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<b>SUBJECT:</b> (Optional) Material for DDCI Confirmation Hearings: "CIA and Congressional Oversight"				86- 1108	
<b>FROM:</b> J. Kenneth McDonald Chief, History Staff 316 Ames Bldg.			<b>EXTENSION</b> <input type="checkbox"/>	<b>NO.</b>  <b>DATE</b> 17 March 1986	
<b>TO:</b> (Officer designation, room number, and building)	<b>DATE</b>		<b>OFFICER'S INITIALS</b>	<b>COMMENTS</b> (Number each comment to show from whom to whom. Draw a line across column after each comment.)	
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L-203-1K

17 March 1986

MEMORANDUM FOR:   
Executive Secretary

FROM: J. Kenneth McDonald  
Chief, History Staff

SUBJECT: Material for DDCI Confirmation Hearings: "CIA and  
Congressional Oversight"

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You may be interested in the attached paper, "CIA and Congressional Oversight," that I put together at David Gries's request for Bob Gates to use in preparing for his DDCI confirmation hearings. The paper is mainly based on material from Bob Hathaway's prospectus for a monographic history of the Agency's relations with Congress, and from the short history of CIA that Anne Karalekas produced for the Church Committee.

J. Kenneth McDonald

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Attachment

14 March 1986

## CIA AND CONGRESSIONAL OVERSIGHT

Congress played a central role in creating CIA. The National Security Act of 1947 transformed the inadequate Central Intelligence Group into a Central Intelligence Agency, responsible to the President through the National Security Council (NSC). The new Agency's principal purposes were to coordinate the intelligence activities of the United States government, and to advise the NSC in matters relating to intelligence and national security.

Two years after the National Security Act Congress passed the equally important Central Intelligence Agency Act of 1949, whose provisions exempted CIA from any federal law that required disclosure of the organization, functions, names, titles, salaries or numbers of its employees. The Act also authorized the Agency to bury its annual appropriations within the budgets of other departments, to transfer funds from other government agencies, and to be exempt from a number of statutory provisions respecting the expenditure and accounting of public monies.

Considering how controversial many of these provisions became some twenty-five years later, Congress's procedures in passing the CIA Act of 1949 were striking. Both House and Senate Armed Services committees held hearings in executive session and released only fragmentary reports. Noting that much of the testimony was too sensitive to share with their colleagues, they asked Congress to vote on faith to give a new agency unprecedented and largely unsupervised peacetime powers. With the passage of this act in 1949 CIA's basic legislative framework was complete.

### The Cold War Years

For the next twenty or so years, most Americans--including most congressmen--had little idea of what the Agency was actually supposed to do, and most also assumed that it would endanger national security to insist on having details of this element in America's Cold War defense. Legislative oversight of the CIA, when it occurred at all, was informal and nominal. Congress, like the rest of the nation, held a set of Cold War assumptions that did not question the need for an active and relatively autonomous central intelligence organization. Impressive CIA triumphs in Iran in 1953 and Guatemala a year later helped insure that there was little inclination to monitor the Agency's operations. At appropriations time, the principal concern on Capitol Hill was to see that the Agency got the money it needed.

When Congress enacted the 1946 Legislative Reorganization Act it did not anticipate dealing with a central intelligence organization. After the passage of the 1947 National Security Act CIA had to be accommodated within the existing committee system, so that the Armed Services and Appropriations Committees were granted jurisdiction. Until formal CIA subcommittees were organized in 1956 the only mechanism for congressional oversight consisted of small ad hoc groups of senior congressmen who received annual briefings on CIA activities, reviewed its budget, and appropriated funds. Mutual congratulations and expressions of good-will characterized these annual briefings, and there was no interest on either side in arranging a structure for Congress to take on genuine responsibility for supervising CIA. Indeed, critics have suggested that the system that evolved in this period not only failed to provide legislative control over the intelligence agency, but actually served to shield CIA from effective congressional scrutiny.

Even after the Appropriations and Armed Services committees of each house established formal CIA subcommittees in 1956 the relationship between Congress and CIA remained one of camaraderie and understanding. Because committee chairmen usually kept their positions for a long time--Richard Russell chaired the Senate Armed Services Committee from 1955 to 1968--they often developed relationships of trust and understanding with DCIs. DCIs informed senior committee members of large-scale covert action projects at about the time they were implemented, but as a courtesy and not as part of a formal review or approval process.

Most legislators saw little need to pry into CIA operations, convinced as they were that the Agency was performing admirably in the continuing struggle against the Soviet Union and expansionist world communism. DCI Bedell Smith and his successors, most notably Allen Dulles and Richard Helms, realized the importance of staunch congressional allies, and each was careful to brief the appropriate members on potentially sensitive matters. Moreover, CIA provided important services for Congress itself. In the mid-1950s, for example, by successfully challenging the Air Force's alarmist assessments of Soviet long-range bomber capabilities, CIA's Office of National Estimates dissuaded Congress from allocating huge sums for unnecessary countermeasures.

CIA relations with congressmen centered in the Office of General Counsel until 1961, when a separate Office of Legislative Counsel was established. For most of the Agency's first two decades liaison with Congress was the special province first of Walter Pforzheimer and then of John Warner. CIA repeatedly benefited from the continuity that Pforzheimer and Warner represented, for they had time to cultivate close ties with such influential congressional figures as Richard Russell, Carl Hayden and Carl Vinson. OGC and OLC staff members coordinated all Agency contacts with congressmen and senators, planned briefings, and arranged for key legislators to visit Agency facilities. They responded to congressional inquiries and occasionally even prepared committee reports and speeches for individual congressmen.

Congress demonstrated its deference to CIA's special requirements during the annual appropriation process. The Director usually appeared before the

special CIA subcommittees of the two appropriations committees with budget requests for the coming year broken down into general functional categories. After cursory examination and a few unfocused questions about Agency activities, the subcommittees invariably endorsed the DCI's figures, which were then carefully concealed in the budgets of other departments. Neither public disclosure nor floor debate of these requests was permitted, even though such secrecy made it impossible to determine whether Agency expenditures were in compliance with the law. Even congressmen on the CIA subcommittees were not always allowed access to these figures by their chairmen. These restrictions precluded any comparison of CIA spending with that of other agencies, or any analysis of CIA's internal ordering of priorities. On the other hand, this tight-lipped approach satisfied the Agency's security needs and its preference for minimal outside interference in its work. That the congressional leadership acceded to--indeed, promoted--these procedures year after year testifies to congress's high regard for the Agency as well as to the close relationship between CIA's top management and senior legislators on the Hill.

The high esteem that most congressmen had for CIA also served to protect it from the worst ravages of McCarthyism. Of all the agencies within the federal government that the Wisconsin senator attacked, CIA was virtually alone in successfully resisting his assaults. Allen Dulles openly defied Joe McCarthy's slurs, had Senate subpoenas quashed, and mobilized congressional supporters, ultimately forcing McCarthy to back down from his attack on CIA. Dulles's integrity and courage won him and the Agency still greater respect from the large number of senators who were distressed by McCarthy's reckless accusations.

During Allen Dulles's tenure as DCI Senators Mike Mansfield and Eugene McCarthy made serious but unsuccessful attempts to strengthen Congress's oversight role, and to broaden members' participation in carrying out the committees' responsibilities. The attempts failed principally because of the strength of the committee system in Congress, assisted by adroit Executive branch moves to deflate the impetus for change. Senator Mike Mansfield introduced his Resolution for a Joint Oversight Committee in 1955. This resolution was the result of a survey of the Executive branch by the Hoover Commission, which Congress had established in 1954. The Hoover Commission had a small task force under General Mark Clark investigate the intelligence community, except for CIA's clandestine service, which was surveyed by a separate body appointed by President Eisenhower and chaired by General James Doolittle. The Clark Task Force recommended the formation of an oversight group, a mixed permanent body to include members of Congress and distinguished private citizens. Rejecting the specific Task Force proposal, the full Hoover Commission recommended two bodies, a joint congressional oversight committee and a private citizens' group.

The Commission's recommendation led Senator Mansfield to introduce his resolution, which was immediately and fiercely opposed by the senior members of the committees that then had jurisdiction over CIA. Moreover, at the request of the NSC Allen Dulles produced a long memorandum analyzing the problems that a joint oversight committee would create. Without expressly

objecting to such a committee Dulles described enough difficulties effectively to recommend against its establishment. He expressed concern about the possible security breaches from committee staff members, and noted that foreign intelligence services' objections to this kind of information sharing might endanger the Agency's liaison arrangements. Although Dulles convinced senior Administration officials that such a committee was undesirable, it was the senior committee members' opposition that decisively defeated the bill in April 1956.

While the unsuccessful Mansfield Resolution did bring the Armed Services and Appropriations Committees to establish formal CIA subcommittees, these did little to change the informal and minimal nature of congressional oversight. In these subcommittees the same small group of senior members continued to be responsible for matters related to CIA, and as before their work depended mainly upon these members' personal relationships with senior Agency officers rather than upon any kind of regular proceedings or formal review. In 1961, after the failure of the Bay of Pigs operation, Senator Eugene McCarthy attempted to revive the idea of a formally designated CIA oversight committee, but his effort also failed.

By the mid-1960s international developments brought more demands from Congress for intelligence information. The Six Day War in 1967, advances in space technology, and nuclear proliferation all heightened congressional interest in the intelligence product. Responding to congressional requests, Richard Helms as DCI increased the number of briefings to committees, subcommittees and individual members. In 1967 thirteen congressional committees, in addition to the four with oversight functions, received substantive intelligence briefings. Yet all this did not change the closed, informal nature of congressional oversight. Both John McCone and Richard Helms maintained good relationships with senior-ranking committee members, who were kept informed on an individual basis of important Agency activities. The committees continued to provide only a cursory review of CIA's activities. When Senator Eugene McCarthy again introduced a bill to establish a CIA oversight committee in 1966, he failed as he had before in 1961, and as Senator Mansfield had failed in his 1956 attempt.

For almost a quarter of a century the CIA thus enjoyed a tolerance and freedom of action that stemmed from congressional confidence in the Agency's leadership and product, and from the basic foreign policy consensus that prevailed during those Cold War years. Longtime CIA officials would later look back upon this period as a golden era, and in a sense it was. Secure in the public's confidence, exempt from standard disclosure and accounting regulations, the Central Intelligence Agency remained remarkably free from the checks that the legislative branch ordinarily places on operations of the executive.

#### Deteriorating Relations, 1967-1972

Yet this independence was not without a price. Since this wide latitude for action was highly convenient, few Agency officials recognized that it

also harbored the potential for serious trouble. Possessing power sufficient to achieve great purposes, CIA also had the capacity to damage American interests and prestige. In light of the traditional strong American suspicion of power exercised in secret, CIA could hardly expect permanent legislative complacency. Ramparts magazine's 1967 revelations of CIA's secret funding of the National Student Association and of other apparently independent organizations disconcerted and disillusioned many who had never previously questioned CIA's Cold War role. When serious criticism of the Agency began in the late 1960s there were few congressmen who knew enough about its work to defend it, or to refute false accusations. When some members of the House Armed Services Committee pleaded ignorance of the existence of a CIA subcommittee, confidence in congressional oversight was bound to erode. By circumventing the customary system of legislative checks on executive agencies, CIA had made itself vulnerable to criticism without arming its defenders with enough information to answer the critics.

Moreover, a new mood of skepticism and assertiveness pervaded Congress by the second half of the 1960s. These years witnessed the collapse of the consensus that had underwritten America's Cold War policies for two decades. A partial if halting rapprochement with the Soviet Union, incontrovertible evidence of a real split in the global communist movement, and growing domestic opposition to the war in Vietnam all coalesced to challenge the assumptions that had dominated foreign policy debates since the end of World War II. As an important instrument of the orthodoxy now being questioned, CIA attracted new interest and new critics.

Institutional issues also intruded to undermine the Agency's privileged position. Until the late 1960s a small group of committee chairmen ruled Congress with virtually unchallengeable authority. Often holding safe seats in the one-party South, men such as Representatives Vinson, Cannon and Rivers, and Senators Russell and Hayden, accumulated seniority and acquired an almost feudal suzerainty over their colleagues. Enconced in the key Armed Services and Appropriations committees, these men were astutely cultivated by a succession of DCIs, and it was their indulgence that allowed CIA to escape close legislative scrutiny for so long. By 1969, however, Russell, Hayden, Vinson and Cannon had all departed, and their successors found it impossible to ignore the demands for congressional reform. Over the next few years both houses adopted new rules, including a number making it much more difficult for a handful of senior figures to shield CIA as Russell and others had done.

To complicate matters further, the Agency also found itself the inadvertent victim of a bitter quarrel between Congress and the White House over the proper division of powers in foreign affairs. As the Cold War consensus fragmented, Congress moved to regain many of the responsibilities it had abdicated to the executive branch since Franklin Roosevelt's day. Voicing fears of an "imperial presidency," the lawmakers sought to legislate limits to the President's freedom of action in world affairs in a variety of ways. In June 1970, for example, 58 senators voted in favor of the Cooper-Church amendment, which sharply restricted White House ability to fund military action in Cambodia. Three months later, a switch of only nine

votes would have resulted in a Senate prohibition against the use of public monies to keep American troops in Vietnam beyond 1971. Both of these actions, and others akin to them, reflected Congress's conviction that a grave imbalance between executive and legislative powers had developed since World War II.

Moves to require a more rigorous scrutiny of CIA activities were part of this broader attempt to reverse presidential "encroachment" upon congressional prerogatives. In the Senate, William Fulbright and Eugene McCarthy led efforts to expand the existing oversight committees to include members of the Committee on Foreign Relations. Persistent calls for a joint CIA watchdog committee gathered wide support in both houses. Not all suggestions for a joint committee were hostile; some congressmen saw such a body as a means of defending CIA from unwarranted attacks. On the whole, however, these legislative initiatives indicated that relations between Congress and the Agency had entered a more troubled period.

Hoping to maintain the substance of their independence, CIA officials responded with only limited countermeasures. Noting that even staunch congressional friends were leaning toward a narrower concept of the Agency's mission, the OLC annual report for 1972 conceded the necessity of giving tactical ground in order to forestall restrictive legislation. In retrospect, however, Agency actions appear circumscribed and unimaginative. It initiated a programmed effort to brief all new members of Congress, senior officials and OLC staffers made more formal appearances on Capitol Hill, and Agency reports and estimates were disseminated to a wider audience. But in the main, the Legislative Counsel concluded early in 1973, "we must rely on the professionalism of our operations, on the integrity of our product, and on our responsiveness to the legitimate interests and demands of both the Legislative and Executive Branches to see us through [this] patch of political turbulence."

#### Under Siege, 1973-1976

Unfortunately for CIA, a series of spectacular revelations and accusations between 1973 and 1976 dramatically demonstrated the inadequacy of CIA's defense measures. In rapid succession there were allegations that the Agency had been implicated in the Watergate break-in and cover-up, that it had been deeply involved in the overthrow and subsequent death of Chilean President Allende, and that it had organized and run an extensive program of domestic surveillance in blatant disregard of statutory prohibitions. Stunned by these charges, both houses of Congress moved to establish select committees with broad mandates to determine whether CIA and the nation's other intelligence agencies had been involved in improper or illegal activities.

The subsequent investigations by the Church and Pike Committees mark the nadir in CIA's relations with Congress. Lurid accounts of assassination attempts, drug testing, mail openings, and other abuses fostered the impression that CIA had engaged in a systematic and widespread pattern of



unlawful and immoral practices over many years. Many congressmen--indeed many Americans--were only too ready to believe the worst. As the Watergate hearings exposed President Nixon's arbitrary abuses of power and secretive methods of governing, many suspected that vast misdeeds must also have occurred in that most secret of agencies, CIA. Moreover, those who opposed administration policy in Southeast Asia feared that the White House was using CIA to circumvent the will of Congress. In this general atmosphere of distrust, few heeded the findings of the Pike Committee, which though condemnatory of CIA in many respects, concluded, "All evidence in hand suggests that the CIA, far from being out of control, has been utterly responsive to the President and the Assistant to the President for National Security Affairs."

### The New Oversight

In 1974 Congress responded to these sensational disclosures by enacting the Hughes-Ryan amendment, which was designed to provide closer oversight of CIA's covert operations. This legislation permitted CIA to expend funds overseas only for intelligence-gathering purposes, unless the President found that other tasks were important to American national security and reported to Congress "in a timely fashion" the description and scope of each such assignment. Almost immediately a half dozen or more congressional committees claimed the right to be so informed. Writing in 1976, a former ranking Agency officer contended that this provision had resulted in "almost every important project so briefed leaking to the public immediately and being dropped."

Congress also took steps to increase its authority over Agency appropriations and spending. In 1973, following DCI William Colby's admission that to disclose CIA's aggregate budget figure would not create a security problem, Senator William Proxmire introduced legislation to require the Agency to publish its annual budget. Although the Senate defeated this proposal, Senator John McClellan, chairman of the Appropriations Committee, offered the specifics of CIA's budget to any congressman who asked. By 1975 the four oversight subcommittees had lost their claims to exclusive knowledge of the Agency's budget, although a detailed breakdown of its annual appropriations was not yet routinely made available to all congressmen.

Seeking a more powerful voice in CIA affairs and determined to prevent the recurrence of past abuses, the Senate in 1976 created a permanent Select Committee on Intelligence to monitor the intelligence-related activities of the government. In July 1977 the House of Representatives followed suit. The formation of these committees marked a new stage in CIA's relations with Congress. Whatever the difficulties in making this new oversight work, and whatever nostalgia for the 1950s survives in CIA, Congress will never return to the blind trust and benign neglect of the early Cold War years.