

Noted by DCI
3/5/76

FOR DCI

(b) (3)

APPROVED FOR RELEASE
DATE: SEP 2006

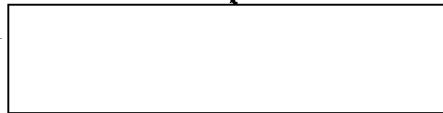
1 March 1976

Executive Registry
76-1321

MEMORANDUM FOR: Morning Meeting Participants

Attached for your information is a copy of the House Select Committee on Intelligence (HSC) publication entitled "Recommendations of the Final Report". Also attached for simplified reference is a summary of these recommendations, portions of which were distributed to addressees approximately two weeks ago.

The recommendations are listed on pages 1-7 of the HSC publication. The remainder of the 29 page publication, devoted to separate commentaries and recommendations of individual HSC members, is worth your perusal as it shows a wide range of opinion on the future of intelligence among the individual members.



Seymour R. Bolton
Chief, Review Staff

Attachments: a/s

I-33.3.1
- - -

Summary Of
Recommendations Of The House Select Committee
On Intelligence

A. Form House Standing Committee:

Membership -

- Between 9 and 13
- Broad representation
- Same political ratio as House
- Speaker designate members in consultation with minority leader
- Committee member may serve no more than 3 consecutive terms -- staff member restricted to 6 years

Disclosure Penalties -

- Committee Staff who disclose classified information subject to immediate dismissal plus criminal and civil action

Subpoena Power -

- Committee to be vested with subpoena power without House authorization, provided Committee has so designated by resolution

Jurisdiction -

- Include all legislative and oversight functions relating to all U.S. Agencies and Departments engaged in foreign and domestic intelligence
- Exclusive - for all intelligence budget authorization
- Exclusive - for all covert actions
- All remaining oversight functions - concurrent with other House Committees

B. Release of Information

1. Amend House Rule XI. 2(e) (2) as follows:

"Each Committee keep complete records including testimonies in open and executive session." (Note: Amendment abridged)

2. Committee may release with or without executive consultation any classified information or documents in its possession or control by majority vote of Committee members.
3. If Committee votes against release - Committee member may apprise other House members accordingly - arrange access to information providing member signs agreement non-disclosure - with petition signed by 1/5 House for disclosure, entire House will convene in secret session to be informed and vote on release of information.
4. House Rules be revised to provide for censure and expulsion by 2/3 vote of any House member revealing classified information which jeopardizes national security.

C. Covert Action

1. Prohibit all assassination attempts and all paramilitary activities - except in wartime.
2. Within 48 hours of initial approval, following required re: covert action.
 - a. DCI notify Committee - provide detailed statement re: nature, extent, purpose, risks, probability success, costs.
 - b. President certify in writing that covert action required protect National Security.
 - c. Committee to be provided with duplicate originals of written recommendations of each 40 Committee member (or successor group).

D. NSA

- NSA - independent agency
- Civilian control
- Define role re: Monitoring U.S. citizen's communications

E. Budget Disclosure

- All intelligence related items be included as intelligence expenditure in President's budget
- Disclose total single sum budgeted for each Intelligence Agency
- If intelligence item part of another Agency/Department budget identify separately as single item

F. Fund Transfers Prohibited

- Significant transfer funds between agencies/departments for intelligence activities.
- Significant fund reprogramming within agencies/departments for intelligence activities unless specifically approved by Intelligence and appropriate committees Congress.
- Significant expenditures of reserve or contingency funds for intelligence activities unless specifically approved by Intelligence and appropriate committees Congress.

G. Director of Central Intelligence

- DCI separated from intelligence agencies to coordinate and oversee foreign intelligence community - eliminate collection duplication - promote analysis competition.
- President nominate DCI with advice and consent Senate.
- DCI duties and powers:
 - a. Chief U.S. foreign intelligence officer - supervise and control all U.S. agencies engaged foreign intelligence.

- b. Member - National Security Council
- c. Hold no position or title in any government agency.
- d. Constitute an Office of Inspector General for all government and military branches having foreign intelligence functions - these report allegations of misconduct to DCI - individual organizations may maintain own Inspector General Staff.
- e. DCI to have adequate staff be responsible for NIE's and daily briefings of President.
- f. NIE preparation - supply to appropriate Congressional Committees immediately on request.
- g. Preparation of all intelligence budget requests - intelligence portions of DoD budget to be submitted as independent parts of such budgets to DCI.
- h. Coordinate functions of foreign intelligence agencies - eliminate duplication - evaluate periodically performance and efficiency of these agencies - report to Congress on this at least annually.
- i. Conduct comprehensive inquiry into causes of intelligence failures - report to committee on Intelligence within one year.

H. Full GAO Audit Authority

- GAO be empowered to conduct complete management and financial audit all intelligence agencies
- No limitation on GAO by any executive (security) classification system
- GAO audit function specifically to apply to funds presently expended on certification Agency
- Director alone.

I. Internal Financial Management

- CIA internal audit staff be increased and given complete access to CIA financial records.
- Overseas stations audited at least annually.
- All proprietary and procurement mechanisms be subjected to annual comprehensive review by CIA's internal audit staff.

J. Full Disclosure to Congress

- Amend existing legislation which restricts Directors of Foreign Intelligence Agencies from providing full information to Congress to exclude Congressional Committees having appropriate jurisdiction.

K. New Foreign Operations NSC Subcommittee

Amend 1947 Act to establish permanent Foreign Operations Subcommittee of NSC.

- a. Subcommittee to have jurisdiction over authorized activities of U.S. foreign intelligence agencies except those solely related to gathering of intelligence.
- b. Subcommittee advise President on all proposed covert or clandestine activities and on hazardous collection activities.
- c. Subcommittee member be required by law to submit individual assessment of each proposal to President including alternative ways of accomplishing goal.
- d. Subcommittee chaired by Assistant to the President for National Security Affairs -
Composition:

Assistant to President for National
Security Affairs
DCI

Secretary of State
Secretary of Defense
DDI (CIA)
Chairman, Joint Chief of Staff
Ambassador(s) and Assistant Secretaries
State for the affected countries and
areas.

L. DIA

- Abolish DIA
- Transfer functions to CIA and ASD (I)
- Assistant Secretary of Defense (Intelligence)

M. Detailees

- Disclose affiliation of detailees to other government organizations to all immediate colleagues and superiors.

N. Assistant to President For National Security Affairs

- Prohibited from holding any cabinet level position

O. Restrictions on Police Training and Relationships

- No foreign or military intelligence agency may directly or indirectly train or supply U.S. domestic police agencies.
- Such contacts to be limited to circumstances involving internal security or the normal requirements of such police agencies.

P. Media

1. U.S. intelligence agencies may not provide (financial) assistance to U.S. citizens or institutions in religious, educational, news media fields for cover purposes.
2. U.S. intelligence agencies not to covertly publish books or plant/suppress stories in U.S. news media.

Q. Restrictions on Military Intelligence

1. Armed Services prohibited from covert activities in U.S.

2. Clandestine activities against non-military citizens abroad prohibited.

R. Classification

Classification and regular declassification of information be subject of specific legislation.

S. Domestic

1. "Judicial warrant must issue", on probable cause, before FBI informant or agent infiltrate any domestic group or association.

2. FBI Director term of office no longer than two presidential terms.

3. Abolish Internal Security Branch, Intelligence Division, FBI.

4. Reorganize Counter-Intelligence -- increase from branch to division.

CI Division mission limited to investigating and countering foreign efforts against U.S.

4. Transfer all investigations of alleged criminal activity by domestic types to General Investigative Division.

5. Tie investigation of terrorist groups to specific violations criminal law within FBI jurisdiction.

Department of Justice determine when domestic political action group may be targeted for investigation as terrorists.

T. Inspector General For Intelligence

1. Establish independent office of Inspector General for Intelligence.

2. IGI have full authority investigate potential misconduct in intelligence agencies.

3. IGI have full access to all records and personnel.

4. Make annual report to Congress.
5. Report to Intelligence Committees or appropriate oversight committees as directed.
6. IGI appointed by President, with Senate approval for 10 year term.

RECOMMENDATIONS OF THE FINAL REPORT

OF THE

HOUSE SELECT COMMITTEE
ON INTELLIGENCE

BY THE

HOUSE SELECT COMMITTEE
ON INTELLIGENCE

NINETY-FOURTH CONGRESS

SECOND SESSION

PURSUANT TO

H. Res. 591

A RESOLUTION ESTABLISHING A SELECT COMMITTEE ON
INTELLIGENCE TO CONDUCT AN INQUIRE INTO THE ORGA-
NIZATION, OPERATIONS, AND OVERSIGHT OF THE INTELLI-
GENCE COMMUNITY OF THE UNITED STATES GOVERNMENT



FEBRUARY 11, 1976.—Committed to the Committee of the Whole House
on the State of the Union and ordered to be printed

U.S. GOVERNMENT PRINTING OFFICE

WASHINGTON : 1976

57-006

SELECT COMMITTEE ON INTELLIGENCE

OTIS G. PIKE, New York, *Chairman*

ROBERT N. GLAIMO, Connecticut
JAMES V. STANTON, Ohio
RONALD V. DELLUMS, California
MORGAN F. MURPHY, Illinois
LES ASPIN, Wisconsin
DALE MILFORD, Texas
PHILIP H. HAYES, Indiana
WILLIAM LEHMAN, Florida

ROBERT McCLORY, Illinois
DAVID C. TREEN, Louisiana
JAMES P. (JIM) JOHNSON, Colorado
ROBERT W. KASTEN, Jr., Wisconsin

(II)

LETTER OF TRANSMITTAL

SELECT COMMITTEE ON INTELLIGENCE,
U.S. House of Representatives,
Washington, D.C., February 11, 1976.

HON. TED HENSHAW,
Clerk of the House,
H-105 The Capitol, Washington, D.C.

DEAR MR. HENSHAW: Pursuant to House Resolution 982, enclosed herewith please find the recommendations of the House Select Committee on Intelligence together with additional recommendations of Hon. Les Aspin, Hon. Ronald Dellums, Hon. William Lehman, Hon. Dale Milford, Hon. Morgan Murphy, Hon. James Stanton, Hon. Robert McClory, Hon. David Treen, Hon. Robert Kasten, Jr.

Please file same.

Very truly yours,

OTIS G. PIKE, *Chairman.*

COMMITTEE RECOMMENDATIONS

A. A HOUSE COMMITTEE ON INTELLIGENCE

1. The select committee recommends that there be formed a standing Committee on Intelligence of the House of Representatives.

a. The committee membership should reflect a broad representation of political and philosophical views.

b. The committee should consist of not more than 13 or less than nine members, designated by the Speaker in consultation with the minority leader, representing approximately the same political ratio as the House of Representatives.

c. No member of the committee may serve more than 3 consecutive terms on the committee, and no member of the staff may serve more than 6 years.

d. Any past or current member of the committee staff who shall release, without authorization of the committee, materials or information obtained by the committee shall be immediately terminated from employment and shall be fully subject to criminal and civil action, notwithstanding legislative immunity.

e. The committee shall be vested with subpoena power and shall have the right to enforce by a proceeding for civil contempt its subpoenas in the U.S. District Court for the District of Columbia or any other court of competent jurisdiction, without authorization from the House, provided the committee has so designated by resolution. The committee staff shall be given statutory standing to represent the committee in any proceeding arising from the issuance of a subpoena.

f. The committee's jurisdiction shall include all legislative and oversight functions relating to all U.S. agencies and departments engaged in foreign or domestic intelligence. The committee shall have exclusive

jurisdiction for budget authorization for all intelligence activities and exclusive jurisdiction for all covert action operations. All remaining oversight functions may be concurrent with other committees of the House.

B. RELEASE OF INFORMATION

1. The select committee recommends that rule XI.2 (e) (2) of the House Rules is amended to read as follows:

"Each committee shall keep a complete record of all committee action which shall include a copy of all reports, statements, and testimony of witnesses whether received in open or in executive session."

2. The committee shall have the right to release any information or documents in its possession or control by a vote of a majority of the members of the committee under such terms and conditions as the committee shall deem advisable. The committee, in making the decision whether or not to release such information, shall have the right, but not the duty, to consult with other agencies of the Government within the intelligence community or executive branch with regard to any decision relating to the release of such heretofore secret information.

3. In the event of a negative vote by the committee on the release of certain classified information, a member of the committee may apprise the other Members of the House that the committee possesses information which he believes ought to be made public. Other Members of the House would then be authorized to have access to that information, provided they sign an agreement not to divulge the information. If these other Members agree that this information ought to be made public, they will sign a petition attesting to that. Upon obtaining the signatures of one-fifth of the House, the House shall convene in secret session for the purpose of advising the entire membership of the House of that information. The House may then vote to release the information to the public.

4. The select committee recommends that the rules of the House be revised to provide that any Member who reveals any classified information which jeopardizes the national security of the United States may be censured or expelled by a two-thirds vote of the House.

C. COVERT ACTION

1. The select committee recommends that all activities involving direct or indirect attempts to assassinate any individual and all paramilitary activities shall be prohibited except in time of war.

2. The select committee recommends that as to other covert action by any U.S. intelligence component, the following shall be required within 48 hours of initial approval.

a. The Director of Central Intelligence shall notify the committee in writing, stating in detail the nature, extent, purpose, risks, likelihood of success, and costs of the operation.

b. The President shall certify in writing to the committee that such covert action operation is required to protect the national security of the United States.

c. The committee shall be provided with duplicate originals of the written recommendations of each member of the 40 committee or its successor.

3. All covert action operations shall be terminated no later than 12 months from the date of affirmative recommendation by the 40 committee or its successor.

D. NSA AS AN INDEPENDENT AGENCY

1. The select committee recommends that the existence of the National Security Agency should be recognized by specific legislation and that such legislation provide for civilian control of NSA. Further, it is recommended that such legislation specifically define the role of NSA with reference to the monitoring of communications of Americans.

E. DISCLOSURE OF BUDGET TOTALS

1. The select committee recommends that all intelligence related items be included as intelligence expenditures in the President's budget, and that there be disclosure of the total single sum budgeted for each agency involved in intelligence, or if such an item is a part or portion of the budget of another agency or department that it be separately identified as a single item.

F. PROHIBITION OF FUND TRANSFERS

1. The select committee recommends there be appropriate legislation to prohibit any significant transfer of funds between agencies or departments in connection with intelligence activities.

2. The select committee recommends there be appropriate legislation to prohibit any significant reprogramming of funds within agencies or departments in connection with intelligence activities without the specific approval of the Intelligence Committee and appropriate committees of Congress.

3. The select committee recommends there be appropriate legislation to prohibit any significant expenditures of reserve or contingency funds in connection with intelligence activities without specific approval of the Intelligence Committee and appropriate committees of Congress.

G. DIRECTOR OF CENTRAL INTELLIGENCE

1. The select committee recommends that a Director of Central Intelligence shall be created, separate, from any of the operating or analytic intelligence agencies for the purpose of coordinating and overseeing the entire foreign intelligence community with a view to eliminating duplication in collection and promoting competition in analysis. The DCI shall be nominated by the President with the advice and consent of the Senate. This office shall have the following powers and duties:

(a) The DCI shall be the chief foreign intelligence officer of the United States, and shall be responsible for the supervision and control of all agencies of the United States engaged in foreign intelligence.

(b) The DCI shall be a Member of the National Security Council.

(c) the DCI may not hold a position or title with respect to any other agencies of Government.

(d) The DCI shall, along with such other duties, constitute an Office of Inspector General for all of the foreign intelligence agencies, including other agencies of government or branches of the military which have foreign intelligence functions. Such agencies shall have the obligation to report all instances of misconduct or allegations of misconduct to the DCI. This shall not constitute a limitation upon the respective agencies reporting to the DCI from maintaining their own Inspector General staff or similar body.

(e) The DCI shall have an adequate staff for the purposes expressed herein and be responsible for the national intelligence estimates and daily briefings of the President.

(f) The DCI shall be responsible for the preparation of the national intelligence estimates and such reports shall be immediately supplied to the appropriate committees of Congress on request.

(g) All budget requests shall be prepared by the agencies under the jurisdiction of the DCI. As those parts of budget of the military services or components of Department of Defense, they shall be submitted as an independent part of such budgets to the DCI.

(h) The DCI shall be charged with the functions of coordinating foreign intelligence agencies under its jurisdiction, the elimination of duplication, the periodic evaluation of the performance and efficiency of the agencies in question, and shall report to Congress on the foregoing at least annually.

(i) The DCI shall conduct a comprehensive inquiry into the causes of intelligence failures, including: inadequate collection tasking; analytical bias; duplication; unusable technical output; excessive compartmentation; and withholding of information by senior officials, and report to the Committee on Intelligence within 1 year.

H. FULL GAO AUDIT AUTHORITY

1. The select committee recommends that the General Accounting Office be empowered to conduct a full and complete management as well as financial audit of all intelligence agencies. There shall be no limitation on the GAO in the performance of these functions by any executive classification system, and the audit function of GAO shall specifically apply to those funds which presently may be expended on certification of a Director of an Agency alone.

I. INTERNAL FINANCIAL MANAGEMENT

1. The select committee recommends that the CIA internal audit staff be increased and given complete access to CIA financial records, and that overseas stations be audited at least annually. It is further recommended that all proprietary and procurement mechanisms be subjected to annual comprehensive review, by the CIA's internal audit staff.

J. FULL DISCLOSURE TO CONGRESS

1. The select committee recommends that existing legislation (National Security Act of 1947, Sec. 102 (d) (3)) restricting the Direc-

tors and heads of foreign intelligence agencies from providing full information to Congress should be amended to exclude committees of Congress having appropriate jurisdiction.

K. NEW FOREIGN OPERATIONS SUBCOMMITTEE OF NSC

1. The select committee recommends that the National Security Act of 1947 be amended to provide for the establishment of a permanent Foreign Operations Subcommittee of the National Security Council. The subcommittee's jurisdiction, function and composition shall be as follows:

(a) The subcommittee shall have jurisdiction over all authorized activities of U.S. foreign intelligence agencies except those solely related to the gathering of intelligence.

(b) The subcommittee shall advise the President on all proposed covert or clandestine activities and on hazardous collecting activities.

(c) Each member of the subcommittee shall be required by law to submit his individual assessments of each proposal to the President in writing. The assessment should cover such matters as the likelihood of success, the benefits of success, the damage resulting from failure or exposure, the risks against the potential benefits and alternate ways of accomplishing the goal.

(d) The subcommittee shall be chaired by the Assistant to the President for National Security Affairs and shall be composed of:

- Assistant to the President for National Security Affairs;
- Director of Central Intelligence;
- Secretary of State;
- Secretary of Defense;
- Deputy Director for Intelligence of CIA;
- Chairman of the Joint Chiefs of Staff;
- The ambassador(s), if there is one, and assistant secretaries of state for the affected countries and areas.

L. DEFENSE INTELLIGENCE AGENCY

1. The select committee recommends that the Defense Intelligence Agency be abolished and that its functions be transferred to the Assistant Secretary of Defense for Intelligence and the CIA.

M. DETAILEES

1. The select committee recommends that intelligence agencies disclose the affiliation of employees on detail to other Government agencies or departments to all immediate colleagues and superiors.

N. ASSISTANT FOR NATIONAL SECURITY AFFAIRS

1. The select committee recommends that the Assistant to the President for National Security Affairs be prohibited from holding any cabinet-level position.

O. RESTRICTIONS ON POLICE TRAINING AND RELATIONSHIPS

1. The select committee recommends that no agency of the United States engaged principally in foreign or military intelligence, directly or indirectly engage in the training or the supplying of domestic police agencies of the United States, and that contacts between police agencies of the United States and U.S. foreign or military intelligence agencies be limited to those circumstances which shall be required on account of internal security or the normal requirements and functions of such police agencies.

P. MEDIA, RELIGION, AND EDUCATION

1. The select committee recommends that U.S. intelligence agencies not covertly provide money or other valuable consideration to persons associated with religious or educational institutions, or to employees or representatives of any journal or electronic media with general circulation in the United States or use such institutions or individuals for purposes of cover. The foregoing prohibitions are intended to apply to American citizens and institutions.

2. The select committee further recommends that U.S. intelligence agencies not covertly publish books, or plant or suppress stories in any journals or electronic media with general circulation in the United States.

Q. RESTRICTIONS ON MILITARY INTELLIGENCE

1. The select committee recommends that the intelligence components of the armed services of the United States be prohibited from engaging in covert action within the United States. It is further recommended that clandestine activities against nonmilitary U.S. citizens abroad be proscribed.

R. CLASSIFICATION

1. The select committee recommends that the classification of information be the subject of the enactment of specific legislation; and further, as an adjunct to such legislation there be provided a method of regular declassification.

S. INSPECTOR GENERAL FOR INTELLIGENCE

1. The select committee recommends the establishment of an independent Office of the Inspector General for Intelligence, who shall have full authority to investigate any possible or potential misconduct on the part of the various intelligence agencies or the personnel therein. The IGI shall be appointed by the President, with the approval of the Senate, for a term of 10 years and shall not be permitted to succeed himself. The IGI shall have full access on demand to all records and personnel of the intelligence agencies for the purpose of pursuing his investigations. He shall make an annual report to the Congress of his activities and make such additional reports to the intelligence committees or other appropriate oversight committees as he may choose or the committees may direct.

T. DOMESTIC

1. The select committee recommends that judicial warrant must issue, on probable cause, before an informant or any other agent of the FBI may infiltrate any domestic group or association, when investigation of such group or association or its members is based solely on title 18 U.S.C. §§ 2383, 2384, 2385.

2. The select committee recommends that the Director of the FBI have a term of office no longer than 2 presidential terms.

3. The select committee recommends that the Internal Security Branch of the Intelligence Division be abolished and that the counter-intelligence branch be reorganized to constitute a full division named the Counter-Intelligence Division; that the mission of this Division be limited to investigating and countering the efforts of foreign directed groups and individuals against the United States.

4. The select committee recommends the transfer of all investigations of alleged criminal activity by domestic groups or individual members thereof to the General Investigative Division.

5. The select committee recommends that regulations be promulgated that tie the investigation of activities of terrorist groups closely to specific violations of criminal law within the investigative jurisdiction of the FBI and that charge the Department of Justice with determining when a domestic political action group may be appropriately targeted for investigation of terrorist activities.

 ADDITIONAL RECOMMENDATIONS OF HON. LES ASPIN

All the hearings, all the hassles and all the headlines should have underscored the fact that the Select Committee really faced three challenges:

- how to banish abuses from the intelligence system;
- how to control covert operations; and
- how to improve the intelligence product, the analyses for which we spend so much money.

The committee has approved a number of recommendations which go to the heart of these problems.

The establishment of an Independent Inspector General for Intelligence will provide an office designed exclusively to hawk-eye the intelligence community and see that it is adhering to the law.

The institutionalization of a successor to the 40 Committee will provide systematic direction of covert operations by the executive branch for the first time.

And creation of a more powerful director of central intelligence will for the first time give one man the authority to whip the many intelligence fiefdoms into line and eliminate the duplication and waste that the committee found to be rife.

I think that there is more that we could have done and I have two additional proposals.

The select committee suggested that a standing committee be informed of an approved covert operation within 48 hours after its ap-

proval. I have proposed that a standing committee be informed of covert operations before they are approved by the President. The standing committee or committees should not have veto power, but the committees, or their members individually, should have the opportunity to make their views known to the President.

No doubt a number of members would simply write out a list of reservations to cover themselves in case an operation went wrong. But is that bad? It is a good idea to have advice reaching the President from a few people who have a bias for negativism. There is too much me-tooism in the executive branch already.

Furthermore, if the members of the new 40 Committee knew that Congress was part of the consultative process, they would be likely to move with greater care and discretion than has been true in the past. Prior notification of Congress is one more governor on the intelligence vehicle which could inhibit the kind of reckless driving the committee uncovered in its investigations.

The committee, in a number of its recommendations, has sought to provide a framework for improvement. But we have left the CIA high and dry organizationally. I believe that the CIA should be divided into two separate agencies—one devoted only to analysis and the other responsible for clandestine collection and covert operations.

Splitting the CIA is the key to attracting the kinds of young men and women we need in intelligence analysis. The hostility the CIA has aroused is bound to discourage many good people from applying. Furthermore, the analysts need interchanges with academia, and these ties have been strained by the public perceptions that anyone connected with the CIA has blood on his hands.

We have also seen, as in the Bay of Pigs, that proximity breeds bias. One side of the CIA planned the Bay of Pigs. The other side of the CIA was not in a position to analyze it independently and critically.

Critics say it is impossible to separate covert collection from covert operations, that many of the same people are used for the two purposes. This is quite true. However, my proposal leaves covert collection and covert operations in the same organization and simply splits them off from the analytical function.

No improvements will result if proposals for reform are consigned to the archives like the report of this committee. Our intelligence services have been ignored by Congress in the past—and we have seen the consequences of that inattention. Congress now has a second chance to decide if it wishes to play Pontius Pilate and wash its hands of an unpleasant business or confront the issue headon. I hope the Congress will not abdicate its responsibilities any more.

LES ASPIN.

ADDITIONAL RECOMMENDATIONS OF HON. RONALD V. DELLUMS

I supported the committee majority in bringing to the House of Representatives those recommendations finally adopted by the committee. However, this should not indicate my approval of all the adopted recommendations; several are not strong enough and several additional recommendations should have been adopted.

These recommendations should stimulate extremely important and timely discussion, debate and consensus about such vital and basic questions as:

- (1) Is secrecy compatible with principles of democracy ostensibly embodied in our constitutional form of government?
- (2) If and where is secrecy necessary?
- (3) How much secrecy is required and what forms should it take?
- (4) What safeguards against abuse are required?
- (5) What, if any, are our legitimate and necessary intelligence needs?
- (6) How much change, restructuring, and/or elimination of organizations are required to meet on the one hand the "legitimate" intelligence needs of our Nation, and on the other hand safeguard against abuse of people, power, and the Constitution?
- (7) As our world continues its rapid changes and shifts, what level of our already limited resources do we perceive as necessary to meet our intelligence needs?

These and other questions must be discussed and debated within an atmosphere of reason. To resolve these questions and reach some consensus, it will demand the best within each of us as representatives of the people. The issues both implicitly and explicitly raised by the committee recommendations are of extreme importance and must be addressed within that context.

I oppose the committee's recommendation regarding: (A) A House Committee on Intelligence, insofar as, ". . . The committee shall have exclusive jurisdiction . . . for all covert action operations." I believe that this information should be more widely shared. Discerning oversight is facilitated by involving several relevant committees, and I think jurisdiction over covert action operations should be shared with those committees presently involved.

I am opposed to that part of the recommendation regarding: (B) Release of information (4) "The select committee recommends that the rules of the House be revised to provide that any member who reveals any classified information which jeopardizes the national security of the United States may be censured or expelled by a two-thirds vote of the House."

"National security" is now an infamous phrase, one open to mischievous interpretation. There is a great danger in constructing a chilling system which allows demagogues the easy opportunity of injuring a member by making reckless charges.

The committee's recommendation on covert action is not satisfactory. The committee recommendations say, "1. The select committee recommends that all activities involving direct or indirect attempts to assassinate any individual and all paramilitary activities shall be prohibited except in time of war."

We should prohibit all covert action.

We live in a world becoming increasingly smaller and interdependent, a world in which secrecy and cloak and dagger methods, in my estimation, are anachronisms from the past. They should have no place today in the world we will continue to live in.

It seems to me that whatever action this country takes in a world that is becoming this small and this interdependent ought to be overt action. The United States ought to begin to play an aggressive role as an advocate of peace in the world, as an advocate of humanitarian concerns, and frankly I believe that the level of secrecy that we have been exposed to as members of this committee flies in the face of democratic principle.

Many people conveniently wrap themselves quite fully in the flag, but when pressed to the wall on whether or not they are willing seriously to support democratic principles, I find that they are willing to sidestep principle.

Democracy is based on a notion of the development of a consensus. In my estimation covert action does not provide for that consensus. It does not provide for debate needed to achieve consensus. Instead, covert actions are recommended and approved by a small select group of people. The actions can at some point be extremely expensive, at some point extraordinarily risky and at some point fly in the face of open debate on any given question. I think that detrimental to the democratic process.

I am willing to try democracy. My concern is that our democracy has been, for the most part, a charade or merely symbolic, and I am not sure that many of us truly believe in the concept of majority rule.

I am concerned about secretly providing arms and aid to other countries, presidents able to sit down with other presidents and making deals. Yet these things are issues we found that are part of the range of covert actions utilized by this country.

I think our world is much too complicated to continue to function effectively in this manner. The more we get involved in covert action, the more we become accused of covert actions in places where we may not be involved at all.

So, the question is, does it really assist this country's role in the world to continue these kind of activities. My answer is no. Indeed, I think we do much more harm continuing to function covertly.

Many of these operations are well-known except to the people of the States and/or their representatives. So where does the covert rationale apply? It keeps people who are part of this society out of the decision, and it comes at a level which keeps representatives of the people out of those decisions.

I see no justification for covert operations. If we want to assist, then why not do it in the open and let the debate deal with the question of what our role "ought" to be somewhere in the world. On the basis of a consensus publicly made, then we can assist. But why do we have to play games? Why do we have to get involved?

Another related question is where have covert operations taken us? Are the nations that we have been involved with free democratic societies where the masses of people have benefits of democracy, or are those nations for the most part, military dictators, right-wing juntas, or regimes with extraordinary wealth and power in the hands of a few elitists?

If the latter holds, it totally contradicts stated principles of this country. If we have been involved in covert actions which generated democracy, freedom and justice around the world, maybe we might arrive at some different conclusion. But I don't think anyone can

justify continued covert action on grounds that we foster and develop democracy around the world.

If covert action isn't banned, the committee's recommendations on covert action should be strengthened and it should be required that the Oversight Committee have preknowledge of all major covert activities.

The nature of covert actions and espionage subtract from the main responsibility of the CIA—to serve as an independent central research and analysis facility. Since active involvement in clandestine operations can force analysis to be silenced for policy needs, certain present functions of the CIA should be divided and a separate espionage (human intelligence)/clandestine operations agency be formed.

In his testimony, Dr. Ray S. Cline called for a central research and analysis facility to provide objective assessments of national security data to Congress and the National Security Council. I agree, and I believe this ought to be a separate organization, not linked to any policymaker other than the President and as free from other institutional bias as possible. Actually, research and analysis are the original functions of the CIA and are functions that the Central Intelligence Agency apparently does better than any other agency in the intelligence community. Its research and analysis functions should be facilitated.

I recommend that the Central Intelligence Agency be split into two agencies—an intelligence research and analysis agency and a second agency to conduct whatever espionage and covert action functions are authorized.

In addition, I recommend that both the new intelligence research and analysis agency and the new espionage and covert agency be independent agencies subject to all controls recommended by this Committee.

Possible violations of law by intelligence agency employees or agents should be investigated and, if required, prosecuted by the Department of Justice. No agency should have the right or capability to bar investigation or prosecution. In addition to criminal penalties there must be provision for civil liability for abuses of authority. Legislation should provide for jurisdiction, justiciability and standing, discovery, and relief.

Several other recommendations are included in my supplemental views to the report of the House Select Committee on Intelligence. Every member and the public must have access to that report.

It is imperative that the House of Representatives now consider these issues and pass legislation based on these recommendations.

RONALD V. DELLUMS.

ADDITIONAL RECOMMENDATIONS OF HON. WILLIAM LEHMAN

There is no question in my mind that the United States must have a strong, effective, professional intelligence service. Our national security depends on it.

Yet that intelligence service is but part of our Government. And, like all parts, it must be balanced against a continuing need for and

our tradition of an open society, as well as this Nation's moral position throughout the world. For, if this Nation does not maintain that moral position, there is now no other country in the world who can take our place.

If I were CIA Director, I would be happy to see a strong congressional oversight committee, because it would be the most effective safeguard against wrongly conceived and wrongly motivated covert actions originating in the executive branch.

Despite allegations to the contrary, congressional investigations have not prevented the Agency from doing an effective job. Past performance bears this out; in fact, the failure of the CIA and other intelligence agencies to give adequate warning of several international crises may simply indicate the limited ability of intelligence to safeguard our national security.

There was, for example, the October 1973, Mideast war, where there was more than enough information available to warn of the impending Arab attack. There were other failures as well: the 1974 coup in Cyprus and the subsequent Turkish invasion; the Indian nuclear explosion; the Soviet invasion of Czechoslovakia; the Tet offensive in Vietnam; and the leftist coup in Portugal. All of these "failures" occurred long before any congressional committee was directed to investigate the intelligence community.

The intelligence community has operated in the past with a virtual blank check budget. This not only removes any incentive to curtail wasteful programs, but, through the very availability of funds, leads to both foolish and dangerous covert operations.

Yet, I am concerned by the committee's recommendation that a line-item figure for the CIA appear in the budget. Is it really possible to get a true and accurate figure? In the event that one of the branches of the armed services details a vessel to the CIA, is the cost of that vessel a part of the costs of intelligence? In my view, a line-item figure for the Agency must conform to principles of sound accounting practice. Only then will it have any meaning at all.

THE FBI

The committee hearings on the FBI documented the problem of informants turned agents-provocateur. Informants are necessary; the use of provocateurs is totally contrary to principles of decency and honesty.

One of these agents-provocateur was William Lemmer, who worked in Florida as an informant for the Bureau. Lemmer infiltrated the Vietnam Veterans Against the War and became one of the most active members of the chapter. As such, he allegedly suggested violent means of expressing VVAW disagreement with the country's Vietnam war policy. This kind of activity, directed by the Nation's foremost law enforcement agency, is plainly and starkly wrong.

THE IRS

IRS projects such as "Operation Leprechaun", "Operation Trade Winds", and "Operation Haven", clearly demonstrate that the IRS has gone far beyond its prescribed role in tax enforcement. Each of

these projects involved illegalities and abuses by the intelligence division of IRS in my own State of Florida.

I would only comment here that our system is grossly misused when Federal agencies violate the law in their attempts to enforce it. To adopt the methods of criminals is to become indistinguishable from them.

RECOMMENDATIONS

I strongly support the committee's recommendation that no member of the House serve on the new oversight committee we propose for more than 6 years. Such a limitation will help to ensure that the committee's members retain their objectivity and not come to look on the intelligence community as their own private preserve.

A similar limitation should be imposed on the Directors of the CIA and FBI, so that neither is allowed to serve for so many years that he can no longer distinguish between himself and his job.

One of the committee's recommendations would require the FBI agents or informants have a judicial warrant before attempting to infiltrate any domestic group or association. I agree that this requirement is necessary to protect the rights of American citizens, but, in light of recent tragedies perpetrated by international terrorists groups, I feel that such a restriction should not be imposed when the group or association is wholly or partly made up of aliens.

SUMMARY

In comparison with other intelligence agencies, and, indeed, with Government agencies in general, I find the CIA to be highly professional and very dedicated. Despite past lack of accountability, the CIA is doing a high level, cost effective job, particularly in its intelligence gathering function.

However, there are serious deficiencies in the operation of the CIA. Much constructive rebuilding must be done if American intelligence activities are to be conducted with responsibility and integrity—and without undermining the spirit of our democratic society.

BILL LEHMAN.

RECOMMENDATIONS OF HON. DALE MILFORD

A. A HOUSE COMMITTEE ON INTELLIGENCE

1. I recommend that there be formed a standing Committee on Intelligence of the House of Representatives, and that committee shall consist of members who hold the respect and confidence of the general membership of the House.

a. The membership of the standing Committee on Intelligence shall be selected from sitting members of the following House committees:

- 2 Members from Armed Services.
- 2 Members from Internal Relations.
- 1 Member from Science and Technology.
- 1 Member from Banking and Currency.
- 1 Member from Judiciary.

- 1 Member from Public Works and Transportation.
- 1 Member from Government Operations.
- 1 Member from Interstate and Foreign Commerce.
- A Chairman to be nominated by the Speaker.

b. The candidates for membership on the standing Committee on Intelligence shall be nominated by resolution from the above listed committees, supplying the number of members designated above. Nominees shall then be confirmed by the Democratic caucus or the Republican conference by means of a secret ballot. Vacancies shall be filled by like action.

c. Candidate selection for service on the standing Committee on Intelligence shall be based on individual qualifications and technical expertise, rather than party affiliation, except that, the total membership of the standing Committee on Intelligence must always have no less than one-third of its total members from each of the major parties. Should the occasion arise when a Major Party does not have one-third of its members represented on the committee, the Speaker shall designate to the nominating committee or committees the necessary number of partisan candidates to be selected.

B. RELEASE OF INFORMATION

1. I recommend that the standing Committee on Intelligence, or any member of the committee, shall not directly or indirectly release any information, documents or data bearing a security classification unless and until the following sequential procedures have been completed:

(a) The committee passes a resolution expressing the need and reason for declassification.

(b) The appropriate administrative agency has been allowed reasonable time to agree with the declassification or to present reasons for opposition.

(c) A House Leadership Committee, consisting of the Speaker, the Majority Leader, the Minority Leader, the Majority and Minority Whips and the chairmen of the committees from which the Intelligence Committee Membership has been selected (a majority of the total being present), shall approve or disapprove of the declassification and release.

(d) Notwithstanding the committee's approval or disapproval, any committee member who disagrees shall have a right to petition individual members of the Leadership Committee. If three or more members of the Leadership Committee shall concur, said member shall have a right to be heard by the full Leadership Committee.

(e) Any Intelligence Committee member who shall release any materials, documents, or data bearing a security classification, without complying with the above provisions shall be subject to expulsion from the House of Representatives and shall be subject to appropriate criminal or civil action, notwithstanding legislative immunity.

2. a. Any member of the House having knowledge of classified materials, documents or data who shall release such material, documents or data without obtaining the approval of a majority of the

members of the Leadership Committee shall be subject to expulsion from the House of Representatives and shall be subject to any appropriate criminal or civil actions, notwithstanding legislative immunity.

C. PENALTIES FOR IMPROPER RELEASE OF CLASSIFIED INFORMATION

I recommend that the United States Code be amended to provide criminal sanctions against any person who shall disclose or reveal properly classified information, documents, data, or plans concerning the national security of the United States, such sanctions to apply regardless of intent to harm the United States or to aid a foreign nation, notwithstanding legislative immunity.

DALE MILFORD.

RECOMMENDATION OF HON. MORGAN F. MURPHY

In light of the investigation by the House Select Committee on Intelligence, I recommend that Congress enact legislation or amend existing legislation to protect the confidentiality of tax records of American citizens.

Section 6103 of the Internal Revenue Code refers to tax returns as "public records" but specifies that they be "open to inspection only upon order of the President and under rules and regulations prescribed by the Secretary or his delegate and approved by the President."

Public use and abuse of the records, however, have been more the rule than the exception in the recent past. There has been little emphasis on the need for protecting the confidentiality of tax records.

I recommend a shift in emphasis back to the basic right of taxpayers to privacy regarding their tax affairs. We must do more than limit disclosures to certain agencies, individuals, congressional committees, and States. We must require the entity seeking tax information to prove that such information is essential to the entity's function and further, that the tax information cannot otherwise be acquired. I suggest that House and Senate committees with jurisdiction act with all deliberate speed to finalize their work on legislation to better ensure the privacy of tax records.

MORGAN F. MURPHY.

ADDITIONAL RECOMMENDATION OF HON. JAMES V. STANTON

I would go beyond recommendation N of the select committee, which proposes that the Assistant to the President for National Security Affairs be prohibited from holding any Cabinet-level position, by recommending the enactment of legislation which (1) states that the individual who holds this position cannot hold any other office in the Federal Government, nor may he be a member of the Armed Forces, (2) requires Senate confirmation of this position, and (3) in order to achieve these purposes, establishes statutorily the position of Special Assistant to the President for National Security Affairs. I have introduced a bill, H.R. 10754, which embodies these provisions.

JAMES V. STANTON.

ALTERNATIVE RECOMMENDATIONS OF HON. ROBERT McCLORY

I support the recommendations contained in the majority report under headings: D, F, G, I, J, L, N, O, Q, R, and S (with the exception of section 1). I do not approve of the other recommendations and I offer the following alternative recommendations in those areas in which I believe reform is necessary and appropriate.

ALTERNATIVE RECOMMENDATIONS OF HON. ROBERT McCORY

I recommend that there be established a permanent standing Committee on Intelligence of the House of Representatives.

1. The committee shall consist of five members composed of one member from each of the following committees: (a) Appropriations, (b) Armed Services, (c) International Relations, (d) Judiciary, and (e) Government Operations; no more than three of whom shall be members of the same political party. The committee membership should reflect a broad representation of political and philosophical views.

2. No member of the committee may serve more than 3 consecutive terms on the committee, and no member of the staff may serve more than 6 consecutive years.

3. Any past or current member of the committee staff who shall release, without authorization of the committee, materials or information obtained by the committee shall be immediately terminated from employment and shall be fully subject to criminal and civil liability, notwithstanding legislative immunity.

4. The committee's jurisdiction shall include all legislative and oversight functions relating to all U.S. agencies and departments engaged in foreign or domestic intelligence activities. The committee shall have exclusive jurisdiction for budget authorization for all intelligence activities and exclusive jurisdiction for all covert action operations. All remaining oversight functions may be concurrent with other committees of the House.

5. The committee shall be vested with subpoena power, and the rules of the House should be amended to give the committee the right to enforce its subpoenas through a civil contempt proceeding in the U.S. District Court for the District of Columbia without specific authorization from the full House.

B. RELEASE OF INFORMATION

1. I recommend that the House Committee on Intelligence have the right to release any classified information or documents in its possession or control only if the following procedures are adhered to:

(a) the committee shall have the duty to consult with other agencies of the Government within the intelligence community or the executive branch with respect to the public disclosure of any classified information before any formal committee vote on release.

(b) After such consultation, the committee may, by an affirmative vote of a majority of the members, submit the material proposed to be released to the President.

(c) If within a reasonable period of time the President certifies in writing that the disclosure of the material would be deteri-

mental to the national security of the United States, the material would not be disclosed or released. Failing any such Presidential certification, the committee would be able to release the material.

(d) In the event of such a certification by the President, the committee shall be given standing to sue and the U.S. District Court for the District of Columbia shall be given jurisdiction over such disputes, so that the matter can be submitted to the courts for judicial determination.

C. COVERT ACTION

1. I recommend that all activities involving direct or indirect attempts to assassinate any individual be prohibited by law except in time of war.

2. I recommend that appropriate legislation be enacted to require prior approval by the House Committee on Intelligence for all military and paramilitary covert actions proposed by the U.S. Government, including those actions in which arms or funds for arms would be provided covertly.

3. I recommend that, as to all other covert actions of a significant size or involving significant risk, the Director of Central Intelligence be required, within 48 hours of initial implementation, to notify the committee in writing and in detail of the nature, extent, purpose, risk and costs of the operation.

D. IMPROVED SECURITY FOR CLASSIFIED INFORMATION IN THE HOUSE

1. I recommend that the Rules of the House be revised to provide that any member who violates the confidentiality of any executive session of any House committee may be censured or expelled by a two-thirds vote of the House.

2. I recommend that the rules of the House be amended to provide that any committee of the House which has access to classified information has the authority to discipline any member which it reasonably believes has disclosed or publicized such information in violation of the rules of confidentiality duly adopted by such committee. These committees ought to be delegated authority by the full House to take appropriate disciplinary action against such a member to ensure compliance with the rules of confidentiality. Appropriate disciplinary action could be taken only after a vote of a majority of the majority members and a majority of the minority members of the committee; and any member against whom such disciplinary action is taken shall have a right of appeal to the full House.

E. GAO AUDIT AUTHORITY

I recommend that the General Accounting Office be empowered to conduct full and complete financial audits of all intelligence agencies. There should not be any limitation on GAO access in the performance of these functions by any classification system, and the financial audit function of GAO should specifically apply to those funds which currently may be expended on certification of a Director of an agency alone.

F. DETAILEES

I recommend that intelligence agencies disclose the affiliation of their employees on detail to other Government agencies or departments to the heads of such agencies; and that detailees not be placed in any position in which an actual or apparent conflict of interest might exist.

ROBERT McCLORY.

DISSENTING AND ADDITIONAL RECOMMENDATIONS OF HON. DAVID C. TREEN

(To the Recommendations of the House Select Committee on Intelligence)

The following are my specific recommendations (on the subjects which they concern) which may differ, vary or coincide with recommendations on similar subjects by the majority. The absence of any recommendation on a subject covered by the majority is not to be construed as concurrence or nonconcurrence with the majority recommendation.

Recommendation No. 1: Joint Oversight Committee

I recommend that there be established a Joint Congressional Committee on Foreign Intelligence which committee shall have oversight and legislative authority with respect to all foreign intelligence activities.

(a) The joint committee shall consist of no more than 14 members, equally divided between the House and Senate. The committees of the House and Senate having jurisdiction over international affairs, armed services, and defense appropriations shall each be entitled to representation on the joint committee by at least one member of those committees.

(b) Membership on the joint committee shall be limited to a period of 6 years and, beginning with the fifth year, at least one-third of the committee membership shall consist of new members.

(c) Any past or current member of the joint committee staff who shall release, without proper authorization, materials or information obtained by the joint committee shall be immediately terminated from employment and shall be fully subject to criminal and civil action, not withstanding any plea of legislative immunity.

(d) The joint committee shall be vested with subpoena power, and the rules of the House shall be amended to give the joint committee the right to enforce its subpoenas through a civil contempt proceeding in the U.S. District Court for the District of Columbia without specific authorization from the full House.

Recommendation No. 2: Obligations of the Executive Branch

I recommend that the executive branch be required to keep the joint committee promptly and fully informed as to all intelligence activities, including covert actions, and including full disclosure of allocations wherever they may be in the budget with regard to foreign intelligence and all expenditures of funds by all departments and

agencies of the executive branch for foreign intelligence and covert activities.

Recommendation No. 3: Access to and Release of Classified Information

I recommend that the rules of the House and Senate, where necessary, be conformed to accommodate the following recommendations, and that, where necessary, legislation be enacted in aid thereof:

(a) Access to information and materials furnished to the joint committee in executive session or classified secret by the executive branch shall not be accessible to other members of Congress except upon a resolution permitting such access adopted by a two-thirds vote of the membership of both the House and Senate Members, voting in person and not by proxy.

(b) Prior to any action to permit access of such information to other Members of Congress, the executive branch shall be given reasonable opportunity to testify and present evidence in executive session regarding the proposed action.

(c) Materials and information received from the executive branch in executive session of the joint committee or otherwise classified secret by the executive branch may be publicly released only upon adoption of the resolution specified in subparagraph (a) above and upon the adoption of a resolution permitting public disclosure adopted by a two-thirds vote of the membership of both the House and Senate, the debate on which shall be conducted in secret session, and the vote on which shall be in open session by recorded vote.

(d) Any Member of Congress who reveals any information in violation of the foregoing procedures may be censured or expelled by a two-third vote of the House or the Senate, as the case may be.

Recommendation No. 4: Agreements for the Handling of Classified Information

I recommend that any information furnished to the joint committee by the executive branch under an agreement with the joint committee for the handling of such information shall be binding in accordance with the terms of that agreement on the joint committee, on the House and Senate, and on each Member of Congress. Violation of the terms of the agreement shall be grounds for censure or expulsion by a two-thirds vote of the House or Senate, as the case may be.

Recommendation No. 5: Director of Central Intelligence

I recommend that a Director of Central Intelligence shall be established, separate from any of the operating intelligence agencies, for the purpose of coordinating and overseeing the foreign intelligence community. His purpose shall be to eliminate duplication in collection and promote competition in analysis.

(a) The DCI shall be appointed by the President with the advice and consent of the Senate.

(b) The DCI shall be the chief foreign intelligence officer of the United States, and shall be responsible for the supervision and control of all agencies of the United States engaged in foreign intelligence.

(c) The DCI shall be a member of the National Security Council.

(d) The DCI may not hold any other position, office or title in the U.S. Government.

(e) The DCI shall, along with such other duties, constitute an office of Inspector General for all of the foreign intelligence agencies, including all agencies of Government which have foreign intelligence functions. Such agency shall have the obligation to report all allegations of misconduct and/or unlawful activities to the DCI.

(f) The DCI shall be responsible for the national intelligence estimates and daily briefings of the President.

(g) The DCI shall be responsible for reporting to the Joint Committee on Intelligence and other appropriate committees of Congress.

(h) All budget requests which include funds for foreign intelligence or covert activities shall, insofar as such funds are concerned, be prepared in consultation with the DCI. Although the funds for foreign intelligence activities will continue to be budgeted in the respective agency budgets, the DCI shall be responsible to the joint committee for full reporting on the foreign intelligence and covert activities funding set forth in all agency budgets.

(i) The DCI shall coordinate the functions of all foreign intelligence agencies under his jurisdiction, shall eliminate unnecessary duplication, conduct periodic evaluation of the performance and efficiency of the agencies, and report to Congress on the foregoing at least annually.

Recommendation No. 6: Disclosures to Congress

I recommend that existing law (Sec. 102(d)3 of the National Security Act of 1947) which restricts officials of the executive branch from providing information be amended to specifically exclude from any such prohibition all committees of Congress having appropriate jurisdiction.

Recommendation No. 7: Assistant for National Security Affairs

I recommend that the Assistant to the President for National Security Affairs be prohibited from holding any other position, office or title in the U.S. Government.

Recommendation No. 8: News Media and Publications

(1) I recommend that U.S. foreign intelligence agencies be prohibited from covertly providing money or other valuable consideration to employees or full-time representatives of any journal or electronic media with general circulation in the United States, and prohibited from utilizing such individuals for purposes of cover; except that such prohibition shall not apply to the occasional or casual furnisher of news stories or articles to the news media.

(2) I recommend that the U.S. intelligence agencies be prohibited from the covert publication of books, articles or stories in any journals or electronic media with general circulation in the United States.

Recommendation No. 9: Classification

I recommend that the classification and declassification of information be the subject of specific legislation by the Congress.

Recommendation No. 10: Director of the FBI

I recommend that the Director of the FBI have a term of office of 5 years and that no director serve more than two 5-year terms.

Recommendation No. 11: Infiltration of Groups or Associations

I recommend that judicial warrant must issue, on probable cause, before an informant or any other agent of the FBI may infiltrate any domestic group or association, when (1) investigation of such group or association or its members is based solely on title 18 U.S.C. sec. 2383, 2384, 2385, and (2) there is no credible evidence that such group or association, or any person connected therewith has encouraged, advocated or suggested the use of violence, terrorists activities or other unlawful activity.

Recommendation No. 12: Study of Intelligence Operations of Foreign Nations

I recommend that the Joint Congressional Committee on Intelligence (or, in the absence of the creation of such a committee, the appropriate congressional committee or committees) promptly commence a detailed investigation and study of the intelligence operations of foreign nations, including, but not limited to the intelligence operations of the U.S.S.R. and the Peoples Republic of China, which investigation and inquiry shall include, but not be limited to, the following:

(a) The means by which intelligence is gathered relating to activities of the United States and its allies, both within and outside of the United States.

(b) The extent of valuable and/or critical intelligence information gathered by foreign nations from publicly available journals and documents.

(c) The methods employed by and the extent of success of foreign nations in the recruitment of American or allied nationals in espionage activities, and the methods employed by and the extent of success of foreign nations in infiltrating the U.S. Government or U.S. organizations, corporations, associations and groups.

DAVID C. TREEN.

 ALTERNATIVE RECOMMENDATIONS OF HON. ROBERT W. KASTEN, JR.

INTRODUCTION

Although I wholeheartedly support many of the recommendations proposed by the committee's majority, the majority proposals collectively do not accurately reflect my judgments concerning the reforms and improvements which should be made in the U.S. intelligence community.

To indicate specific points of agreement and disagreement, I have reproduced below the majority recommendations together with my own alternative or additional proposals. Language in the majority report with which I disagree has been stricken out; my alternative or additional language has been underscored.* In several instances, I have also added brief comments in brackets following the recommendation to which the comments refer.

A. A HOUSE COMMITTEE ON INTELLIGENCE

1. The select committee recommends that there be formed a [standing] *Joint* Committee on Intelligence of the House of Representatives and the Senate.

* GPO style, set in italic type.

a. The committee membership should reflect a broad representation of political and philosophical views.

b. The committee should consist of not more than 13 or less than nine members, designated by *the President pro tem of the Senate and the Speaker of the House* in consultation with the minority leader of each House. *The majority shall have one more than one-half of the members appointed from either House.*

c. No Member of the committee may serve more than 3 consecutive terms on the committee, and no member of the staff may serve more than 6 years.

d. Any past or current member of the committee staff who shall release, without authorization of the committee, materials or information obtained by the committee shall be immediately terminated from employment and shall be fully subject to criminal and civil action, notwithstanding legislative immunity.

e. The committee shall be vested with subpoena power and shall have the right to enforce by a proceeding for civil contempt its subpoenas in the U.S. District Court for the District of Columbia or any other court of competent jurisdiction, [without authorization] *if authorized* [from the House, provided the committee has so designated] by resolution. The committee staff shall be given statutory standing to represent the committee in any proceeding arising from the issuance of a subpoena.

f. The committee's jurisdiction shall include all legislative and oversight functions relating to all U.S. agencies and departments engaged in foreign or domestic intelligence. The committee shall have exclusive jurisdiction for budget authorization for all intelligence activities and exclusive jurisdiction for all covert action operations. All remaining oversight functions may be concurrent with other committees.

[NOTE: I am opposed to the creation of two oversight committees on intelligence: one in the House and one in the Senate. I favor instead the creation of a joint committee because it will reduce the burden on the DCI and intelligence officials of repeating testimony before committees with similar jurisdiction and also reduce the burden of Congress by having many members assigned to tasks which are duplicative. In addition, concentration of oversight in one joint committee would reduce the possibility of unauthorized disclosure of information and more importantly would help assure that problems would not "fall between two chairs" and be addressed by neither committee. The fact that each appropriations committee in reviewing the budget of the intelligence-gathering agencies would have an oversight function reduces the possibility that one joint committee would be co-opted by the intelligence agency.]

B. RELEASE OF INFORMATION

1. The select committee recommends that rule XI.2 (e) (2) of the House Rules is amended to read as follows:

"Each committee shall keep a complete record of all committee action which shall include a copy of all reports, statements, and testimony of witnesses whether received in open or in executive session."

[2. The Committee shall have the right to release any information or documents in its possession or control by a vote of a majority of the

Members of the Committee under such terms and conditions as the committee shall deem advisable. The Committee, in making the decision whether or not to release such information, shall have the right, but not the duty, to consult with other agencies of the government within the intelligence community or executive branch with regard to any decision relating to the release of such heretofore secret information.]

2. (a) *The Joint Committee on Intelligence may disclose any information upon the committee's determination that the national interest would be served by such disclosure. In any case in which such committee decides to disclose any information requested to be kept secret by the President, such committee shall notify the President to that effect. Such committee may not disclose such information until the expiration of 10 days following the day on which notice is transmitted to the President. If (1) prior to disclosure of such information the President submits a written certification to the Senate and the House through such committee stating his opinion, and the reasons therefor, that the threat to national security posed by such disclosure outweighs any public interest in disclosure and that the question of disclosure is of such importance to the vital interests of the United States that it requires a decision by the full Senate and the House of Representatives and (2) after receipt of a certification by the President made pursuant to this subsection, the Joint Committee on Intelligence decides to refer the question of disclosure of such information to the Senate and the House of Representatives, such information may not be disclosed unless the Senate and the House of Representatives agree to a resolution approving the disclosure of such information, or the Senate and the House of Representatives agree to a resolution referring the matter to the Joint Committee on Intelligence for final disposition and the Joint Committee on Intelligence thereafter approves the disclosure of such information.*

(b) *Any question referred to the Senate and the House of Representatives by the Joint Committee on Intelligence pursuant to subsection (a) shall be disposed of by the Senate and the House of Representatives by a vote on such question within 3 calendar days following the day on which the question is reported to the Senate and the House of Representatives excluding days on which the Senate and the House of Representatives are not in session.*

[3. In the event of a negative vote by the Committee on the release of certain classified information, a Member of the Committee may apprise the other Members of the House that the Committee possesses information which he believes ought to be made public. Other Members of the House would then be authorized to have access to that information, provided they sign an agreement not to divulge the information. If these other Members agree that this information ought to be made public, they will sign a petition attesting to that. Upon obtaining the signatures of one-fifth of the House, the House shall convene in secret session for the purpose of advising the entire Membership of the House of that information. The House may then vote to release the information to the public.]

3. [4.] The select committee recommends that the rules of the House be revised to provide that any member who reveals any classified information which jeopardizes the national security of the United States may be censured or expelled by a two-thirds vote of the House.

C. COVERT ACTION

1. The select committee recommends that all activities involving direct or indirect attempts to assassinate any individual [and all paramilitary activities] shall be prohibited except in time of war.

2. The select committee recommends that as to other covert action by any U.S. intelligence component, the following shall be required within 48 hours of [initial] approval *by the President*.

a. The Director of Central Intelligence shall notify the *joint committee* in writing, stating in detail the nature, extent, purpose, risks, likelihood of success, and costs of the operation.

[b. The President shall certify in writing to the Committee that such covert action operation is required to protect the national security of the United States.]

[c.] b. The committee shall be provided with duplicate originals of the written recommendations of each member of the 40 Committee or its successor.

3. *Reports on all* covert action operations shall be [terminated no later than 12 months from the date of affirmative recommendation by the 40 Committee or its successor.] *submitted every 6 months by the DCI, or as requested, to the joint committee.*

D. NSA

[1. The Select Committee recommends that the existence of the National Security Agency should be recognized by specific legislation and that such legislation provide for civilian control of NSA. Further, it is recommended that such legislation specifically define the role of NSA with reference to the monitoring of communications of Americans.]

1. The Director and the Deputy Director of the NSA shall be appointed by the President and confirmed by the Senate.

[E. DISCLOSURE OF BUDGET TOTALS]

[1. The Select Committee recommends that all intelligence related items be included as intelligence expenditures in the President's budget, and that there be disclosure of the total single sum budgeted for each agency involved in intelligence, or if such an item is a part or portion of the budget of another agency or department that it be separately identified as a single item.]

[F.] E. PROHIBITION OF FUND TRANSFERS

1. The select committee recommends there be appropriate legislation to prohibit any significant transfer of funds between agencies or departments in connection with intelligence activities.

2. The select committee recommends there be appropriate legislation to prohibit any significant reprogramming of funds within agencies or departments in connection with intelligence activities without the specific approval of the Intelligence Committee and appropriate committees of Congress.

3. The select committee recommends there be appropriate legislation to prohibit any significant expenditures of reserve or contin-

gency funds in connection with intelligence activities without specific approval of the Intelligence Committee and appropriate committees of Congress.

[G.] F. DIRECTOR OF CENTRAL INTELLIGENCE

1. The select committee recommends that a Director of Central Intelligence shall be created, separate from any of the operating or analytic intelligence agencies for the purpose of coordinating and overseeing the entire foreign intelligence community with a view to eliminating duplication in collection and promoting competition in analysis. The DCI shall be nominated by the President with the advice and consent of the Senate. This office shall have the following powers and duties:

a. The DCI shall be the chief foreign intelligence officer of the United States, and shall be responsible for the supervision and control of all agencies of the United States engaged in foreign intelligence, *including FBI counterintelligence.*

[b. The DCI shall be a Member of the National Security Council.]

[c.] b. The DCI may not hold a position or title with respect to any other agencies of government.

[c. d.] The DCI shall, along with such other duties, constitute an Office of Inspector General for all of the foreign intelligence agencies, including other agencies of government or branches of the military which have foreign intelligence functions. Such agencies shall have the obligation to report all instances of misconduct to the DCI. This shall not constitute a limitation upon the respective agencies reporting to the DCI from maintaining their own Inspector General staff or similar body.]

d. The DCI shall have an adequate staff for the purposes expressed herein and be responsible for the national intelligence estimates and daily briefings of the President.

e. The DCI shall be responsible for the preparation of the national intelligence estimates and such reports shall be immediately supplied to the appropriate committees of Congress on request.

f. All budget requests shall be prepared by the agencies under the jurisdiction of the DCI. As to those parts of budget of the military services or components of Department of Defense, they shall be submitted as an independent part of such budgets to the DCI.

g. The DCI shall be charged with the functions of coordinating foreign intelligence agencies under its jurisdiction, the elimination of duplication, the periodic evaluation of the performance and efficiency of the agencies in question, and shall report to Congress on the foregoing at least annually.

h. The DCI shall conduct a comprehensive inquiry into the causes of intelligence failures, including: inadequate collection tasking; analytical bias; duplication; unusable technical output; excessive compartmentation; and withholding of information by senior officials, and report to the Committee on Intelligence within 1 year.

i. The President's Foreign Intelligence Advisory Board (PFIAB) should be created by statute as an oversight and advisory board whose mission would be to oversee and advise on the direction, guidance and control of the intelligence community through the authority of the DCI who would also serve as chairman of the PFIAB.

The DCI would have overall authority and responsibility for making recommendations to the National Security Council on any intelligence related matter. 50 U.S.C. sec. 403(d)(1)(2) would be deleted from the statutory authority of the CIA and transferred to the DCI as chairman of the PFIAB:

(d) For the purpose of coordinating the intelligence activities of the several Government departments and agencies in the interest of national security, it shall be the duty of the DCI under direction of the National Security Council—

(1) to advise the National Security Council in matters concerning such intelligence activities of the Government departments and agencies as relate to national security;

(2) to make recommendations to the National Security Council for the coordination of such intelligence activities of the departments and agencies of the Government as related to the national security.

[NOTE: In essence, the PFIAB Chairman/DCI would become the Nation's principal foreign intelligence officer, with authority over intelligence community budgets and resources, with independence from CIA institutional affiliation, and with right of direct access to the President as well as being statutory advisor to the National Security Council.

The President's Foreign Intelligence Advisory Board—a prestigious board of private citizens acting in coordinated capacity with their chairman, the DCI, would enable the nation to benefit from the exceptional knowledge and experience of its private citizens who would exercise both an oversight and advisory role on sensitive intelligence matters.]

[H.] G. FULL GAO AUDIT AUTHORITY

1. The select committee recommends that the General Accounting Office be empowered to conduct a full and complete management as well as financial audit of all intelligence agencies. There shall be no limitation on the GAO in the performance of these functions by an executive classification system, and the audit function of GAO shall specifically apply to those funds which presently may be expended on certification of a Director of an agency alone.

[I. INTERNAL FINANCIAL MANAGEMENT]

[1. The Select Committee recommends that the CIA internal audit staff be increased and given complete access to CIA financial records, and that overseas stations be audited at least annually.] It is further recommended that all proprietary and procurement mechanisms be subjected to annual comprehensive review, by the [CIA's internal audit staff.] GAO.

[J.] H. FULL DISCLOSURE TO CONGRESS

1. The select committee recommends that existing legislation (National Security Act of 1947, sec. 102(d)(3)) restricting the Directors and heads of foreign intelligence agencies from providing full information to Congress should be amended to exclude [Committees of Congress having appropriate jurisdiction.] *the Joint Committee on*

Intelligence; Provided that they, in accordance with the DCI's statutory duty to protect sources and methods, could withhold the names of agents, sources and methods of intelligence from such committee.

[K.] I. NEW FOREIGN OPERATIONS SUBCOMMITTEE OF NSC

1. The select committee recommends that the National Security Act of 1947 be amended to provide for the establishment of a permanent Foreign Operations Subcommittee of the National Security Council. The subcommittee's jurisdiction, function and composition shall be as follows:

[a.] The Subcommittee shall have jurisdiction over all authorized activities of U.S. foreign intelligence agencies except those solely related to the gathering of intelligence.

b. The subcommittee shall advise the President on all proposed covert or clandestine **[activities]** operations and on hazardous collecting activities.

c. Each member of the subcommittee shall be required **[by law]** to submit his individual assessments of each proposal to the President in writing. The assessment should cover such matters as the likelihood of success, the benefits of success, the damage resulting from failure or exposure, the risks against the potential benefits and alternate ways of accomplishing the goal.

d. The subcommittee shall be chaired by the Assistant to the President for National Security Affairs and shall be composed of:

Assistant to the President for National Security Affairs;
 Director of Central Intelligence;
 Secretary of State;
 Secretary of Defense;
 Deputy Director for Intelligence of CIA;
 Chairman of the Joint Chiefs of Staff;
[The ambassador(s), if there is one, and]
*The assistant secretaries of state for the **[affected countries and areas.]** region affected.*

[L.] J. DEFENSE INTELLIGENCE AGENCY

1. The select committee recommends that the Defense Intelligence Agency be abolished and that its functions be transferred to **[the Assistant Secretary of Defense for Intelligence and the CIA.]** *J-2 of the Joint Chiefs of Staff.*

[M.] K. DETAILEES

1. The select committee recommends that intelligence agencies disclose the affiliation of employees on detail to other government agencies or departments to all immediate colleagues and superiors *and to the director of such department or agency.*

[N.] L. ASSISTANT FOR NATIONAL SECURITY AFFAIRS

1. The select committee recommends that the Assistant to the President for National Security Affairs be prohibited from holding any cabinet-level position.

[O.] M. RESTRICTIONS ON POLICE TRAINING AND RELATIONSHIPS

1. The select committee recommends that no agency of the United States engaged principally in foreign or military intelligence, directly or indirectly engage in the training or the supplying of domestic police agencies of the United States, and that contacts between police agencies of the United States and U.S. foreign or military intelligence agencies be limited to those circumstances which shall be required on account of internal security or the normal requirements and functions of such police agencies.

[P.] N. MEDIA, [RELIGION, AND EDUCATION]

1. The select committee recommends that U.S. intelligence agencies not covertly provide money or other valuable consideration [to persons associated with religious or educational institutions, or] to employees or representatives of any journal or electronic media with general circulation in the United States or use such institutions or individuals for purposes of cover. The foregoing prohibitions are intended to apply to American citizens and institutions.

2. The select committee further recommends that U.S. intelligence agencies not covertly publish books or articles or plant [or suppress] stories in any journals or electronic media with general circulation in the United States.

3. *In the event that an employee of an intelligence agency publishes a book or article he shall be identified in the publication as an employee of such agency.*

[Q. RESTRICTIONS ON MILITARY INTELLIGENCE]

[1. The Select Committee recommends that the intelligence components of the Armed Services of the United States be prohibited from engaging in covert action within the United States. It is further recommended that clandestine activities against non-military United States citizens abroad be proscribed.]

[R.] O. CLASSIFICATION

1. The select committee recommends that the classification of information be the subject of the enactment of specific legislation; and further, as an adjunct to such legislation there by provided a method of regular declassification.

[S.] P. INSPECTOR GENERAL FOR INTELLIGENCE

1. The select committee recommends the establishment of an independent Office of the Inspector General for Intelligence, who shall have full authority to investigate any possible or potential misconduct on the part of the various intelligence agencies or the personnel therein. The IGI shall be appointed by the President, with the approval of the Senate, for a term of 10 years and shall not be permitted to succeed himself. The IGI shall have full access on demand to all records and personnel of the intelligence agencies for the purpose of pursuing his investigations. He shall make an annual report to the Congress of his activities and make such additional reports to the

intelligence committees or other appropriate oversight committees as he may choose or the committees may direct.

[T. DOMESTIC]

【1. The Select Committee recommends that judicial warrant must issue, on probable cause, before an informant or any other agent of the FBI may infiltrate any domestic group or association, when investigation of such group or association or its members is based solely on title 18 U.S.C. § 2383, 2384, 2385.

【2. The select committee recommends that the Director of the FBI have a term of office no longer than 2 presidential terms.

【3. The select committee recommends that the Internal Security Branch of the Intelligence Division be abolished and that the Counter-Intelligence Branch be reorganized to constitute a full division named the Counter-Intelligence Division; that the mission of this division be limited to investigating and countering the efforts of foreign directed groups and individuals against the United States.

【4. The select committee recommends the transfer of all investigations of alleged criminal activity by domestic groups or individual members thereof to the General Investigative Division.

【5. The select committee recommends that regulations be promulgated that tie the investigation of activities of terrorist groups closely to specific violations of criminal law within the investigative jurisdiction of the FBI and that charge the Department of Justice with determining when a domestic political action group may be appropriately targeted for investigation of terrorist activities.】

CONCLUSION

As these recommendations indicate, my service on the select committee has convinced me that reforms are necessary to improve the organization, performance, and control of the U.S. intelligence community. At the same time, the experience of the past months has again confirmed my understanding of how important an effective intelligence capability is to the future security of the American people. Intelligence officials can and must operate in a manner consistent with the individual rights and liberties guaranteed by the Constitution. These protections must be guaranteed, but so must the right of the American people to live in security and peace. It is both possible and essential for the intelligence agencies to perform their responsibilities effectively, and by means which protect both individual rights and national security.

At a minimum, the intelligence community must regain the trust and confidence of the people whom it serves. It is tragic that it was necessary to establish this committee to inquire into the activities of agencies on which we depend so heavily for our security. But it would be even more tragic if the results of our investigation were now to be ignored. Implementing the recommendations I have proposed will contribute significantly to ensuring that there will be no need for another such committee to be established in the future. Both Congress and the American people must recognize the need to complete the task which we have only begun.

○
ROBERT W. KASTEN, Jr.