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77-583/1

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2 March 1977

MEMORANDUM FOR: Morning Meeting Participants

SUBJECT : Supplemental Questions on Admiral Turner's Confirmation

1. Attached is a copy of a 28 February 1977 letter from Chairman Daniel Inouye, of the Senate Select Committee on Intelligence, to Admiral Turner forwarding questions supplementary to the Admiral's confirmation hearing. The letter pointed out that the Admiral's answers will be published by the Committee as part of the record of the Admiral's confirmation hearing.

2. Please give your immediate attention to those questions and answers which properly impinge on your component's interests. Admiral Turner is sending an interim letter to Senator Inouye stating that he hopes to have his reply ready by 16 March. We ask that your responses reach OLC by 9 March to permit appropriate reconciliation and coordination and approval by the Admiral.

3. Please note that the Senator's letter asks for unclassified answers to all the questions, but adds that any answers requiring the use of classified information be forwarded in a supplementary classified letter.

[Redacted Signature Box]

STATINTL

J George L. Cary
Legislative Counsel

Attachment

(EXECUTIVE REGISTRY FILE DCI)

MORI/CDF

DANIEL K. INOUE, HAWAII, CHAIR
JAKE GARN, UTAH, VICE CHAIRMAN

77-583

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ROBERT T. STAFFORD, VT.
CHARLES MCC. MATHIAS, JR., MD.

United States Senate

OLC #77-0717

SELECT COMMITTEE ON INTELLIGENCE

(PURSUANT TO S. RES. 400, 84TH CONGRESS)

WASHINGTON, D.C. 20510

WILLIAM G. MILLER, STAFF DIRECTOR

February 28, 1977

IN REPLY PLEASE
REFER TO R6616

Admiral Stansfield Turner
Central Intelligence Agency
Washington, D.C. 20505

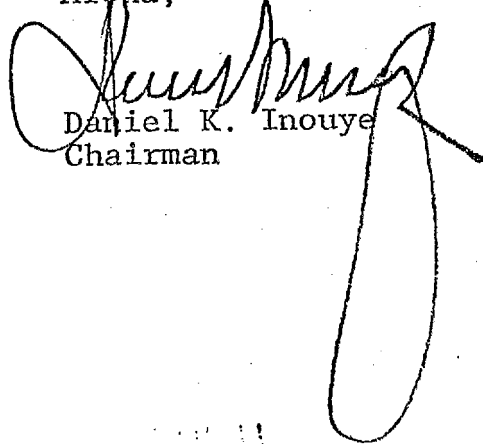
Dear Admiral Turner:

As I indicated to you at your nomination hearing, the Members of the Committee would like you to answer some additional questions which I am enclosing. We plan to publish the questions and your answers as part of the hearing record.

The Committee would like unclassified answers to all the questions. However, if full and complete answers to any questions require the provision of classified information, please identify the questions and answer them in a supplementary classified letter.

The Committee appreciated your forthright testimony. I congratulate you once again on your appointment and confirmation, and we look forward to working with you.

Aloha,



Daniel K. Inouye
Chairman

Enclosure

A. CIVIL LIBERTIES

1. Currently, one of the important controversies in constitutional law is the question of how the President's authority to conduct foreign intelligence activities meshes with the provisions of the first and fourth amendments. The question has most frequently arisen in terms of wiretaps and foreign intelligence cases.
 - a. Could you explain your views of the nature and extent of Presidential authority and how it is limited by the first and fourth amendments?
 - b. Do you believe the President has the power to conduct warrantless electronic surveillance of Americans at home or abroad for foreign intelligence purposes?
 - c. Is it your understanding of the law that if Congress enacts legislation setting standards and conditions for the use of electronic surveillance in foreign intelligence cases, the executive branch, including the President, is bound by those standards and conditions?

2. Last summer, this Committee and the Senate Judiciary Committee reported S. 3197, a bill to require warrants for electronic surveillance conducted in the United States for foreign intelligence purposes.
 - a. Do you favor such legislation?
 - b. Would you favor expanding such legislation to require warrants for electronic surveillance of Americans abroad, as well as in the United States?
 - c. Would you favor expanding the proposed electronic surveillance legislation to require warrants in foreign intelligence cases for other intrusive investigative techniques such as mail opening and surreptitious entries when directed against Americans, either at home or abroad?

- d. Do you think that electronic surveillance of Americans for foreign intelligence purposes at home or abroad should be limited to those instances where there is substantial evidence that the American has engaged in criminal activities?
- e. For the purpose of obtaining a warrant, would you be willing to report to a Federal judge the facts determining the Agency's belief that electronic surveillance should be conducted against an American living abroad?

B. LEGAL AUTHORITY

- 1. In February of 1976, President Ford issued Executive Order 11905 on United States foreign intelligence activities. The Executive Order was issued in order to "clarify the authority and responsibilities of the intelligence agencies."

Would you tell the Committee your views of the Executive Order, particularly as it relates to the following issues:

- a. Is an Executive order which can be changed at the will of the President, and which provides no penalties for its violation, sufficient to define the varying missions of the intelligence agencies and to fix firm limits on their activities?
- b. While the DCI is to provide guidance on the relationship between tactical and national intelligence, under the Executive Order the DCI does not have any responsibility for tactical intelligence. Previous DCIs have had the right to review the allocation of all intelligence resources, including tactical intelligence. Do you believe that the Executive Order has an undesirable effect of weakening the DCI's authority in this area?

- c. Under the Executive Order, the DCI is to "ensure the development and the submission of a national intelligence budget." At the same time, the Committee on Foreign Intelligence, now the Policy Review Committee (PRC), is to "control budget preparation of the national intelligence program," and the Secretary of Defense has the responsibility to "direct, fund, and operate" the NSA. How can these potentially contradicting charges be resolved?
 - d. What changes would you recommend in the present Executive Order?
 2. The authority of the CIA to engage in certain activities rests on directives issued by the National Security Council, called National Security Council Directives or NSCIDs. These NSCIDs have in the past been referred to as the CIA's secret charter and were withheld not only from the public but also, until recently, from Congress.
 - a. If these NSCIDs are revised or new NSCIDs are issued, will you provide these to the Committee as your predecessor has done?
 - b. Do you believe that the oversight committees of Congress should be consulted during the preparation or revision of these NSCIDs?
 3. CIA practices are also affected by directives issued by other persons, such as the DCI and the Policy Review Committee (PRC).

Will you provide to the Committee all such directives and modifications of directives, including DCIDs and directives from the PRC?

4. As Director of Central Intelligence, your advice may be sought on the question of charters for the intelligence agencies. The 1947 National Security Act, the CIA's statutory charter, has been termed inadequate in a number of areas. At the present time, the National Security Agency and the Defense Intelligence Agency have no statutory charters. The FBI's authority to engage in domestic intelligence activities has been questioned.

- a. Should a new CIA charter explicitly authorize covert action?
- b. Should there be specific statutory authority for the CIA to collect intelligence?
- c. What activities should the CIA be allowed to undertake in the United States? Should a new charter precisely define those activities?
- d. Do you favor statutory charters for the National Security Agency and the Defense Intelligence Agency?
- e. Do you agree with Attorney General Bell that the FBI needs a clear charter?
- f. Should there be statutory limitations on the permissible activities of all of the intelligence agencies? Should violations carry criminal sanctions?

C. CLANDESTINE ACTIVITIES

1. When you take over as Director of Central Intelligence, you will inherit the present apparatus of ongoing covert action and clandestine collection operations.

Will you pledge to consult with this Committee on the feasibility and wisdom of the various ongoing programs before making any final determination as to their continuation or termination?

2. CIA clandestine operations, both covert action and clandestine collection, comprise a wide variety of activities. In this connection, the Committee would like to explore your attitude towards two specific kinds of operations.
 - a. What are your views with respect to the covert involvement of the United States, in any manner, in the elections of a foreign country?

- b. Under what circumstances would you approve covert payments to foreign leaders?
 - c. What are the factors that would most influence your judgment on the advisability of various types of clandestine operations, such as the two mentioned above?
3. This Committee is reluctant to request the identity of covert agents because we recognize the extreme sensitivity of such information and because the need for such information rarely exists.
- a. If, in the view of the Committee, the conduct of its oversight role were to require such information, would you provide it?
 - b. For example, if the Committee were to investigate an abuse involving a covert agent whom it would wish to interrogate, would the agent be made available to us?

D. INTELLIGENCE AND POLICY

1. You served as NATO's Commander of Allied Forces for Southern Europe, and previously served as commander of the U.S. Second Fleet in the Atlantic. In both positions, you were exposed to a great deal of intelligence, provided not only through service intelligence agencies and national intelligence agencies but also through NATO itself.
- a. What was the value of the intelligence you received to long-range military planning and NATO operations?
 - b. What was the value of this intelligence to your more day-to-day operational needs and to your requirements for indications and warning?
 - c. Did you perceive any significant gaps in U.S. intelligence reporting?

- d. What ideas for improving the U.S. intelligence effort have you gained from your experience as a commander of U.S. Navy and NATO forces?
2. Between 1971 and 1972, you served as chief of the Systems Analysis Division of the Office of Naval Operations. In that capacity you were involved in the Navy's efforts in "net assessments."
 - a. In light of your experience, how much emphasis do you think the intelligence community should put upon net assessments as opposed to more traditional estimates?
 - b. What should be the role of the intelligence agencies in net assessment?
 - c. Would you as DCI be averse to conducting net assessments in which analysis of U.S. capabilities and intentions would be explicit or implicit?
 - d. How would you evaluate the net assessments efforts of the Defense Department and the executive branch?
3. As Director of Central Intelligence, you will have primary control over the collection and production activities of the CIA. As part of its general effort in military intelligence areas to support the President, the CIA produces intelligence on naval forces.
 - a. What is your opinion of the strengths and weaknesses of the CIA's analyses of naval forces?
 - b. How do their analytical efforts compare with those of the Navy?
 - c. How do they compare with the work of DIA?
4. In the area of intelligence support to policymaking, one of the Committee's concerns is the degree to which Congress has not been a recipient of intelligence analysis that could assist the Members in making important national decisions.

Are you prepared to provide the Congress with intelligence, even when it may not support the policies of the President, or when it may embarrass the President?

5. Former DCI William Colby has recently argued that more of the intelligence community's analysis should be made available to the public.
 - a. Do you share this view?
 - b. What advantages do you see in this more open procedure? What dangers?

E. THE ROLE OF THE DCI AND HIS RELATIONSHIP WITH THE PRESIDENT

1. The role of the Director of Central Intelligence encompasses three somewhat conflicting responsibilities: intelligence advisor to the President, Director of the CIA, and manager of the intelligence community.
 - a. How do you define the Director's role? Which of these responsibilities will be most central to you?
 - b. Do you believe that there is a potential conflict between the need to provide the President with objective intelligence and a natural tendency to place your trust in the intelligence generated by the Agency which you head?
2. One aspect of the personal relationship between the DCI and the President involves the DCI's ability to maintain the delicate balance between having the absolute trust of, while still being independent of, the President.

What steps will you take to ensure that agencies in the intelligence community will not overstep the bounds of legality or propriety because of requests from the White House?
3. The DCI's Presidential advisory role overlaps in particular with those of the President's Assistant for National Security Affairs and the Secretary of State.

- a. Have you discussed this issue with Mr. Brzezinski and Mr. Vance? How do you view your respective roles?
- b. Do you think that your ability to bring intelligence to bear on policy would be enhanced by making the DCI a statutory member of the National Security Council?

F. SELECTION OF DEPUTY DIRECTOR

Under the provisions of the National Security Act of 1947, a DCI who is an active duty military officer must have a civilian Deputy Director for the CIA. A second deputy directorship with responsibilities for the intelligence community was created by Executive Order 11905. No restriction exists regarding that Deputy's military or civilian status.

Will you choose or request an active duty military officer for the position of Deputy Director for the intelligence community?

G. SECURITY: SOURCES AND METHODS, ESPIONAGE LAW, LEAKS

1. The National Security Act of 1947 provides that the Director of Central Intelligence "shall be responsible for protecting intelligence sources and methods from unauthorized disclosure." This language has been understood to authorize, if not require, the Director of Central Intelligence to take action for protection of such information in agencies other than the CIA.
 - a. How would you define "sources and methods?"
 - b. Does the term include information not presently prohibited from disclosure by the Federal espionage statute or the Executive Order on classification (E.O. 11652)?
 - c. Does it include information pertaining to illegal acts by intelligence agencies? For example, could the DCI withhold from the Attorney General, the Congress or the press

information pertaining to violations of the CIA's "internal security" restrictions? Could the DCI withhold a violation of the Hughes-Ryan amendment requiring Congressional notification of covert action?

- d. How would you define the scope of authority relating to sources and methods in the language of the 1947 Act?
 - e. Does this language only provide the authority to coordinate the development of uniform community-wide standards on protecting vital secrets, the position taken by former DCI Colby and the Church Committee? Or does it provide an operational responsibility, e.g. the authority to investigate "leaks," including the authority to conduct surreptitious entries and electronic surveillance in the U.S. to determine the source of leaks, an authority claimed by some former DCIs?
2. The Ford administration requested the Congress to enact amendments to the Federal espionage statute on behalf of the intelligence community. Some aspects of that legislation are noncontroversial. Other provisions may prompt some concern, especially those attaching criminal sanctions to the press for printing classified information.
- a. Do you think it is appropriate to focus the sanction upon the press as well as the government employee who leaked the information?
 - b. Should such a statute authorize Federal investigations of newspaper reporters who report classified information in their articles?
 - c. Do you believe that the Espionage Statute of 1917 and the accompanying Presidential executive orders on classification permit too much secrecy?
 - d. In addition to seeking amendments to Federal law which provide sanctions against legitimate secrets, will you seek amendments in both the statute and the orders which will decrease unnecessary secrecy?

3. There has been a great deal of criticism in recent years, some of it from the executive branch, suggesting that Congress has been irresponsible with state secrets. However, two of the most serious breaches of security to occur during this period pertain to secrets in the exclusive domain of the executive branch. Section 3(d) of Executive Order 11905 provides that the DCI, among other responsibilities, develop programs to protect intelligence sources and methods and ensure common security standards for the community.

Will you, pursuant to Section 3 of the Executive Order, reexamine these various security procedures? Will you be proposing changes in the procedures to combat such leaks?

4. Vital secrets are leaked in the newspapers. In some such cases, information has been leaked which may be vital to the national security, e.g. a critical clandestine collection program or information which appears to compromise a particular source. These leaks threaten intelligence operations because they put the target of the operation in a position to take effective defensive measures. It would seem logical for the CIA to attempt to confuse a hostile government about what we had gained from that operation. In other words, the Agency could actually engage in "disinformation" by leaking confusing information to the press.
 - a. Do you think it is appropriate for the Agency to respond to such a leak by engaging in such disinformation programs?
 - b. If so, should such disinformation or misinformation programs only be initiated after there has been a damaging leak, or do you believe that it is appropriate to conduct such a program to confuse hostile governments in the absence of such a leak?
 - c. Do journalists knowingly participate in such disinformation programs?
 - d. What checks or controls does the Agency have upon such programs in order to avoid misinformation or disinformation from being used

by the Agency to confuse the media or the Congress about illegitimate activity of the CIA?

- e. Will you provide the Committee with any CIA assessment of the damage caused by these breaches of security?
5. At the time that Attorney General Levi and President Ford were pursuing their wiretap proposal last year, Attorney General Levi took the position that it was necessary to authorize electronic surveillance of corporations which export technology to foreign countries. In essence, he was arguing that our government should monitor the export of technological processes, even though such processes are not classified or even classifiable, indeed, even though the export of that technology does not violate any law.
- a. Do you agree with that position? Is there information in the hands of private companies which is not directly relevant to the national defense but which we should prohibit from export or disclosure to a foreign power, e.g. computer technology?
 - b. Do you believe that such information should be subject to control through amendments to the Executive Order, the espionage statute or perhaps some other Federal statute, such as the Export Administration Act?
 - c. Is the real issue with such information that it is vital to the national defense? Or is the real issue that since American "know how" may be an important "bargaining chip" in negotiations with foreign governments such information must be controlled for foreign policy reasons?

H. BUDGET AND MANAGEMENT OBJECTIVES

- 1. This Committee has responsibility for exercising oversight over national intelligence, not only in the constitutional sense but also in the broader context of

ensuring that the long-range development of collection and production supports the needs of the national policy. Thus, it is important that the Committee understand your objectives and goals for national intelligence.

- a. Given your unique perspective as a consumer of intelligence in the senior ranks of the Defense Department, what do you think are the most pressing challenges facing national intelligence in the coming decade?
- b. In your opinion, what are the strengths and weaknesses in the way national intelligence is now dealing with those challenges?
- c. Given the vast complexity of intelligence, what type of management approach will you take in monitoring and directing the focus of the national intelligence community in the coming decade?
- d. Has the President, or any senior-ranking official provided you with guidance on what they expect the national intelligence community to achieve in the coming years?

[If so] What were the principal themes in that guidance?

[If not] What do you believe are the major management and policy objectives which should guide your actions during your tenure as DCI?

2. One of the major arguments against disclosure of the aggregate intelligence budget figure is that publication will result in demands for more detailed information.

What is your response to that argument?

3. An argument against annual disclosure of the aggregate budget figure or any element of the intelligence budget is that publication will allow our adversaries to determine the program changes in specific U.S. intelligence

capabilities, such as a major allocation for the development of a new technical collection system.

What is your response to that argument?

I. CIA INTERNAL INSPECTION AND REGULATIONS

1. Existing procedures require that the CIA's General Counsel review activities which raise questions of legality. Some potentially sensitive clandestine activities are reviewed by the CIA's General Counsel who is placed in a somewhat contradictory position of both reviewing the particular activity and facilitating CIA's overall mission.
 - a. Would you support a requirement that potentially sensitive clandestine activities such as those alleged to have taken place in Micronesia be reviewed for legality by the Attorney General of the United States?
 - b. What threshold would you establish to trigger such a review?
2. At present the General Counsel is required to refer to the Department of Justice allegations regarding activities by CIA employees that violate Federal law.

In order to assist the Committee in its oversight role, will you instruct the General Counsel to notify the Committee when and if such referral takes place?

3. Executive Order 11905 directs heads of intelligence agencies or departments to "ensure that Inspectors General and General Counsels of their agencies have access to any information necessary to perform their duties..." At present, CIA regulations require that the Inspectors General and General Counsels have access to all information necessary for the performance of their respective duties, but these regulations can be withdrawn or modified at any time by the Director.
 - a. Should the General Counsel and Inspector General be assured, by statute, of access to all Agency information necessary for their work?

b. Will you notify this Committee if either of these officers is denied, on your authority, access to CIA information?

4. One of the most effective tools of the Inspector General is the component survey--an in-depth study of a particular segment of the CIA, such as the Office of Current Intelligence.

Will you instruct the Inspector General to notify this Committee of the schedule of component surveys and to brief the Committee as to the general findings of each?

5. Since 1973 the Director of Central Intelligence has regularly issued a call to CIA employees to report to him any activities which raise questions of legality and propriety.

Do you think that this call is sufficient to create an incentive structure that will in practice bring forth reports of questionable activities? If not, what measures are you considering to ensure your ability to be apprised of questionable activities?

6. It has been suggested that CIA employees having access to secret intelligence might misuse that information for personal profit. At present managerial-level employees must disclose their financial holdings so that a determination can be made as to whether or not there is any conflict of interest. In addition, Section 203 of Executive Order 11222 provides that employees may not "engage in, directly or indirectly, financial transactions as a result of, or primarily relying upon, information obtained through their employment."

- a. Will you take steps to ensure that this provision is enforced vis-a-vis CIA employees?
- b. Will you notify the Committee of what steps you have taken?

MAR 3 11 19 AM '77

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EXECUTIVE SECRETARIAT

Routing Slip

OLC
(Signature)

TO:	ACTION	INFO	DATE	INITIAL
1 O/DCI		X (for Adm. Turner)		
2 DDCI		X		
3 D/DCI/IC		X		
4 DDS&T				
5 DDI				
6 DDA				
7 DDO				
8 D/DCI/NI				
9 GC				
10 LC	X			
11 IG				
12 Compt				
13 D/Pers				
14 D/S				
15 DTR				
16 Asst/DCI				
17 AO/DCI				
18 C/IPS				
19 DCI/SS				
20				
21				
22				

SUSPENSE _____
Date

Remarks:

Please develop response for review with Admiral Turner.

Executive Secretary
1 March 1977

Date

STATINTL