2 over the Soviet Union. This reversal of tradition was continued when President Kennedy assumed responsibility for the failure of the invasion of the Bay of Pigs. There has been some indications of readjustment to the traditional role. In the case of the exposure of the Glomar Explorer, President Ford made, and has continued to make, no comment. Nonetheless, there is a shift in the relationship between the DCI and the chief executive in this regard. What its ultimate affect will be is unclear.

#### Existing Executive Branch Constraint Possibility

The most obvious and strongest means of executive branch oversight is the relationship between the President and the DCI. The extent and depth of that relationship is a variable thing, depending upon the chemistry between the two individuals and also depending upon how the President likes to do things. Unfortunately, during the ascendancy of an imperial president, oversight can be exercised in a malevolent fashion. Oversight then becomes negative rather than reassuring. The misuse of the organs of intelligence by the Nixon administration demonstrates that the oversight mechanism should be an overt one which carries within it some degree of public accountability.

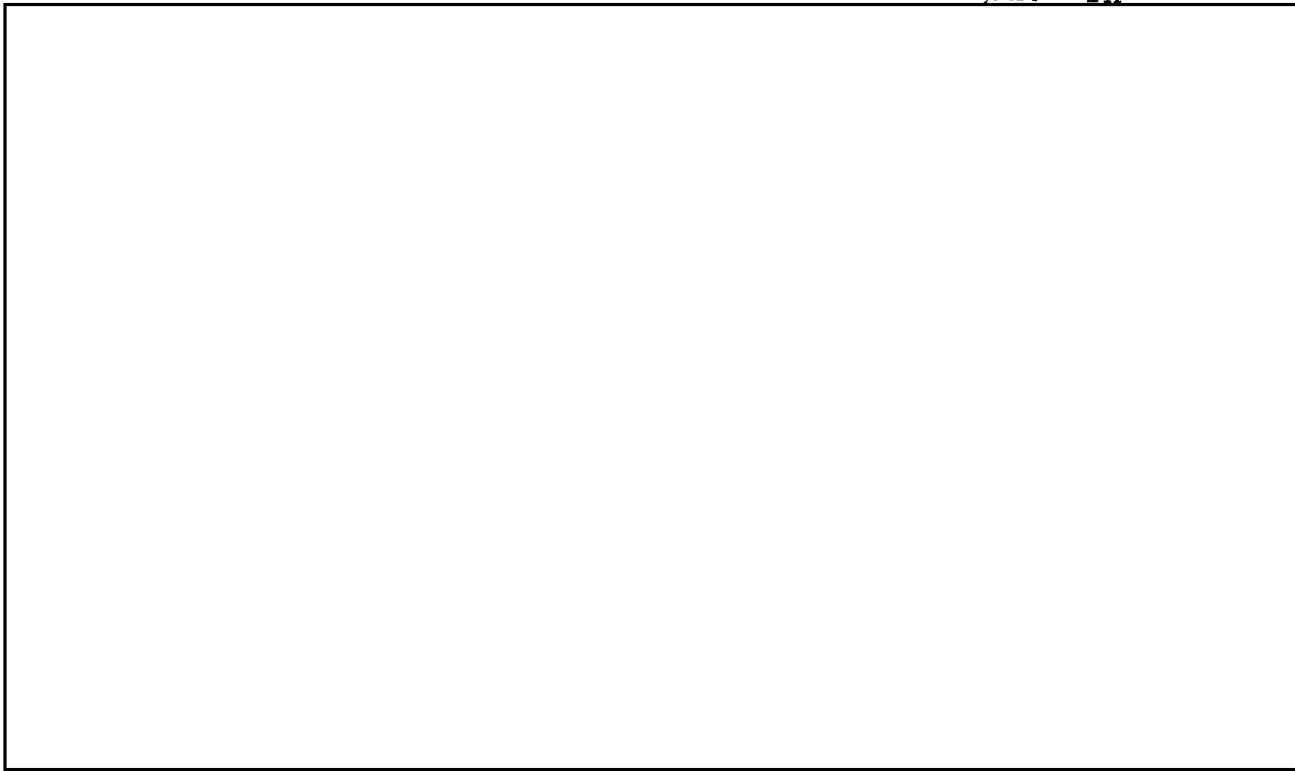
This is a most difficult area to accomplish a publicly accountable mechanism. So much of the interchange must take place in a restricted arena, because of the classified nature of the information. Clearly, in an interrelationship between a President and a DCI, the preponderance of power is on the side of the President. The inherent tendency of a DCI is to respond to a Presidential request with an "aye aye sir." Little can be done to change this relationship. If that is the case, then other changes must take place in the executive which will permit other organs to know when the presidency has overstepped its limits.

Covert action has been controlled by a committee of the National Security Council known by various names. Presently, this committee is the 40 Committee. It formulates U.S. policy decisions to undertake covert activities against other states. All covert actions which have been initiated by the CIA have been approved by this body. Whatever its name, the committee has served as a means of insulating the presidency from participation in the making of decisions which have failed. It has functioned as an executive branch solution to the basic dilemma. It does have a major weakness. Generally speaking, the committee members are by definition those individuals who are desirous of initiating action. Frequently, the request for an action plan will arise with one of the committee members. Thus, to a certain extent, this committee

is one judge, jury and prosecuting attorney. Perhaps the committee mechanism should be restructured to introduce into it a membership element which does not have the inherent conflict of interest which presently exists.

Some of the other elements of executive branch oversight have not been structured as oversight mechanisms but exist because of the nature of the executive branch. In

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The relationship with the Department of Defense does not depend upon such a subtlety. The overwhelming size of the Department of Defense intelligence budget automatically gives it a real edge in any relationship with the Agency. We have already discussed the fact that these two (Defense

and CIA) perceive their intelligence needs and targets quite differently. The fact of the matter is that the Central Intelligence Agency must present points of view which at times are at variance with those of the Department of Defense, but it must also satisfy the legitimate needs of that huge colossal for intelligence.

The most apparent channel for executive branch oversight is the budgetary relationship between the Agency and the Office of Management and Budget. This can provide an oversight mechanism which can be either reassuring or detrimental. The Office of Management and Budget through its normal processes becomes aware of the intimate details of how the Agency spends its money and for what purposes. The recommendations of that body shape the Agency's size and financial resources. The public and Congress cannot be reassured of the efficacy of this mechanism, when only a single budget examiner is assigned to the Agency. Even that exposure is limited, because most of his Agency contact is compressed into the period of annual budget examination.

The chief executive has established the President's Foreign Intelligence Advisory Board as a means of involving a part of the public in the oversight function. This board is made up of distinguished citizens many of whom have had some previous connection with the federal government. It



has a small permanent staff of two. It has been an active board in some senses of the word, meeting regularly six times a year for two days at a time. The board has been thoroughly briefed on the activities of the Agency in which it has taken great interest. It has seen its role as that of stimulating improvement in the quality of intelligence. The membership of the board are all extremely busy individuals whose interest in intelligence is intense but who are burdened with many other activities. Consequently, the board is limited to its involvement by its perceived role and by the limited availability of its personnel.

The President's Foreign Intelligence Advisory Board, like other of the executive branch mechanism we have discussed, is an influencing factor upon the activities of the CIA, but clearly also not intended to be a mechanism which would review the propriety of those actions. The present operating concepts of the PFIAB would have to be restructured if it were to function in this capacity. Nonetheless, it is an available executive branch mechanism which could be used for an oversight purpose. For this reason, the Rockefeller Commission Report sought to strengthen the role of PFIAB. The thrust of this recommendation was repeated by the Commission on the Organization of the Government for the Conduct of Foreign Policy. The intent of both sets of recommendations is to

change PFIAB from a relatively passive advice giving mechanism into an organization with an active oversight responsibility.

The utilization of an active, wide-ranging Inspector General Staff can also be considered as part of the executive branch oversight. This was noted by the Rockefeller Commission in their recommendation to not only expand the activities of the Inspector General Staff, upgrading the stature of the Inspector General Staff, but also providing the Inspector General with a direct reporting relationship to the PFIAB.

We have not discussed the role of the Department of Justice as an oversight mechanism. Obviously, the Justice Department could serve a very important restraining role through its prosecution, capabilities where illegal activities are involved. For many years it has chosen not to exercise that capability lest it endanger intelligence sources. The agreement by the Department of Justice and the Central Intelligence Agency in this regard has been abrogated. Presumably, this means that the department can fulfill the same role with regard to CIA as it does with regard to illegal acts of other agencies.

#### Existing Congressional Oversight Mechanisms

Today, most, if not all, of the former congressional oversight bodies are in disarray. The onslaught of investigative bodies has taken precedence over the formerly established methods for reviewing the activities of this

Agency. Although the oversight committees exist, they are for all practical purposes not functioning. The treatment of Representative Nedzi in his role as Chairman of the House Investigating Committee represents, to some extent, the changed view of the function of oversight now held by some congressmen. Formerly, it was sufficient for the oversight committee members to acquaint themselves with given situations and to endorse the actions by silence, in terms of their colleagues, or to remonstrate with the DCI on a direct basis. Those courses of action are no longer acceptable options in the eyes of some of the more liberal members of Congress. Whether Congress can return to this role of oversight by delegation is unclear.

The absence of an effective working oversight mechanism has not been felt by the Agency. In its place has been substituted a plethora of congressional organs, each of which feels it is its responsibility to ascertain in great detail precisely what activities the Agency has been, or is, engaged in. These investigatory actions are not limited to the special committees which have been established for that specific purpose. Indeed, we see the chairperson of a subcommittee of the government operations committee of the House conducting what amounts to a wide-ranging investigation of CIA activities under the guise of reviewing the Agency's

performance under the Freedom of Information Act and its intended performance under the provisions of the Privacy Act.

Clearly, Congress wants a much more active role in terms of reviewing the activities of the intelligence community. As clear as this but not as universal is the desire of individual congressmen to gain access to the product of intelligence. The DCI has initiated the practice of providing segments of Congress with the National Intelligence Daily. The recipients have already indicated their strong resistance to any action which would deprive them of this source of information. Thus for the future, we will be confronted with a Congress whose desires relative to the intelligence community will be driven by the intent to gain greater and more effective oversight over the actions of that community, and, at the same time, driven by the desire for increased access to the information developed by that community.

#### Existing Oversight Capabilities for the Public

There are no formal mechanisms for public oversight. As we have noted in our discussion of executive branch mechanisms, the President's Foreign Intelligence Advisory Board consists of public members. There are other ways in

which members of the public become aware of or informed about selected activities of the CIA. The regular meetings and briefings with the Brookings Institute constitute one such vehicle. Likewise, the presentations made to the Presidential Classroom provides a similar means of making information available to segments of the public. There are other similar avenues in which Agency representatives publicly present information about activities of the Agency. All such programs are designed to provide information to the public in order to educate the public. It is part of a training program, not part of an effective device to oversee the activities of the Agency from the standpoint of propriety or legality. We must conclude that at this time there is no effective oversight mechanism available to the public.

#### Probable New Oversight Mechanisms

We see little need for change in executive branch oversight capabilities beyond those which have been recommended. The recommended increased scope of activity for the PFIAB should provide the President with greater insight as to Agency activities. At the same time, it should provide the capability for gaining credence with the public that indeed the Agency is properly performing its tasks. We

believe that we can anticipate a more rigorous budgetary examination process in order to forestall or diminish similar congressional action as well as to evidence the administration's determination to more effectively control expenditures. This is likely to be true of the Agency as well as the community.

If the administration wishes to demonstrate its commitment to vigorously overseeing the activities of the entire intelligence community, we might see some variant of an intelligence community inspector general develop reporting to the President through the NSC. While such a development would probably serve no real purpose beyond window dressing, it might be useful for the purpose.

Changes in congressional oversight will be hampered by the dilemma we have discussed which we believe will require a mechanism which will keep the President or Congress from being tainted with the allegation of approving unpopular actions. Certainly, a new oversight structure will be created which will have a broader basis of representation than the previous one. Its charter will require that it receive some sort of periodic report on Agency activities but will probably also permit the chairman some discretionary authorities. This should permit both he and the committee to avoid being saddled with the responsibility for necessary actions which may be viewed by some as immoral or unethical. Beyond that,

it can be anticipated that Congress will urge greater involvement by the GAO and the auditing of the Agency's expenditure of funds. This can be resolved if the General Accounting Office audit report is a classified document which is distributed solely to the oversight committee. Obviously, the auditors would have to be cleared, even so, there would still remain sensitive areas which probably will have to be withheld from audit. Obviously, Congress is going to exercise stringent budgetary reviews for the next several years. These will be severe examinations of Agency funding not only because of Congress' desire to reduce federal spending levels but also because of the members' political desires to appear to be doing something about active oversight.

We believe that the strengthening of the available institutions and their own resolute pursuit of oversight responsibilities could, when coupled with the right kind of internal management practices, provide the President, Congress, and the public with the reassurances needed and the accountability desired for the activities of this Agency.

#### New Initiatives

##### Single Oversight Mechanism

We have explored the idea of the establishment of a mixed commission; a body of perhaps

25 individuals selected in such a fashion as to represent the President, the Congress, and the public. This body, in its composition, could replace the PFIAB, the NSC, and the existing congressional oversight committees. The DCI would be answerable to this body for the legality and propriety of Agency activities. By the nature of its composition, it probably would not be made aware of activities until after the event. Such a concept has certain attractions. It is a vehicle for credibility. It provides a means for making the three instrumentalities involved feel that they are served by the Agency. It provides a believable mechanism against excesses. We believe, however, that the concept has serious constitutional defects and have not pursued it.

#### Congressional Initiatives

It is obvious that Congress will undertake action to establish a revised and more active congressional oversight mechanism. Our initial analysis leads us to believe that Congress will not be satisfied by using the existing oversight mechanism and instructing



the membership of those committees to do more better. We also believe that the idea of a joint committee is viewed with merit by most of the members of Congress because of the success of the joint committee on atomic energy. If that model is followed, a joint committee could be structured on top of the existing committees. That conceivably could give us a total of seven congressional committees who could view themselves as having an oversight responsibility toward CIA. These would be the two committees on foreign relations, the two committees on armed services and the two appropriation committees plus the joint committee. We believe that the requirement for reporting to so many committees is impractical and would hamper the efficient management of the Agency. Obviously, a preferable oversight committee would be a joint committee functioning as does the joint committee for atomic energy. That would be the only congressional oversight mechanism but, functioning as does the other joint committee coupled with the appropriations process should give Congress what it needs for reassurances.

Executive Initiatives

The capabilities of options for the executive branch have been noted in previous sections. We believe that there is the opportunity for one additional oversight mechanism which could be considered within the language of the National Security Act of 1947. Section 102 (e) reads as follows: "To the extent recommended by the National Security Council and approved by the President, such intelligence of the departments and agencies of the Government, except as hereinafter provided, relating to the national security shall be open to the inspection of the Director of Central Intelligence, ...."

Using this portion of the law or by Executive Order, the President could establish an Inspector General corps which would be responsible for investigating the conduct of all intelligence activities of the intelligence community and establishing the propriety or lack thereof. Obviously, to be effective, such a corps would need highly qualified personnel with unrestricted access to all aspects of the intelligence community. Integrity, intelligence, and willingness to serve

would be a prerequisite for the members of such a corps. Once confidence had been established by this corps, it could fulfill all of the needs for oversight.

DRAFT  
1 August 1975

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Intelligence Sources and Methods

The National Security Act of 1947 states in Section 102 (d) (3);

"And provided further, That the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure..."

The definition of sources and methods was intentionally imprecise to provide the DCI with a maximum degree of flexibility in providing protection for future sources and methods not yet considered. In attempting to define sources and methods for the purpose of providing guidelines for the declassification of documents, the Security Committee of USIB developed the following:

"Sources can be identified as the origins of information and methods as the ways by which intelligence data and/or intelligence sources are developed. In many cases, sources and methods are inseparable.

Another attempt has been made to define sources and methods in draft legislation presently being coordinated within the Executive Branch. That draft defines sources and methods as follows:

"(2) For the purposes of this subsection, the term "information relating to intelligence sources and methods" means sensitive information concerning --

(A) methods of collecting foreign intelligence;

(B) sources of foreign intelligence, whether human, technical, or other: or

(C) methods and techniques of analysis and evaluation of foreign intelligence which, in the interests of the security of the foreign intelligence activities of the United States, has been specifically designated for limited or restricted dissemination or distribution, pursuant to authority granted by law or Directive of the National Security Council, by a department or agency of the United States Government which is expressly authorized by law or by the President to engage in intelligence activities for the United States."

Historically, national intelligence services have been extremely sensitive to the need to protect their sources of intelligence. These sources were the human beings who were providing information to the intelligence service. It was

obvious in the 16th century, and it remains obvious today, that if a government knows that one of its citizens is providing information to another nation, it can take steps to eliminate that flow of information. Consequently, there is a long tradition associated with intelligence services of protecting source identities when it is in the interest of the intelligence service. As long as the source provides the intelligence acquiring agency with information which suits the latter's needs, that agency has considered itself obligated to protect the identity of the source. There has been an implicit, and sometimes explicit, fiduciary relationship under which the intelligence organization is responsible for this protection to its agents as long as those agents are useful to it. However, clearly the agent is a tool of the organization and can be sacrificed any time that organization perceives such to be in its best interest. Thus, when agents elect to become spies, they look to their spy master to protect them, but, the risks and dangers of being a spy must be accepted, including their deliberate sacrifice to the ends of the agency driving the spy master. For this reason, clandestine operatives are aware that their actions may be disowned by their sponsors. Thus, the U.S. Government as a matter of policy publicly disavowed any relationship with Fecteau and Downey until it was determined in our national interest to so do.

Methodology had to be protected in the early history of espionage because the embryonic nature of the business meant that a given methodology, such as a specific cipher, could give an intelligence apparatus a considerable edge over the counter-intelligence service of another country, as long as that specific methodology was unknown. Most of the early methodology was concerned with the transmission of information from the agent to the collector of information. This could be done by cipher, by secret writing, or by concealment. Little concern was given to concealing the methodology of acquiring the intelligence, because it was normally acquired in the course of the agent's overt activities.

In World War I, the concerns of the counter-intelligence apparatus continued to be focused on means of transmitting information. The Black Chamber grew up out of the need to read the ciphers of other nations. The Office of Censorship concentrated upon letters being mailed from the U.S. to foreign destinations or into the U.S. which might carry hidden messages looking for secret writing or innocent text messages. The Germans were successful in their use of microdots for a considerable period of time until censorship techniques uncovered this application. Once discovered, it was put to use by the allies.

The concept of source and method protection was a tradition not embodied in law or statute. The U.S. history of espionage prior to World War II was centered upon the activities of the attache service, and some agent chains run by G-2, ONI and Foreign Service reporting. The need for secrecy in these operations was met by compartmentation and pragmatic application of the need-to-know rule. The first mention of sources and methods as an American formula that we have been able to find occurs in 1940. [The setting of this initial appearance is in terms protecting military information from civilians.] The formula as a shorthand method of covering the needs for secrecy of intelligence organizations appears to have met with favor by the users. As a blanket term, it was accepted by Congress in the National Security Act of 1947. The intelligence community has steadily enlarged the scope of the original definition to encompass much, if not all, of the entire apparatus of intelligence. Within this agency today, we operate under a blanket concept that everything which touches upon our human collection effort, our technical collection effort, and our production of classified intelligence is part of the sources and methods rubric. The original concept of sources and methods was a valid one and served a useful purpose for several hundred years. As long as we were concerned solely with human collection of intelligence and



the transmission of that through a communications channel available to somebody else's counter-intelligence apparatus, it was useful. Rapid advances in technology have changed the picture and tend to becloud the formerly simple application of the rule. The existence of an earth satellite with intelligence potential cannot be hidden from the scientific instruments of another nation. Yet, clearly overhead satellite photography is a very important intelligence methodology. To attempt to keep secret that methodology is almost ridiculous. Yet, there is a need to keep secret some of the technology involved in order to prevent counter-actions which would deny the intelligence collection capability of that methodology. There is also a need perceived by the Soviet Union and to a certain extent by the U.S. to keep the fact of such collection activity secret. Neither nation wishes to openly admit that the other nation spies with impunity upon it. Neither wish to admit that their boundaries are no protection against this technical apparatus of the other nation. So we cloak satellite photo intelligence with the term "national means of verification" and the satellites continue to fly.

The development of new and sophisticated sensor platforms will continue this trend. The presence of the intelligence collection device cannot be hidden and its existence

and purpose will be known. But, "the fact of" becomes an acceptable means of national face saving and permits us to treat technological collection activities as though they were the emperor's new suit of clothes.

Technological advances in methodology have tended to render obsolete the concept of total protection of techniques which are used to collect intelligence. The same satellites which circle the earth and photograph missile installations also photograph the antenna arrays which collect the telemetry from the Russian space and missile ranges. They photograph the large NSA installations that were operating in [redacted]

STAT Our satellites collect the same kind of information against massive Russian sensing capabilities. [redacted]

And

the other side knows what we are doing.

The question of source protection we have seen is a one-way street. It's invoked when in the intelligence agency's interest to so do but rejected when sensed that that course of action is in the best national interest. Perhaps we need to develop some new words and some new definitions which better state what we are attempting to protect and establish some means of providing the protection.

The need to protect certain aspects of our intelligence world indicates the necessity for some form of security classification system which will do at least two things. It will identify the fact that the item needs protection and it will further identify the level of protection needed. This system should have built into it some means of which classifying information on a regular basis and some means of enforcing the protection of information. The intent would be to protect that information which needs protection, but permit the release of information when that protection is no longer needed. Much of the types of methodology and indeed some of the product of methodology would fall into the category of "the fact of" can be released at some finite time although not necessarily predictable time. We think that the question of this "the fact of" material will have to be recognized in any national classification system. As collection systems proliferate, and as the means for collecting information on collection systems likewise proliferate, considerable knowledge about such systems will be available to the other guy. But, need to prevent the disclosure of "the fact of" will call for the creation of a classification pigeonhole for political and negotiating purposes.

The statutory injunction that the DCI shall be responsible for protecting intelligence sources and methods from unauthorized disclosure was not accompanied with any authorities for doing so. No other head of agency is charged with this responsibility so, from time to time within the intelligence community, the assumption has been made that the DCI bears the responsibility for the entire community. The lack of authority with relationship to the national intelligence organs has left the DCI in a position where he can effectively exercise this responsibility only within the Central Intelligence Agency. There, he exercises his authority as head of agency to carry out the prescribed legislated responsibility. His relationship with other agencies in this regard is limited to suasion and his representation on the Security Committee of the USIB. The only means of enforcing sources and methods within the other agencies is through their line managers. Those positions carry no statutory responsibility for the protection of the techniques of covert collection of intelligence.

As a consequence, the community grapples with this responsibility from the individual perspectives of each agency. The Security Committee functions like most committees, as a forum for presenting individual agency views. Agreements are reached by discussion and compromise and no one is totally

satisfied with the results. Community leadership is lacking because of the lack of authority. Because of the lack of leadership, the definition of what it is is fuzzy and disparate.

Traditionally, the DCI has assumed that his responsibility applies to the community as a whole. He has sought to exercise his responsibilities with greater or lesser vigor depending upon his relative influence with his peers by particularly pursuing the matters of leaks of intelligence material. In so doing, some DCIs have authorized action against American citizens to determine if they were the perpetrators of intelligence leaks or the purveyors of unauthorized intelligence information. In doing so, the DCI has assumed that the right to so do was implicit in his statutory responsibility.

This interpretation has been rejected by the Rockefeller Commission Report. That commission clearly states its belief that the DCI can only enforce his responsibility within his own agency by virtue of his authority as line manager. This view obviously leaves gaps in any protective system which the DCI can devise because the dilemma of lack of authority is not resolved.

The basic problems with the concept of sources and methods as we have discussed them are twofold: the lack of precision

in the use of the terms and the lack of authority to pursue the intent to protect the means of covert collection of intelligence. We believe that the significance of the capability to protect this type of information is such that it should be addressed by legislation. As we have noted, the protection of sources is considered as a sine qua non, except where the national interest dictates otherwise. We have also noted that "methodology" covers a wide spectrum of techniques, some of these are commonplace and accepted, others are more esoteric and exotic. In the latter case, some of the methodology can be observed by the target country but, for various national reasons, "the fact of" its existence is a matter not to be openly acknowledged by either side.

There is another category of intelligence-related information which needs protection. This might be referred to as the mosaic category. It is a body of information which is composed of various individual segments which in and of themselves may not require significant protection or any protection but when put together give a comprehensive picture of an aspect of intelligence which merits protection. The item in question could be an intelligence study of a strategic weapons system with some of the sources for such a study being

drawn from the public literature. Perhaps the most appropriate example of this type of mosaic information is the intelligence budget. There is no great significance in the release of a single line item for a given budget year if that line item represents the total U.S. budget for intelligence. There is an accretion of significance and of the need for protection if the practice continues and the single line item representing the total U.S. intelligence budget is released publicly year after year. Then our potential enemy can build up a pattern of our expenditures on intelligence and begin to postulate the relative importance of intelligence. Further, this practice of publishing single line items could begin to unravel the whole skein. Congressional pressure or public pressure could increase for releasing other elements which compose the intelligence budget which are not of critical significance in and of themselves. Thus, a next logical step might be to release the line item which reflects the amounts spent for analysis. The process could then continue to reflect in succeeding years, the amount spent for analysis for each geographical area and slowly the picture which would represent 50 U.S. priorities could be built. We conclude therefore that there is indeed a need to establish a protection mechanism for broader areas than merely the individual specifics relating to sources or relating to certain types of methodology.

These factors lead us to the development of a legislative definition of sources and methods which would charge the DCI with the responsibility and authority to protect in a manner somewhat as follows:

a. The DCI would be given the optional authority and responsibility to protect sources, especially human ones. This authority and responsibility would be mandatory, but could be overridden by the highest level of the Executive Branch when determined to be in the national interest. This decision to override should be consciously and formally taken in order to protect the DCI from subsequent charges of dereliction of duty.

b. The DCI will also be responsible for the protection of methodologies. He is further responsible and authorized to determine which methodologies are to be protected. He is also responsible and authorized to determine when protected methodologies no longer require that protection.

c. The determination to protect a methodology because of "the fact of" is not a matter of intelligence concern, but rather a matter



of the conduct of foreign relations. The determination to protect a methodology for this reason is to be made by the National Security Council. Once this formal finding is made, the DCI will then be responsible and authorized to protect the same under his revised statutory authority.

d. The determination to protect the component information of a major segment of intelligence related information when such component information may in and of itself have little significance but when the active disclosure will reveal or could reveal significant trends or direction of U.S. intelligence interests shall be at the direction of the National Security Council which shall exercise this responsibility for the intelligence community as a whole.

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