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ROUTING AND RECORD SHEET

SUBJECT: (Optional)

Executive Registry

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FROM:

George L. Cary  
Legislative Counsel

EXTENSION

NO.

DATE

30 March 1977

STAT

TO: (Officer designation, room number, and building)

DATE

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OFFICER'S INITIALS

COMMENTS (Number each comment to show from whom to whom. Draw a line across column after each comment.)

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D/DCI/IC

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Forwarded herewith (Tab A) are suggested answers to questions submitted by the SSCI supplementing those asked at your confirmation hearing. The answers were prepared in consultation with the offices most concerned with the subject matter of the questions.

Incorporated are your own answers to questions D 1, D 2 d, D 3, and E 3 a. The office which prepared the major portion of a particular answer is noted in the right hand margin.

We are sending copies of the complete questions and answers to each Morning Meeting Member as we forward this to you.

Since several of the questions touch upon the interests of the President and the NSC, you may wish to review the questions and answers with the White House before sending them to Chairman Inouye.

When you have approved the answers, we will prepare them in final form for your signature.

(EXECUTIVE REGISTER)

DCI

STAT

Question 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 wire-taps 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?

ANSWER: The Committee appreciates that this question is best and most properly put to the President and his advisors. For myself, I believe that the President has a constitutional duty to conduct the nation's foreign inherent affairs and that he has certain/powers to enable him to fulfill this duty, including the authority to collect foreign intelligence in order to protect the national security. This authority, however, does not, in my opinion, exempt him from the requirements of the first, fourth, or any other amendment to the constitution. Rather, the exercise of this authority must be accommodated to the rights of U. S. citizens under these amendments. I do not believe that his power to collect foreign intelligence, including the use of electronic surveillance, is incompatible with these rights. The determination of the proper balance between his power and these constitutional protections has and probably will continue to be the subject of debate, and is ultimately the responsibility of the courts.

OGC

b. Do you believe the President has the power to conduct warrantless electronic surveillance of Americans at home or abroad for foreign intelligence purposes?

ANSWER: It is my understanding that current judicial decisions permit, or at least do not prohibit, such warrantless surveillance where the target is a foreign power or an agent or collaborator of a foreign power. Of course, such surveillances would be undertaken domestically by the FBI rather than CIA.

OGC

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?

ANSWER: It seems to me that the answer to this question may very well depend on the nature of the statutory standards and conditions. If such standards and conditions were apparently in conflict with the President's constitutional powers and duties, I doubt that the President would be bound in the absence of a judicial decision upholding the constitutionality of the statute. In any event, I defer to the Attorney General for a more definitive answer to this question.

OGC

A2. 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?

ANSWER: Although I have not had a sufficient opportunity to study S. 3197 in detail, in general I support the concept of such legislation, at least insofar as it might apply to electronic surveillance directed against U.S. citizens or permanent resident aliens, so long as the capability of the United States to obtain necessary foreign intelligence is preserved.

OGC

b. Would you favor expanding such legislation to require warrants for electronic surveillance of Americans abroad, as well as in the United States?

ANSWER: Section 5 of Executive Order 11905, and implementing procedures issued by the Attorney General, place very stringent restrictions on electronic surveillance directed against U.S. persons abroad. I am informed that electronic surveillance conducted in accordance with these procedures is lawful, and inasmuch as the full implication of an extension of a warrant requirement to overseas activities is not clear to me at this time, I am not now prepared to indicate my support for such an enlargement in the scope of the proposed legislation.

OGC

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?

ANSWER: I would favor expansion of the proposed electronic surveillance legislation to cover mail opening and surreptitious entry, at least domestically, as I understand that similar Fourth Amendment considerations are applicable.

OGC

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?

ANSWER: It is my understanding that no such absolute standard or limitation would have been established by S. 3197 as reported by the Committee in the last Congress, and the adoption of such an absolute standard or limitation might well be undesirable in light of the inadequacy of existing criminal laws as they relate to activities that are of legitimate foreign intelligence interest. It should be noted with regard to this question that, generally speaking, the prevention and prosecution of crime are not the purposes of foreign intelligence surveillances, whether electronic or other.

OGC

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?

ANSWER: This question could only be answered in the context of a particular case and in relation to a particular statutory requirement governing the scope and detail of the information to be submitted in support of a warrant application. However, as a general proposition, in a case where the relevant facts were derived from a foreign source of intelligence, I would be strongly inclined to forego an electronic surveillance rather than to compromise the source in order to obtain a warrant.

OGC

Question 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?

ANSWER: The intelligence activities of the United States have been conducted for thirty years on the basis of Executive Orders and National Security Council Intelligence Directives, as well as certain statutes. The Executive Orders have the effect of law in terms of their directive control of intelligence activities. Possibly, additional legislative action is needed to define the missions of intelligence agencies and fix firm limits on their activities, but I consider any specific comments by me must necessarily be deferred until I have more complete knowledge of the manner in which the existing system is operating.

IC

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?

ANSWER: Tactical intelligence is an essential and integral element of the effectiveness of military forces in the field, and should be addressed in terms of the needs of the military forces. The DCI, on the other hand, is primarily involved with matters of national intelligence. The line dividing national and tactical intelligence is not clear but, on balance, I consider the provision in Executive Order 11905 is appropriate. The DCI and the NSC Policy Review Committee (which has assumed the functions of the Committee on Foreign Intelligence established by E. O. 11905) are charged to provide guidance on the relationship between tactical and national intelligence, and thus are responsible for insuring that unnecessary overlap and duplication does not occur and that all programs are compatible with security and foreign policy. The important thing is to assure that the potentialities of mutual support between national and tactical assets are maximized, and in this I see the DCI as having a role.

IC

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?

ANSWER: The manner in which the National Foreign Intelligence Program budget for FY 1978 was developed provides the answer to this question. The Intelligence Community Staff was charged in the Executive Order to provide staff support to the Committee on Foreign Intelligence (CFI). The DCI used his Deputy for the Intelligence Community, who heads the Intelligence Community Staff, to spearhead development of the budget and submit it to the CFI. The CFI held 20 sessions during which the Community program and budget were examined in great detail and many issues identified and settled. The Deputy Secretary of Defense, as a member of the CFI, participated in this review. The agreed-upon budgets for the intelligence elements of the Department of Defense, including that for NSA, were included in the DoD budget. The system involved close working relationships among the Intelligence Community Staff, the intelligence staff of the Secretary of Defense, and the intelligence staff of the Secretary of Defense, and the intelligence program managers, but what the question describes as "potentially contradicting charges" did not prove to be such in actual practice.

IC

d. What changes would you recommend in the present Executive Order?

ANSWER: The President has directed a complete review of the mission and structure of American intelligence, including an assessment of the adequacy of Executive Order 11905, for which I will have a major responsibility. I suggest it would be appropriate for me to await that review before making specific proposals concerning possible changes in the Order.

IC

B 2. The authority of the CIA to engage in certain activities rests on directives issued by the National Security Council, called National Security Council Intelligence 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?

ANSWER: The NSCIDs previously provided to the Congress were made available through the NSC apparatus, and the DCI has no authority to make such release on his own. I would be prepared to support a Committee request for NSCIDs which relate to the Committee's area of responsibility.

IC

b. Do you believe that the oversight committees of Congress should be consulted during the preparation or revision of these NSCIDs?

ANSWER: The NSCIDs are internal Executive Branch documents prepared at the behest of the President. Whether, or the extent to which, oversight committees of the Congress might be consulted concerning such directives prior to their issuance is a matter for Presidential determination. Congressional access after the directives have been promulgated would, in my view, be the better course.

IC

B 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?

ANSWER: I will provide the Committee those directives which are under my control. The DCIDs are my responsibility, and I will provide them under appropriate security safeguards.

IC

Since the PRC is an element of the NSC, I believe the NSC would be the appropriate authority for deciding to release or withhold the PRC directives.

OGC

B 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?

ANSWER: I am aware of the sentiment, and the substantial reasons for it, that CIA may need more explicit statutory authority to engage in covert action or collection of intelligence abroad, notwithstanding the fact that CIA is the only element of the intelligence community which currently has any statutory charter.

DDO

As I stated at my confirmation hearing, I think that there is room for improvement in the language of the National Security Act of 1947 by which the CIA acts pursuant to NSC directives. We can continue to operate under the existing language, but I am amenable to reviewing it.

DCI from  
transcript  
page 61

ADDENDUM CLASSIFIED CONFIDENTIAL  
(To be submitted separately)

I am concerned, however, that any advantages of explicit authorization in clarifying ambiguity could be more than offset by the effect of such legislative action on foreign nations, whose resentment, at least, or propaganda exploitation or other countermeasures would seem a likely consequence.

DDO

END OF CONFIDENTIAL ADDENDUM



c. What activities should the CIA be allowed to undertake in the U.S.? Should a new charter precisely define those activities?

ANSWER: CIA must, of course, support, from installations within the United States, its mission to collect foreign intelligence. Such support must include providing security for its installations, activities, information, and personnel. In order to provide the requisite security, the Agency must conduct investigations of applicants, employees, and other persons with similar associations with the Agency before classified information may be divulged to them. The Agency must also provide, domestically, administrative and technical support for its intelligence operations. This support would include procurement, maintenance and transport, communications and data processing, recruitment and training, the provision of personnel, financial and medical services, the development of essential cover and proprietary arrangements, and the conduct of necessary research and development efforts. The Agency must also interact domestically with other Federal agencies in furtherance of their respective missions. For example, in the course of performing its foreign intelligence mission the Agency obtains information which appropriately may be shared with the FBI in support of the latter's domestic counterintelligence mission. There are also occasions when cooperating individuals within the United States have valuable foreign intelligence information to supply the Agency. Similarly, plans and preparation must be undertaken in this country for working with intelligence sources abroad.

OGC

DDO

It is probably not possible to define exhaustively or in detail all activities of the Central Intelligence Agency that must be performed domestically. A new charter, if there is to be one, could more profitably address itself to areas where it is felt the CIA should not be active. For example, the National Security Act currently provides that "the Agency shall have no police, subpoena, law-enforcement powers, or internal-security functions." I would not lift those restrictions.

d. Do you favor statutory charters for the National Security Agency and the Defense Intelligence Agency?

ANSWER: As I have already indicated, the President has directed a comprehensive review of the Intelligence Community and the adequacy of existing legislation and directives, and I consider it would be premature for me to comment at this time on what the recommendations may be that will result from this review. I have not yet, in fact, formed my own opinion as to whether statutory charters are necessary, but I am not foreclosing the possibility.

IC

e. Do you agree with Attorney General Bell that the FBI needs a clear charter?

ANSWER: The FBI is a part of the Intelligence Community only as regards its counterintelligence activities. Those activities represent a relatively small portion of the overall FBI effort, so I am really not in a position to comment knowledgeably on the FBI as a whole. Since the Attorney General has organizational responsibility for the FBI, I consider that he is a qualified judge as to whether a new charter is needed.

IC

f. Should there be statutory limitations on the permissible activities of all of the intelligence agencies? Should violations carry criminal sanctions?

ANSWER: Limitations on permissible activities are spelled out in detail for intelligence organizations in Executive Order 11905. I would need to delve much more deeply into this matter before I could express an opinion as to any need for criminal sanctions beyond those imposed on employees of any other branch of the Government.

IC

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?

ANSWER: I believe that the decision to terminate or to continue major programs deriving from Presidential findings properly resides with the President. Such programs are reviewed periodically by the Special Coordination Committee, which is responsible for recommending to the President which of these programs should be approved, disapproved or redirected. The decision, however, is the President's. In the course of this review and approval procedure, I will make certain that the President is fully aware of any comments by the Committee concerning these programs. In the case of those programs for which I am responsible, I can assure the Committee that its views will weigh heavily in my decision making.

DDO

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?

ANSWER: As you know, under the Hughes/Ryan amendment the President is required to make a finding on all proposed CIA covert action programs. These programs are considered by appropriate advisors to the President before he makes his finding. Seven committees of the Congress are briefed after he makes his finding. Under these circumstances, it seems highly unlikely that the U.S. Government would engage in activity such as the question suggests unless there were a broad consensus within the Executive Branch and the Congress that it was in our national interest to do so.

DDO,  
as  
revised  
by  
OLC

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?

ANSWER: As I stated at my confirmation hearing, I think such operations should not be undertaken until two standards have been met: First, that there has been a thorough exploration of alternative ways to accomplish the objective in an overt manner; Second, that there has been a careful weighing of the potential value of what might result from the activity as against the risks incurred. DCI from transcript p. 79

Should such payments be intended for a foreign head of state or major national figure for covert action purposes, the operation would require the approval of the President after review by the Special Coordination Committee. In this eventuality, the proposal would also be reported to the concerned committees of the Congress under the Hughes/Ryan amendment. Should the payment be intended solely for intelligence purposes and I judged that the operation involved a high political or other risk, I would seek the advice of the Special Coordination Committee, the National Security Advisor to the President or the President himself, before approving the operation. DDO

C3. 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 the 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?

ANSWER: The Committee's sensitivity to the great importance of protecting covert agents and their identities is gratifying to me, as the official charged with the responsibility for their protection. I consider it central to the viability of clandestine operations. I see no difficulty in arranging for the Committee to meet with employees, under appropriate circumstances and conditions. However, I find it extremely difficult at present to envision a situation in which the Committee would need to have such information with respect to a covert agent, let alone to feel required to interrogate him. I would therefore prefer not to make any such commitment on this point. DDO

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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?

ANSWER: Long range military planning could not be done without adequate knowledge of a potential enemy's military capabilities, political strengths and weaknesses, and economic viability.

DCI

Addendum classified Confidential: to be submitted separately. (See next page)

Addendum to D1a.

Specifically, in the Allied Command, Southern Europe, the extant instabilities in the Greek-Turkish relationship, over Cyprus and surrounding the Yugoslav succession question, required current and accurate assessments to plan for contingencies. Additionally, the crecscive Soviet Navy in the Mediterranean complicated all long-range planning because of NATO's dependence on open sea lanes to gain flexibility in that widespread and geographically separated region.

DCI

b. What was the value of this intelligence to your more day-to-day operational needs and to your requirements for indications and warning?

ANSWER: Day-to-day operational needs and requirements for indications and warnings are highly time sensitive. The closer intelligence inputs can be brought to real time, the more valuable they become to the military commander because they enhance his capability to make accurate decisions based on fact rather than assumption. Intelligence actually received from U. S. sources during my command of Allied Forces Southern Europe was extremely valuable to me because often it was the most complete and up-to-date information available.

DCI

c. Did you perceive any significant gaps in U. S. intelligence reporting?

ANSWER: Classified Confidential: to be submitted separately. (See following page)

**CONFIDENTIAL**

Dlc. Did you perceive any significant gaps in U. S. intelligence reporting?

ANSWER: Some gaps which have been particularly difficult to

fill include:

DCI



25X1

**CONFIDENTIAL**



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?

ANSWER: As indicated in my reply to question d. l. b., the closer to real time a commander can receive tactical intelligence, the more likely he is to make the right decision. At sea, force survival in the initial hours of an engagement is greatly increased if the force commander can assume an alert posture prior to an attack. This does not require much time, but given the speed of missiles, the difficulty of detecting them at low altitudes, and the routine proximity of the Soviet and U. S. fleets in peacetime, greater speed in delivering tactical warning indicators at sea is needed. In the area of national intelligence, again, timeliness is critical. In an era when Naval presence forces are being used more than ever as a tool of foreign policy, it is vital that the on-scene commander understand not just his military options, but national economic and political options as well, and how these options affect or influence one another.

DC

D2. 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?

ANSWER: Net assessments and more traditional intelligence estimates are complementary, and both are needed. Many important topics of intelligence estimates are not subject to a "net assessment" treatment. I consider that, in the analysis of key military questions, net assessments can be very important.

IC

Addendum classified Confidential: to be submitted separately. (See next page)

b. What should be the role of the intelligence agencies in net assessment?

ANSWER: Classified Confidential: to be submitted separately. (See following page)

c. Would you as DCI be adverse to conducting net assessments in which analysis of U. S. capabilities and intentions would be explicit or implicit?

ANSWER: As I have already indicated, I am not adverse to conducting net assessments essential to the intelligence analytical and estimating process, including those in which US capabilities and intentions are explicit or implicit. I am against intelligence conducting net assessments for the purpose of evaluating US weapon system options. I am also opposed to assigning intelligence the responsibility for comprehensive Soviet-US net assessments of the type which would be regarded as an intrusion by the Intelligence Community into the defense planning process.

NIO

Addendum to D2a.

Net assessments can take a number of forms depending on their comprehensiveness, complexity and purpose. Intelligence has often made comprehensive net assessments of the relative capabilities of pairs and groups of nations such as India and Pakistan, North Korea and South Korea, and Middle Eastern countries. These types of net assessments not involving US forces, have been well received by consumers; however, philosophical and practical questions have been raised about the extent to which intelligence should conduct US-Soviet net assessments.

NIO

Intelligence has conducted one-on-one analyses of weapon systems as part of the process of estimating Soviet capabilities and predicting Soviet technical requirements. An example is the range at which certain Soviet surface-to-air missiles could engage a B-52. Intelligence also makes net technical assessments comparing Soviet and US capabilities in a variety of technologies.

To identify trends and to assess the implications in estimated Soviet forces, intelligence has conducted Soviet-US force interaction analyses. An example of this type net assessment is Soviet capabilities to destroy Minuteman silos.

I believe intelligence should emphasize net assessments involving individual weapon systems and components of Soviet forces as an essential part of the analytical and estimating process, as well as net technical assessments.

CONFIDENTIAL

D2b. What should be the role of the intelligence agencies in net assessment?

ANSWER: The role of intelligence agencies should be to conduct:

NIO

--comprehensive net assessments on two or more foreign nations such as on the Arab-Israeli balance.

--Soviet-US net assessments to estimate the capability of Soviet weapon systems, to determine Soviet technical requirements and to identify trends and estimate the implications of Soviet programs.

Intelligence agencies should continue to participate in a variety of US-Soviet net assessments conducted by the DoD. Beyond that, I believe a national net assessment mechanism--perhaps at the NSC staff level--should be identified. The role of the Intelligence Community in this mechanism should be to provide the intelligence data and insights necessary for its operation.

Intelligence organizations should not make comprehensive net assessments of the US-Soviet military balance; for example, the capabilities of the two sides to damage each other in a nuclear war now and in the period ten years hence. Such assessments are highly dependent on scenarios for war initiation, US operational plans and tactics and the success of future US programs, and would require expertise and operational data on US forces which intelligence does not now have. Nor should intelligence conduct comprehensive US-Soviet net assessments of the overall "correlation of forces," involving all military and non-military aspects of national power.

CONFIDENTIAL

d. How would you evaluate the net assessments efforts of the Defense Department and the Executive Branch?

ANSWER: It is difficult to generalize on the net assessment efforts of the Defense Department and the executive branch over time. They have always reflected a sincere attempt to provide useful and accurate information to the decision-maker. When these efforts were less than excellent, it was usually the result of compromise made to reach agreement. Compromise inherently seeks the lowest common denominator and can preclude the user from the benefit of a finely etched picture from which his options for action can be developed. It is my intention to encourage divergent views which, if well supported by fact and logic, will be assigned confidence levels and will appear in future net assessments prepared by the IC.

DCI

D3. 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?

ANSWER: I have not had the time to adequately compare the CIA's vs. the Navy's, vs. the DIA's analyses of naval forces except superficially. As a user, a naval commander does not often receive three separate sets of intelligence estimate on a given situation which he can lay down side by side and compare. He is sometimes lucky to have either a CIA, or the Navy, or DIA estimate; seldom all three. However, I would expect the CIA to provide me with naval force analyses of greater breadth and perspective than either the Navy or DIA as their capability to assess naval forces in light of the full spectrum of a nation's assets, is greater than either the Navy or DIA.

DCI

D 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?

ANSWER: CIA currently provides finished intelligence support on a regular basis to the seven Committees of the Congress: the Armed Services Committees of both Houses of the Congress, the Appropriations Committees of both Houses, the Senate Foreign Relations Committee, the House International Relations Committee, and the Senate Select Committee on Intelligence. All of these Committees receive the National Intelligence Daily, and I recently have instructed that they receive the Weekly Review. In addition, each Committee receives periodic briefings on significant intelligence subjects. The Directorate of Intelligence also provides substantive intelligence briefings to their Subcommittees, individual members, or Committee Staffs, upon request.

DDI

Other Committees, the Joint Economic Committee and the House Committee on Science and Technology, for example, get annual updated briefings on the economic situation in the USSR and China and on foreign scientific developments. Since assuming this office, I have directed the CIA to take more initiative in expanding its provision of intelligence support to all Committees of the Congress concerned with subjects to which intelligence can make meaningful contributions.

Some sense of the scope of intelligence support that CIA has provided to the Congress can be gained from the following: During 1976, we gave 30 informal briefings to Congressional Committees or Subcommittees. We also provided 85 substantive briefings to individual members of Congress and 104 briefings to Congressional Staffs. During 1976 we transmitted to the various Committees, their members, and staffers over 500 copies of memoranda, biographic reports and maps.

I promised at my hearing to provide intelligence even if it might be embarrassing to the President. I shall keep that promise.

DCI  
transcript p. 56

In offering this support, the fundamental criterion is that whatever intelligence provided be as objective and factual as possible, without regard to the policy positions or predilections of any recipient.

DDI

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?

ANSWER: I do.

IC

b. What advantages do you see in this more open procedure? What dangers?

ANSWER: The advantages are that such a procedure will make reliable information more available to a wider audience, thus contributing to the public's appreciation of foreign affairs. It also will enable the public to be better aware of the contributions the U.S. intelligence effort is making to problems of national concern. It is my intention to continue a vigorous program of publication of unclassified finished intelligence.

IC/  
DDI

One of my concerns in carrying out such a policy will be to ensure that those sources and methods of intelligence which require protection are adequately protected.

DDI

When speaking of the products of analysis, an important consideration is the necessarily privileged nature of information which is being supplied to the President as a basis for policy decisions. I see a danger of compromising this privileged kind of intelligence by making it prematurely available outside the proper executive channel.

Asst.  
to DCI



Question 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?

ANSWER: I must devote major attention to all three of the responsibilities you list, and I do not see any significant conflict among them. The fact is, of course, that I have a deputy to assist me with the management of the CIA and a deputy to assist me in Intelligence Community matters, but being advisor to the President is a responsibility I must necessarily bear alone.

IC

b. Do you believe 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?

ANSWER: I do not.

IC

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.

a. What steps will you take to ensure that agencies in the intelligence community will not overstep the bounds of legality of propriety because of requests from the White House?

ANSWER: To me, this is a matter of management. I shall assure that appropriate guidelines are, or have been, promulgated. Within the CIA I shall maintain a strong Inspector General/capability and shall follow through with appropriate disciplinary or other appropriate action if there are any instances of illegal or improper activities.

IC

I shall urge each element of the Intelligence Community to review its procedures in this regard and institute safeguards where necessary to insure that requests for assistance from the White House and other entities be similarly reviewed and approved so as to insure legality, propriety and accountability.

OGC

However unlikely and improbable, if I am ever ordered by the President of the United States to take an act which I believe to be illegal or improper, I would feel obliged to try to have the order retracted or, failing that, to resign.

IC

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?

ANSWER: In my view, the impact of intelligence on policy deliberations does not really relate to whether he is or is not a statutory member of the NSC. The key factors will be the degree of rapport, trust and confidence which exist between the DCI and the President and other NSC participants, and the ability of the DCI to contribute meaningfully to NSC deliberations. Moreover, since the NSC is charged with directing the functions of CIA, it would be inappropriate for the Director to be a member of the NSC.

IC/OGC

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?

ANSWER:

I have discussed this issue with both Mr. Brzezinski and Mr. Vance and we find no conflict in our roles. We are all advisors to the President in the area of security, however, our terms of reference differ. The DCI is charged with coordinating the activities of all the intelligence organizations in the executive branch and producing intelligence which reflects their combined judgments. His advice to the President is based on this combined product. The Department of State is the primary source of political and economic intelligence. The Secretary of State's advice to the President is usually couched in that framework. The President's Assistant for National Security Affairs views security in the context of the entire U. S. Government. While the intelligence on which these three advisors views are based should in most cases be similar, the President is assured at least three different perspectives on a given security problem.

DCI

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?

ANSWER: The incumbent is an active duty military officer, Admiral Daniel J. Murphy, and his three predecessors were senior military officers on active duty. At such time as it may be necessary to appoint a successor to Admiral Murphy, it would be my intention to nominate to the President the best qualified person available, military or civilian.

IC

OGC

The position of Deputy for the Intelligence Community involves a substantial amount of interaction with the intelligence elements of the uniformed services and the perspectives and experiences of a military officer are important to the performance of that function. There is no reason to believe that a military officer will perform the duties of that position in a less capable or legal manner than would a civilian appointee. At the same time, I recognize that the provisions of the National Security Act of 1947, as amended, reflect a concern for the maintenance of civilian control of the nation's intelligence apparatus. These considerations must be balanced carefully and an ultimate judgment likely will be forthcoming as a result of the general review of intelligence authorities and procedures directed by the President.

Question 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"?

ANSWER: The term "intelligence sources and methods," as I understand it, refers generally to a broad range of information relating to the operations of foreign intelligence agencies, including as an example the names of human agents, to the extent that there are reasonable grounds to believe that the disclosure of such information would significantly impair the capacity of the intelligence agencies to carry out their assigned functions.

OGC

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)?

ANSWER: In my view, the term "intelligence sources and methods" may include information not prohibited from disclosure by the federal espionage statute or Executive Order 11652. The espionage statutes essentially concern national defense information; the Executive Order, information the disclosure of which would damage national security. While most if not all sources and methods information warrants classification, there may be some information deserving of protection which falls outside that concept.

OGC

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?

ANSWER: The statutory responsibility of the DCI for protection of "intelligence sources and methods" would not permit the withholding of information pertaining to acts by intelligence agencies which are illegal under the laws of the United States. OGC/IG

The DCI may not withhold information pertaining to violations of CIA's "internal security" restrictions which is requested in the course of any properly authorized investigation. Of course, the release of such information must be conducted with certain safeguards to insure that legitimate intelligence sources and methods which could be jeopardized in the process are not unnecessarily exposed and their usefulness destroyed. OG

The matter of informing the press on any activity of the CIA can only be considered in terms of a whole range of issues affecting the national interest, of which the protection of sources and methods is only one facet. OG

The intent of last part of the question, "Could the DCI withhold a violation of the Hughes-Ryan amendment requiring Congressional notification of covert action?" is unclear to me. Under the terms of the amendment, the President is required to notify the Congress, in a timely fashion, before funds are expended by or on behalf of the Central Intelligence Agency for operations in foreign countries, other than activities intended solely for obtaining necessary intelligence. The President may designate the DCI as his agent in making the required notification. The DCI's responsibility for protecting intelligence sources and methods should not conflict with such duties. OGC/OLC

d. How would you define the scope of authority relating to sources and methods in the language of the 1947 Act?

ANSWER: The Act charges the Director with "responsibility" for protecting sources and methods information; the word "authority" does not appear. In consequence, the reach of that language may not be entirely clear. In my view, however, that provision, strengthened also by Executive Order 11905, authorizes the Director to establish Community-wide standards and procedures for protecting sources and methods information. Further, the courts have ruled that this language authorizes the withholding of information from individuals who make requests under the Freedom of Information Act, as well as in other contexts.

OG

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?

ANSWER: This language clearly provides the authority to coordinate the development of uniform community-wide standards on protecting vital secrets. And, in my view, the language also confers authority upon the Director of Central Intelligence to require that Intelligence Community organizations comply with these standards.

OG

But the language obviously does not authorize the Director of Central Intelligence to commit or direct violations of law in the process of enforcing these standards.

G 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 non-controversial. 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?

ANSWER: No.

OGC

b. Should such a statute authorize Federal investigations of newspaper reporters who report classified information in their articles?

ANSWER: Criminal investigations are directed to a situation -- on belief that a criminal act may have been committed. In that sense, individuals as such are not investigated. Any such investigation may involve a member of the press when the facts warrant.

OGC

If Congress is serious about providing for the prosecution of those who leak classified information, it must be recognized that reporters may be a source of evidence with respect to such prosecutions and that their status as a reporter should not generally exempt them from the investigation. This position has been recognized by recent decisions of the Supreme Court with respect to the disclosure of a reporter's sources of information during grand jury proceedings.

c. Do you believe that the Espionage Statute of 1917 and the accompanying Presidential executive orders on classification permit too much secrecy?

ANSWER: Executive Order 11652, not the Espionage Act of 1917, establishes the Government's classification system and the categories and guidelines upon which classification decisions must be made. It is my understanding that EO 11652 is now under study within the executive branch, and I would prefer to defer my comment until that study has been completed.

OGC



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?

ANSWER: As to any amendments to the Order see my preceding answer. I am not aware of any statutes which cause unnecessary secrecy.

OGC

G 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?

ANSWER: I will be addressing the requirements of that section. If it appears that changes in procedures will prevent leaks or reduce their number, I of course will take the necessary action.

OGC

G 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?

ANSWER: No.

Asst. to  
DCI

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?

ANSWER: There are and will be no such programs

Asst. to  
DCI

c. Do journalists knowingly participate in such disinformation programs?

ANSWER: There are and will be no such programs.

Asst. to  
DCI

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?

ANSWER: There are and will be no such programs.

Asst. to  
DCI

e. Will you provide the Committee with any CIA assessment of the damage caused by these breaches of security?

ANSWER: The current practice of the CIA is to report to the Committee on security matters generally as a reflection of its commitment to keep the Committee fully and currently informed. I shall continue this practice. Assessments of damage caused by breaches of security would be a part of this reporting.

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G 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?

ANSWER: I am not aware that Attorney General Levi took such a position and I am not sure that if he did, this characterization of his position is correct. I think that electronic surveillance of efforts of foreign powers to acquire technological information and information about industrial trade processes should not be foreclosed in appropriate cases. The capabilities and intentions of foreign powers with respect to technological and industrial matters could be very important in the formulation of U.S. foreign policy. Whether the disclosure of specific information in the hands of private companies should be restricted is a policy decision for other elements of the executive branch and the Congress to address.

OGC

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?

ANSWER: In general I do not think that I am qualified to answer this question as it involves issues beyond the purview of the intelligence community.

OGC

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?

ANSWER: From my perspective, the purpose of obtaining such information by electronic surveillance would be to acquire insights into the capabilities and intentions of foreign powers.

OGC

## 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?

ANSWER: The continuing challenge will be to assure that our Government has the foreign intelligence it needs when it needs it. This is the key challenge, and all other challenges are linked with it. Important among the other major challenges are these:

IC

- To assure the truly effective use of the resources required to collect, process, analyze and produce intelligence.
- To assure that collection capabilities keep pace with the changing demands for information.
- To enhance the quality of intelligence estimates.
- To strengthen the confidence of the President and his advisors, the Congress, and the American people in the effectiveness of the U. S. intelligence effort.
- To devise operating methodologies that will assure the acquisition of the needed information and at the same time assure that intelligence activities are being conducted in a legal and proper manner, with full recognition of the rights of U. S. citizens.

b. In your opinion, what are the strengths and weaknesses in the way national intelligence is now dealing with those challenges?

ANSWER: The strengths of the Intelligence Community are quite

IC

encouraging:

- The collection and analytic capabilities of the Community are quite impressive.
- It has a corps of dedicated, hard-working and highly skilled personnel, many of whom have spent their entire careers in intelligence.
- It has access to a pool of research and development expertise, both in-house and in U.S. industry, that can be expected to respond as well to future technical challenges as has been the case in past years.
- It has strong support at top levels of the Government on the basis of recognition there of the importance of dependable intelligence to policymaking and operational decisions. On the other hand, there are potential weaknesses:
  - Manpower in some organizations of the Community has been severely reduced in recent years, and personnel resources are stretched very thin in many areas.
  - Budgets in most cases have not kept pace with the results of inflation, and there is particular risk that discouragement of initiatives because of tight fiscal constraints may have a deleterious long-range effect.
  - Much still remains to be done to take full advantage of the potential benefits of new analytic methodologies and to make full use of computerized data bases.

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?

ANSWER: The management approach I intend to take during my tenure as the DCI is straightforward. I will make certain that those persons who report to me fully understand their responsibilities and what is expected of them. I will see to it that they get whatever guidance is required. I will then hold them accountable for proper execution of the tasks within their jurisdiction.

IC

I recognize that under present arrangements there are very distinct limitations on the extent of the management authority of the DCI, and this puts a premium on effective coordination and consultation processes. I expect to make full use of these processes in furthering the Community aspects of the national intelligence program.

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?

ANSWER: As you might expect, the President and I have discussed what it is he expects from me as DCI. In essence, I consider it my charge to meet the challenges outlined in response to Question 1. a. above; and, primarily, that is to see that the United States Government is provided with the timely, high quality, responsive foreign intelligence that is required by our national interests.

IC

H2. 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?

ANSWER: It is apparent enough that the budgets of many Intelligence Community organizations can never be publicly revealed in the depth of detail that characterizes most normal Federal agencies. Disclosure of detailed information on many of the Community's activities would eliminate our ability to carry out those activities which Congress and others intended when we were established. There are basically two reasons for this. First, many individuals and governments which now cooperate with U. S. intelligence would reassess that cooperation in light of the possibility that details of their relationship with U. S. intelligence could become public knowledge. We have seen recent examples of this. We are talking here in some cases of very sensitive relationships, generally involving the reputations, means of livelihood, or even the lives of individuals, and sometimes the future stability of governments. Second, revelation of detailed information would greatly facilitate efforts of our adversaries to hinder the effectiveness of our intelligence apparatus either by direct operations against us or by encouraging other governments to take steps to limit or destroy our capabilities.

There seems to be little basic disagreement with this view as regards the details of our intelligence operations. However, many acknowledge these points but argue that the public has a right to know the overall size of the intelligence budget and that a decision to reveal only overall size cannot possibly endanger any specific operations. Thus, the term "open budget" has generally come to symbolize the desirability of revealing only the Intelligence Community budget total without further detail.

This argument is often based on the belief that the public will be better able to make a judgment that the size of the Intelligence Community budget is appropriate to American needs if the overall size of the budget is made known. In the last analysis, however, I doubt that wide knowledge of only a budgetary total will significantly increase the public's ability to reach a judgment as to whether the overall program is a reasonable one. The principal reason for this is that, without further detail and understanding of the various programs which make up the budget, few significant conclusions can be drawn about the appropriateness of the funding level or the programs provided for within it. An illustration helps make this point.

Suppose that the only information publicly available about the U. S. Defense budget is that it totals \$100 billion, without any additional detail as to the size of our strategic weapons programs, our R&D effort, the size of our standing military force structure or the military assistance program, or the portion of the budget which is essentially administrative support as opposed to a capability for action in an emergency. I doubt there could be much effective public discussion of the implications of this hypothetical \$100 billion budget without such detail, and this leads to my next point.

Revealing just the budget totals will, in our view, create enormous pressures to reveal further budget figures which cannot by themselves be considered to be terribly sensitive (for example, the cost of certain support activities) but which, when added together and subtracted from the total budget figure, will define with some precision the remaining sensitive operational and research and development portions of the budget. This is likely in our view because revealing just the totals will put all of us in the difficult position of arguing for appropriations without being able to explain why we are supporting what we are recommending. This seems likely to lead to demands upon us to declassify those "nonsensitive" portions of the budget which can be discussed.



At this point, the essential question is "why are we concerned?" In answer to this, I would like to make one basic point. The details of many of our activities cannot be publicly acknowledged if the programs we are authorized to carry out are to be carried out at all. It is my view that the more steps we take to reveal aspects of the budget which are relatively non-sensitive, the harder it will be--both within the Intelligence Community and the rest of the Executive Branch, and in Congress--to maintain the secrecy necessary for those programs and activities which are terribly sensitive.

In the last analysis, the question always becomes "where do you draw the line?" Natural public curiosity, coupled with great public sensitivity to any revelations about intelligence activities, and the attendant pressures we feel would fall upon any Floor manager in Congress who took a bill to the Floor but had to tell his colleagues that he could not explain any of the details of his proposal, all argue--to us--that there are enormous dangers inherent in taking the first step.

H3. An argument against annual disclosure of the aggregate budget figure of 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?

ANSWER: While there is no real concern about disclosure of the aggregate budget figure to the loyal American public, there is serious concern that disclosure of the total, or of any element, of the intelligence budget will provide a direct and significant advantage to adversary intelligence services. Any advantage we grant freely to adversaries should be weighed carefully against the contribution free disclosure will <sup>make</sup> to an informed public opinion. Disclosure will be meaningful only to those who are interested in further analysis; who have the inclination and wherewithal to put other information with it. Informed people know what the inflation rates have been, and they know how much the legislative pay increases are for Government employees. It is relatively simple to apply this kind of knowledge to increases in budget figures from year to year. Add to this information some additional data such as knowledge about buildings occupied, square footage of space in those buildings, numbers of cars in parking lots, and other similar incidental data, and it is not difficult to produce a pretty fair computation of numbers of people employed. The same kinds of analyses can identify quite readily and accurately the amount of the total budget devoted to other than fixed costs. Access to the financial pages of the daily newspapers throughout the country and subscriptions to technical journals provide a vast store of information about business activity in all fields of endeavor. Add to this the presumption of knowledge about which corporate enterprises are working on classified contracts, and it is not too difficult to identify where increases in intelligence budgets are going and what they are being used for. Concerted efforts by adversary intelligence services against targets narrowed down through this general kind of analytical process can result in the specific identification of new technical collection systems.

Comptroller

We doubt, for example, that the U-2 aircraft could have been developed as an effective collection device if the CIA budget (or the total intelligence budget) had been a matter of public knowledge. Our budget increased significantly during the development phase of that aircraft. Had that knowledge been supplemented by information from newspapers or technical journals that funds were being committed to a major aircraft manufacturer and to a manufacturer of sophisticated photographic materials, the correct conclusion would have been relatively easy to draw. The U.S. manufacturers involved would have become high priority targets, and it is reasonable to assume that a Soviet capability to destroy high altitude aircraft would have been developed earlier than it in fact was. While there is no similar situation pertaining today, we cannot say with certainty that one will not arise again in the next few years.

Question 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?

ANSWER: I believe the Attorney General generally should be consulted, but I question the wisdom of a statutory requirement for consultation. Further, it would be extremely difficult to define the activities which would require a request for the Attorney General's opinion. Accordingly, I would not favor a statutory requirement.

OGC

I. 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?

ANSWER: This question, in substantially similar form, was asked by Chairman Inouye during Mr. Knoche's confirmation hearing. Mr. Knoche agreed at that time to instruct the General Counsel to notify the Committee of such referrals and later clarified this commitment in a letter to Chairman Inouye dated 21 January 1977, which states in pertinent part:

OGC

With respect to matters reported to the Attorney General involving possible law violations, the Agency's General Counsel will prepare and submit to the Committee Staff Director, quarterly, a written statement indicating the number of previously reported possible offenses closed out during the preceding quarter by a Department of Justice decision to prosecute or not to prosecute, together with a brief description of the circumstances, without however identifying the potential violators. These statements would also indicate the number and type of possible offenses reported for the first time during the preceding quarter.

I. 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?

ANSWER: I do not believe that such statutory provisions are necessary to ensure that the Inspector General and General Counsel of CIA have access to all information necessary to perform their duties.

OGC

I would like to assure the Committee, however, that both of those officers now have such access, and it is my firm intention to see that they continue to have it. You should know that CIA's Headquarters Regulations give the General Counsel the access he needs while providing full access for the Inspector General. These are consistent with and in implementation of Executive Order 11905, Section 6(c)(3) which states:

IG

"Heads of intelligence agencies or departments shall: (3) Ensure that Inspectors General and General Counsels of their agencies have access to any information necessary to perform their duties assigned by paragraph (b) of this Section" (which describes the responsibilities of Inspectors General and General Counsels).

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

ANSWER: As stated above, I have no intention to deny either officer access to CIA information which he needs.

IG

I. 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?

ANSWER: On one hand, I am concerned by the possible implications and consequences of any commitment on my part to provide the Committee with all findings of the Inspector General. Such findings, made confidentially to me, are important management tools which help me carry out my responsibility to keep CIA an effective organization working within the bounds of law and propriety. Should the present system be changed to broaden the closely held disseminations of the Inspector General's findings, there would be a tendency for Agency personnel to be less forthcoming with the Inspector General, and there could develop in the long run a tendency for the style and frankness of the Inspector General's presentations to become inhibited. IG

On the other hand, I realize that the Senate Select Committee on Intelligence, too, has an important oversight responsibility and must be certain that CIA is in compliance with law and is observing a standard of propriety compatible with American values. It is with this in mind that the Agency reached an agreement with the Committee on a formula which is described in a letter dated 21 January 1977 from Acting Director E. H. Knoche to the Chairman, the Honorable Daniel K. Inouye. The key points in this formula are as follows:

"Within a month after any report has been furnished to the Intelligence Oversight Board by the Agency's Inspector General or General Counsel, these officials, unless the Agency is instructed to the contrary by the President, will inform the Committee's Staff Director in writing as to the general nature of the items reported. To the extent that the Committee or its Staff Director may be interested in pursuing further any of these items, the Inspector General or the General Counsel, as the case may be, will be available to provide additional detail. With respect to matters reported

to the Attorney General, involving possible law violations, the Agency's General Counsel will prepare and submit to the Committee Staff Director, quarterly, a written statement indicating the number of previously reported possible offenses closed out during the preceding quarter by a Department of Justice decision to prosecute or not to prosecute, together with a brief description of the circumstances, without however identifying the potential violators. These statements would also indicate the number and type of possible offenses reported for the first time during the preceding quarters. "

I endorse this agreement and shall make sure it is carried out.

I do not want to do anything which will hamper the Committee in fulfilling its important responsibilities. But I wish to avoid action which might cause CIA personnel to lose confidence and trust in the Inspector General and thus weaken a vitally important mechanism on which I must rely to help keep CIA within the bounds of law and propriety, an objective which I know the Committee agrees with.

I believe this principle applies also to the product of Inspectors General of other members of the Intelligence Community where issues of law and propriety are equally important to the health of our national intelligence effort. While I do not have the same authority over the Inspectors General of other members of the Community, I feel that it would not be equitable or consistent to arrive at any reporting formulas for CIA which are not equally applicable to the rest of the Community.



I. 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?

ANSWER: I would like to have time to examine the question as to whether the incentive structure will in practice bring forth reports of questionable activities. I have been informed that the response to Director Schlesinger's call for information on questionable activities in 1973, and subsequent requests, brought forth voluminous and uninhibited responses. The Inspector General reports that he has received good cooperation during his compliance surveys. It is also my early impression that personnel are anxious to avoid activities which might bring further disapprobation to the Agency. But I know you will understand when I say that I would like to be in the job somewhat longer before I assess the command and control situation. If problems exist, I shall expeditiously find solutions to them. As a person who has long served in command capacity, I place high importance on discipline and compliance with law, regulation and ethical standards.

IG

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?

ANSWER: Yes. There are now in existence regulations within CIA which aim to control employee activities which could pose conflict of interest problems or permit private profit to be made on the basis of insights gained on the job. Some of these regulations are being strengthened as the result of a recent Inspector General examination of the problem. Perhaps other steps can be made if the Agency finds a problem along these lines developing.

IG

b. Will you notify the Committee of what steps you have taken?

ANSWER: Yes.

IG