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CIA STATEMENT

Release of BNL-related Report

This morning the Acting Director of Central Intelligence released an unclassified summary of the final report of the investigation by the Office of Inspector General into CIA's handling of BNL-related matters. He also released the Decision Memorandum prepared by former Director Robert M. Gates on the Inspector General's report.

The CIA's Inspector General found no evidence of deliberate withholding of information or wrongdoing by any Agency employee in connection with the BNL case.

As in the case of the report on BNL released on 5 February by the Senate Select Committee on Intelligence (SSCI), the Inspector General's report raises a number of issues about the internal functioning of the Agency and about the relationship between intelligence, the law enforcement agencies, the courts, and the Congress. Work is underway to implement the recommendations in the Inspector General's BNL report approved by former Director Gates.

ER 93-0981

19 January 1993

MEMORANDUM FOR: Inspector General

FROM: Director of Central Intelligence

SUBJECT: BNL Investigation

1. I have carefully read the Inspector General's "Report of the Investigation of CIA's Handling of BNL-Related Matters." I have also read the voluminous comments from all affected components and individuals, each of them critical of the Report and citing either IG inaccuracies or misinterpretations, extenuating circumstances with respect to its own actions, and, in some cases, alleging distortions by the investigating team itself. The Report has kindled finger-pointing among affected components and between individuals. Against this turbulent backdrop, I feel compelled to act upon the IG Report, even at the very end of my tenure as DCI, because I commissioned the investigation and many of the events occurred on my watch.

2. I accept the Conclusions and Recommendations sections of the Report, subject to the observations below.

3. Insufficient Coordination Within the Agency (pp.). I accept the characterization and conclusions of the report, particularly with respect to the September 4 and 17 letters to Justice, the Gonzalez Summary, DO Information, and Additional Public Statements. I also accept the basic conclusion that the letters to Agriculture received insufficient review and coordination, although I believe that the Report should have given more weight in addressing the letters to the systemic problem (underscored by the Report with respect to the Gonzalez Summary) of the inadequacy of "normal" DI practices and analytical characterizations when applied in legal or regulatory matters.

4. Bias Against Full Disclosure of Relevant Information (pp.). I agree with the IG. However, CIA's record in this area has been steadily improving, especially with respect to Congressional inquiries and questions. Where there are problems I believe they are due to a variety of factors -- all of which must be addressed and/or performance corrected or improved, including (as the IG notes) concern for sources and methods, lack of adequate document retrieval (also noted by the IG), workload, inadequate coordination and

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communication of needs or requirements. Where there is any sign of willful intent not to be fully responsive to Congressional, Court or other official inquiries (subject only to protection of sources and methods), those involved should be disciplined. The IG is right -- CIA must do better in this area.

5. Management Oversight/Inadequate Staff Work (pp.

I accept the overall conclusions of the IG, except that I believe the report does not adequately reflect the efforts by OGC beginning on 16 September to get to Judge Shoob to explain CIA's documents (although given my repeated expressions of interest in getting someone from CIA to Atlanta, I should have been asked to call the Attorney General).

6. Inadequate Congressional Liaison (p.). I agree

with the IG, even though OCA's explanation of the countervailing considerations has some merit. A direct approach to Chairman Gonzalez or his senior staff on the Summary, with all the risks, should have been given more serious thought.

7. Systemic Issues (pp.). I agree with the IG.

8. Failure to Meet Professional Standards (p.). See below.

Recommendations

9. The IG has made 10 recommendations. I concur without reservation on all of the first nine. Specifically, as numbered in the Report:

(1) The Executive Director should establish a standing senior group responsible for coordinating, overseeing, and ensuring accountability for developing situations that, in the judgment of any member of the group, merit senior-level, focused attention in order to avoid the manifold problems that surrounded CIA handling of BNL. The current BNL task force should serve as a model.

(2) OCA should prepare and submit as part of the FY 94 legislative program a proposed amendment to the National Security Act of 1947, as amended, that would make clear that no provision of that Act or any other law shall preclude CIA or other parts of the U.S. Intelligence

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Community from sharing with Justice, or any other federal law enforcement agency, information acquired or maintained by CIA that is evidence of or relevant to a possible violation of federal law.

(3) The Executive Director should establish a task force to develop guidance, in coordination with Justice, that will clearly define when--if ever, under what circumstances, and the extent to which federal law enforcement agencies may task CIA, within the bounds of law and its responsibilities as a foreign intelligence agency, to collect information relating to potential or ongoing federal criminal investigations and prosecutions. Such guidance should be incorporated in Agency regulations and appropriate training courses. The task force also should determine whether to pursue with Justice and others the question of the need for new legislation in this area.

(4) The Executive Director should establish a task force headed by a senior DI or DO official to make specific proposals for developing working relationships with law enforcement personnel comparable to those shared with defense, foreign policy and other intelligence agency personnel.

(5) All components, but especially OGC, OCA and OPAI, must ensure that any Agency materials or statements destined for Justice, Congress or the Courts be subject to full and thorough coordination within the Agency and be complete and accurate.

(6) All communications to Congress that require analytical input should be tasked formally through appropriate DI management channels.

(7) The Agency, as a rule, should not comment publicly on matters under internal and external investigation. Any exceptions must be approved by the DCI.

(8) All Agency components, but especially the DDI, DDO, General Counsel and D/OCA, must ensure that any characterizations of Agency information produced by their components are accurate and not misleading or subject to misinterpretation.

(9) My previous decisions on the IG inspection of the DO information management system are reaffirmed.

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10. The IG's tenth and last recommendation suggests that I should "consider" disciplinary actions against four individuals. I have given this recommendation long and careful thought. In the last fourteen months, I have tried to enhance and encourage accountability, full and forthcoming responses to Congress and strict adherence to procedure and process. I have concurred in every prior IG recommendation for disciplinary measures, referrals to the Department of Justice, and remedial actions. On occasion, my decisions have been more harsh than recommended by the IG. Thus, I have taken most seriously the IG recommendation in this case for unspecified disciplinary measures, which was, after all, pursuant to my own original instruction to the IG.

11. There are mitigating circumstances or differences of view advanced in comments on the Report by virtually everyone who was involved -- OGC, OCA, OPAL, DI, and DO. I find some of the comments persuasive, though not necessarily fully exculpatory. For example,

-- OGC did make a serious effort to get to Judge Shoob beginning on 16 September. Indeed, he rejected one overture for a meeting on 23 September. And, absent a CIPA process, OGC was prohibited from approaching the Judge except through Justice.

-- The DI's approach to drafting its views is an outgrowth of 40 years of supporting policymaking. Terms and style congenial to that purpose are not adequate or appropriate to legal proceedings and are easily subject to misinterpretation, as is apparent from the analytic comment on the Gonzalez Summary.

-- The General Counsel tried for some time prior to September to promote better intra-Agency coordination on BNL, an effort not credited in the IG Report.

-- No supervisor can realistically double-check or independently validate the work of all his or her employees. We must ask if the right bases have been touched, if there has been proper coordination, and if the specialist (lawyer or analyst) is confident of or comfortable with his or her conclusions, but rarely is there time in the real world of decision-making to do more.

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-- The Gonzalez Summary did play an important role in the confusion of September, and OGC was unaware of the existence of the analytic comments on the Summary until very late.

-- OGC's explanation of its management of the BNL "account" is reasonable, though in hindsight perhaps the arrangement was inadequate.

12. To conclude, the IG investigation produced no evidence of intentional misconduct or misfeasance, malfeasance, or willful intent not to be responsive. There is no indication from the IG or the many pages of comments that anyone had base motives or was trying to do anything but a good job. Yet, no one in CIA has anything to be proud of in this case. Mistakes clearly were made, and there was carelessness and a number of instances of poor judgment. At the same time, the IG report documents in great detail that the Agency's mishandling of BNL last fall was the result of many factors, especially the lack of an adequate dialogue between CIA and Justice; the lack of procedures to ensure proper Agency handling of this case; flawed performances by many individuals; the failure to surface problems at a high enough level and early enough, which allowed problems to fester and compound one another; and the failure of a number of managers to see this "train wreck" coming prior to late September and to act. It was the aggregate effect and interplay of a variety of systemic, procedural and personal shortcomings that produced the poor results.

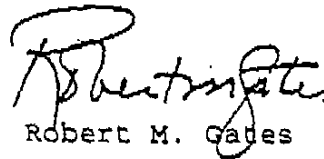
13. Thus, I believe it would be unfair to single out a few people in any one component for discipline when there were many contributors and when, as the Report makes very clear, serious procedural and systemic problems played a large role. The individuals involved in all components, and all managers have, I believe, learned important lessons. My approval of all of the IG's other recommendations will, I hope, ensure that these systemic, procedural, and cultural problems will be corrected and, in so doing, ensure an effective CIA response in the future to the new challenge of support to law enforcement.

14. My thanks to the IG and his team for carrying out a tough assignment with a tough deadline. This thorough Report and its recommendations provide a sound basis for remedial action.

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15. The IG Report should be shown in its entirety to the two Intelligence Committees, but it must be accompanied by this decision memorandum. The Committees should also be told that component comments also are available for their review.

16. I believe the new DCI or the Acting DCI should release a declassified version of the Conclusions of the Report (not the Executive Summary, which I find inadequate), together with this decision memorandum. Prior to release of the Conclusions, all names and identifying titles should be deleted with component references substituted. I defer to the new DCI or Acting DCI as to the timing of any public release.


Robert M. Gates

cc: DDCI
EXDIR
DDI
DDO
General Counsel
D/OCA
D/PAI

14 January 1993

**UNCLASSIFIED SUMMARY¹ OF THE FINAL REPORT
OF THE
OFFICE OF INSPECTOR GENERAL
INVESTIGATION OF
CIA's HANDLING OF BNL-RELATED MATTERS**

SUMMARY

1. On October 7, 1992, in the wake of Congressional concern over CIA's handling of information relating to the Banca Nazionale del Lavoro (BNL) bank scandal, the Director of Central Intelligence (DCI) directed that the Inspector General (IG) undertake on an urgent basis an investigation of CIA's handling of BNL-related matters with respect to the Department of Justice (DoJ), the Federal District Court in Atlanta, Congressional inquiries, and other related matters.² The focus of the investigation was to be on CIA, not DoJ or any other governmental entity, and its purpose was to determine the reasons for perceived shortcomings in CIA's responses, to determine whether disciplinary measures are warranted, and to recommend changes in procedures that will prevent a recurrence.

2. Since the August 1989 Federal Bureau of Investigation (FBI) raid on BNL-Atlanta, CIA has provided intelligence regarding BNL to DoJ and the FBI in response to requests for information in connection with their investigation and prosecution of Christopher Drogoul, manager of BNL's branch in Atlanta (BNL-Atlanta). That prosecution involves fraudulent activities directed at federal bank regulators and the headquarters of BNL in Rome (BNL-Rome) in connection with loans made to Iraq. CIA intelligence collection efforts focused primarily on Iraqi procurement efforts abroad, not BNL-Atlanta, although some intelligence was incidentally acquired regarding the Atlanta branch. The intelligence reports that were provided to DoJ and the FBI included information regarding BNL matters that was collected in the course of pursuing CIA's foreign intelligence collection requirements.

¹ This is a summary of the full classified report on BNL. The text has been shortened considerably and some changes and additions have been made for purposes of clarity.

² In addition to the DCI's request for this investigation, he also directed the Inspector General to conduct an inspection of the entire records system of the Agency's Directorate of Operations.

3. No evidence was found in this investigation to indicate that any CIA officer intentionally withheld any information concerning BNL from DoJ, the office of the United States Attorney in Atlanta that was prosecuting the BNL case, or the Federal District Court in Atlanta for the purpose of obstructing or preventing the progress of the BNL-Atlanta prosecution or to protect CIA, its employees, sources, or any foreign officials or governments from being implicated in that prosecution. Although a few reports were not disseminated outside the Agency, the decisions not to disseminate them were based upon routine intelligence judgments and reasonable determinations that the information they contained was marginal or generally reflected information that was not unique but available in the open press at the time.

4. Congressman Henry Gonzalez, Chairman of the House Banking, Finance and Urban Affairs Committee, was given summaries of CIA intelligence reports accompanied by analytical comments that led him to conclude that CIA had information confirming that BNL-Rome knew of illegal lending activity by BNL-Atlanta. In fact, the intelligence reporting on which this analysis was based does not support such a definitive conclusion.

5. During late 1989 and 1990, CIA obtained a limited amount of information that related to the issue of whether BNL-Rome knew during 1988 and 1989 of the activities of BNL-Atlanta that later became the subject of DoJ's investigation and prosecution. Almost all of this information was shared with DoJ as early as October 1990. It appears that some of the information in these CIA reports is based on public media reports, hearsay, or mere conjecture on the part of CIA contacts and sources. All of the information in the reports was not fully evaluated, only reflects what CIA officers were told by others and did not represent Agency conclusions that the information in the reports is accurate. None of the information available to CIA establishes that BNL-Rome did know of the activities of BNL-Atlanta that later became the subject of DoJ's investigation and prosecution. Further, as is clear from Judge Lacey's description of other information that was available to DoJ at the time, much similar information had been obtained from other sources, considered carefully, and discounted by the U.S. Attorney in Atlanta in the course of the DoJ investigation of the BNL matter. Nonetheless, several of the CIA reports clearly contain indications that BNL-Rome may have been aware of BNL-Atlanta's actions.

6. In retrospect, mistakes clearly were made by Agency officers in their handling of events related to the BNL matter, and there was carelessness and a number of instances of poor judgment. CIA's mishandling of its role in the BNL matter last fall was the result of many factors, especially the lack of an adequate dialogue between CIA and Justice; the lack of procedures to ensure proper Agency handling of this case; flawed performances by many individuals; the failure to surface problems at a high enough level and early enough; and the failure of a number of managers to see this "train wreck" coming prior to late

September and to act. It was the aggregate effect and interplay of a variety of systemic, procedural and personal shortcomings that produced the poor results. These shortcomings are described in further detail below.

CONCLUSIONS

INSUFFICIENT COORDINATION WITHIN THE AGENCY

7. Insufficient coordination between Agency components retrieving, interpreting, describing, and sharing information relating to BNL was largely responsible for the allegation that CIA support to DoJ's prosecution in Atlanta was inadequate, obstructionist, or part of some broader conspiracy to suppress information.

a. **September 4 and 17 Letters to DoJ**--These two letters, the first classified and the second unclassified, were written by the Office of General Counsel (OGC) in response to DoJ requests and created the impression, in their responses to Question 8, that CIA information regarding BNL-Rome knowledge of BNL-Atlanta activities was based solely on unclassified media sources. These letters represented a pattern of inadequate coordination within the Agency of statements destined for external sources. OGC cannot document any formal coordination of those letters before they left the Agency. There was some discussion of the substance of the answers in the September 4 letter with officials in CIA's Directorate of Operations (DO) and Directorate of Intelligence (DI). However, the content of the September 17 letter, which was destined for public consumption, was discussed only with DoJ. OGC's failure to coordinate the answers to the September 4 letter, compounded by a more egregious failure when those answers were again not coordinated and were repeated in the September 17 letter, resulted in the release of an incomplete and misleading Agency statement about CIA's knowledge of BNL.

b. **Gonzalez Summary**--As part of a summary of Agency documents, Chairman Gonzalez was provided CIA analytical comments that led him to conclude that CIA had information confirming that BNL-Rome knew of the lending activities of BNL-Atlanta for which Christopher Drogoul was being prosecuted. This summary was an attempt by the Agency to comply with a legitimate Congressional request, and at the same time protect DO operational information. According to a DO officer who worked on the Summary, the DO also wanted to avoid the provision of misleading information to the House. Despite these good intentions, however, a lack of review, absence of central direction and insufficient coordination resulted in a misleading product that prompted widespread public controversy, criticism of the Agency's performance and suspicion of its motives. A number of Agency components--DO, OGC, DI and the Office of Congressional Affairs (OCA) had some involvement in the development of the Gonzalez Summary. However, no central point of coordination was established, and too little substantive

discussion occurred between components regarding the accuracy of the Summary, particularly with regard to the analytical comments that were added by the DI. The comments were not treated as a "finished" DI intelligence product that would have required a higher level of coordination. Normally when such products are intended to go to Congress, they are required to be reviewed by DI management and other DI components. A DI supervisor, who did not recall seeing the analytical comments, was of the opinion that the release of the comments was probably not the best approach in this situation. When the Gonzalez Summary and its analytical comments were returned to the DO, copies were furnished to the DO and OCA. However, there was a failure by the DO and OCA to ensure that OGC saw the document with the analytical comments. Given OGC's well known reporting obligations to DoJ relating to the BNL prosecution, this was a major shortcoming. The result was that DoJ and OGC were caught completely by surprise when the information was made public by Chairman Gonzalez on September 14, 1992. In DoJ's eyes, the CIA, not an individual analyst, had adopted a formal position that appeared to be inconsistent with the premise of the BNL prosecution and with what OGC had advised DoJ previously.

c. **DI and OGC's Letters to Agriculture**--An August 1992 letter from OGC and a declassified January 1990 DI letter, both sent to the Department of Agriculture, created the impression that certain CIA information regarding BNL was based only on unclassified media sources. The OGC letter was emblematic of the insufficient attention to detail and lack of coordination regarding information leaving the Agency that typified the actions of those involved in the BNL matter. While the accounts of those involved in the development of the OGC letter indicate that some degree of discussion did take place in connection with the response, the lack of clarity in their collective recollections indicates a serious lapse in the degree of care that was given at the time to its accuracy. No indication was found that OGC discussed the letter's contents with the DI. The senior OGC officer who signed the letter does not recall the circumstances surrounding the letter and assumed it had been properly coordinated. An OGC attorney who drafted the letter recalls that he contacted the DI to determine the source of the "additional information" cited in the DI's January letter and was told it was the *Financial Times*. However, the DI officer contacted claims that the OGC attorney is mistaken and this discussion could not have occurred since the DI officer was on vacation at the time. The OGC attorney admits to the possibility that he spoke to someone other than the DI officer but does not know who this could have been. The DI analyst who drafted the DI letter says that, if the OGC attorney had raised the matter, he would have been advised that the statement contained in the DI letter regarding information as to BNL-Rome's knowledge of BNL-Atlanta's activities probably was not based solely on press reports. The OGC attorney cannot

recall who else in OGC reviewed the draft of the letter prior to his submitting it for signature. The attorney's immediate supervisor originally did not recall anything about the August letter but now says he was present when the senior OGC officer signed it. Although the January 1990 DI letter was properly coordinated for declassification, it appears the OGC letter to the Department of Agriculture was produced without sufficient attention to the questions it was answering and their significance to the BNL case. Thus, in August 1992, inaccurate statements were made in OGC's letter to Agriculture due to insufficient review and coordination. These errors were later compounded and magnified when OGC developed its response to Question 8 of the September 1 DoJ request.

d. **DO Information**--It is apparent that OGC and DO personnel did not communicate adequately throughout the course of this case in terms of the objectives and potential adverse consequences of responses to requests to review and retrieve operational information. Although in the main there was good documentation of formal requests, there also were instances where communication on substantive issues was too informal and was never recorded. Under the circumstances and requirements that were extant at the time, the DO search would appear adequate. However, given the requirements of civil and criminal litigation made obvious by BNL and other cases, it is now apparent that these standards were not adequate. In response to the first OGC request for BNL information in August 1990, for example, the DO conducted a standard search of what the DO considers its official records system. Although costly and labor intensive, a search of existing electronic messages would have produced additional information from outside that system, which is normally searched in response to internal and external requests. There was no dialogue between OGC and DO personnel at the time of the DoJ requests regarding a requirement to search outside that system. Nor does there appear to have been any attempt to coordinate a search of other data collections, used primarily for operational support, that could possibly have contained related information. (See, also, paragraph 10 below for systemic issues regarding the DO records system.) Two years later, in the midst of a damaging public controversy, these other retrieval possibilities were pursued and extraordinary measures added. Customized full-text searches using several hundred new and revised search terms were made of the existing collection of electronic messages. Over 100 DO personnel were employed in reviewing this output and in searching other data collections, most of which are manual.

e. **Additional Public Statements**--The October 10, 1992, public statement commenting on previous testimony by CIA officials before the SSCI was not properly coordinated and was not consistent with CIA's institutional interests. The Agency would be better served by returning to

a strict policy of not publicly commenting on matters that are under investigation by the Executive, Legislative, or Judicial Branches or in litigation. Agency management must exert greater restraint in submitting to urges to cure the public record and rush to favorable judgments. This is, after all, an intelligence agency, and an internal policy of openness to employees must not blur the wisdom of avoiding word-for-word exchanges with the media on matters where the Agency is handicapped by its inability to place all relevant information in the public domain.

BIAS AGAINST FULL DISCLOSURE OF RELEVANT INFORMATION

8. The Agency has a general bias against disclosing all relevant information in response to legitimate requests from DoJ and other Federal agencies. This was particularly evident in the DO responses to particular requests for information pertaining to certain individuals and firms. In each of these cases, the responses provided, while true, were too restrictive to give the reader an accurate understanding of the nature of the Agency's relationship with the individuals or the extent of its knowledge of the entities. The responses provided to the SSCI on November 5, 1992 concerning some of these same individuals and firms were more thorough and reflective of what should be provided to legitimate requesters. Adopting a policy that all relevant information should be disclosed in response to proper requests from federal authorities, unless there is a legal basis to withhold information and a need to do so, would limit the opportunities for misleading or incomplete responses and provide adequate basis for protecting intelligence sources and methods.

MANAGEMENT OVERSIGHT/INADEQUATE STAFF WORK

9. Insufficient supervision and poor staff work characterized the Agency's handling of BNL issues. Senior managers correctly expected to be kept abreast of significant developments by subordinates. On the other hand, they must also assume final responsibility for the failures of those subordinates, especially when the managers did not make the effort necessary to scrutinize their work properly. Managers and their subordinates at all levels in the components working on BNL-related matters, particularly in OGC, were slow to recognize the inadequacies of the Agency's responses to DoJ and the Atlanta prosecution, and were not sufficiently alert to the growing significance of the BNL case itself. Many commented that BNL was not a major item for them at the time. However, by September 1992, a significant amount of Agency effort, Congressional interest and media attention had been devoted to Iraqi procurement and the BNL issue for more than a year. Yet, there seems to have been no instance in late summer 1992 when any senior Agency manager saw the need to undertake a complete review of how these matters were being handled.

a. **September 17 Letter to DoJ.** The September 17 letter to DoJ troubled almost everyone who knew about it, but no one was

uncomfortable enough to take corrective action. An OGC supervisor was sufficiently bothered that he expressed his concerns to his supervisor and called DOJ to discuss the answer to Question 8 but did nothing to correct it despite the fact that he was personally aware that similar language was being opposed strongly in the context of a draft public statement for DOJ. Yet, despite their expressed doubts about the wisdom of such an answer, OGC yielded to its interest in satisfying DOJ, citing as further justification a perceived interest in not changing the original mischaracterization that had been made in the September 4 letter. Those involved in the production and review of this letter exercised poor judgment and failed in their responsibility to protect the Agency's credibility.

b. **Poor Communication With Atlanta.** In September and October 1992, OGC failed to exercise sufficient effort to make direct contact with the Atlanta prosecutors and Judge Shoob in order to clarify the Agency documents the Court had received. It was obvious to all concerned that the prosecutors and the Judge were having difficulty interpreting the Agency's information and harmonizing it with the theory of the prosecution. Yet, after initiating dialogue with other Agency components regarding the need for a trip to Atlanta and being directed by the DCI to make the trip, OGC management failed to follow through and ensure that there was no confusion as to the meaning of the Agency's materials. Although OGC attorneys made several efforts to include a CIPA proceeding as part of the Drogoul sentencing hearing, these efforts were inadequate. The law requires that only DOJ may represent the U.S. in litigation in which the U.S. or a federal agency is a party and it is not suggested that OGC should have approached the Judge unilaterally. However, under the circumstances, it was incumbent on OGC to take whatever steps necessary, including seeking a call from the DCI to the Attorney General, to ensure that Judge Shoob was briefed on the CIA information. This is especially so because OGC had sent out the incomplete September 17 letter based on the rationale that the answers would be explained to Judge Shoob. Once that unclassified letter went out in the form that it did, it was absolutely essential that Judge Shoob have the benefit of the Agency's explanation of it as soon as he received it and the Agency documents. Otherwise the Agency's credibility would clearly be called into question, as in fact happened. OGC management also failed to ensure a rapid response to written queries from the Court and Acting U.S. Attorney for explication of CIA documents or to provide any explanation to the Court after the Drogoul plea was withdrawn. While it may be argued that further efforts by OGC were not requested or favored by DOJ or the U.S. Attorney's Office, the Agency cannot afford to submit so quickly to the preferences of other agencies when its own interests are at risk.

c. **September 4 Letter to DoJ.** There was a lack of oversight and supervision by OGC managers in the approval and transmittal to DoJ of the answer to Question 8 in the September 4 letter. This answer allowed DoJ and the Court in Atlanta to misconstrue the nature and extent of Agency information. While OGC argues that the extremely narrow answer to Question 8 was appropriate in the context of what was already known to DoJ, the answer simply should not have been sent as written. Such a fine legal perspective does not adequately consider the interests of the Agency in ensuring clarity and precision in official Agency statements and does not excuse the failure of the Agency's legal representatives to protect those interests. Finally, the responses in the letter concerning certain individuals should have been more complete.

d. **Gonzalez Summary.** CIA had good intentions in providing the Summary in the first place. Sufficient care was not taken, however, to ensure that the analytical comments it contained were accurate. Essentially, those analytical comments were overstated by a poor choice of words and were based only on the reports referred by the State Department and not on a review of all relevant CIA reporting. The Summary and the analytical comments that were added were subjected to only cursory review in the DI and OCA before being provided to the Chairman's staff. Considering that the Summary was being provided to the Chairman of a standing House Committee with jurisdiction in the matter, it should have commanded the attention and review accorded by the DI to any significant finished intelligence product. Within OCA, it should have been reviewed by the Director or Deputy Director. Also, the DO and OCA should have ensured that OGC was aware of the analytical comments.

e. **September 21 Meeting At DoJ.** Agency employees at the September 21 meeting effectively countermanded a decision by the Agency's most senior officers in crafting a statement they deemed most appropriate for use by DoJ. Agency officers attending this meeting failed to consult with their superiors and gave the Agency's imprimatur to the public statement to be used by Acting U.S. Attorney Brill in court. The DI analysts present effectively modified the analytical comments that had been provided to Congress without any official acknowledgment, correction, or adjustment within the Agency. While DoJ officials at the meeting did not exert explicit pressure on the analysts to alter their views, the context and setting lent itself to misunderstanding of DoJ's motives. It is unfortunate that experienced Agency attorneys at this meeting did not more forcefully assert Agency interests.

f. **DI and OGC Letters to Agriculture.** The August 1992 OGC letter was not reviewed carefully by OGC management to ensure that it was accurate and that the recipient was not being misled. Similarly, the

DI letter of January 1990 should have been reviewed more carefully by DI management since it contained a substantive intelligence judgment that went beyond mere transmittal language.

g. **Public Statement for DoJ.** The only purpose that could be served by the ill-advised public statement of September 18 that was developed by Agency officials was to soothe DoJ's anger and provide further public support for the flawed September 17 letter. As with the September 17 letter, some Agency officers expressed reservations or outright disagreement with providing DoJ such a statement. OCA went out of its way to express concern with misleading statements in the early OGC drafts. The DO in particular opposed such a statement and, according to DO officers, even voiced objections to the DCI. The DI expressed strong reservations to OGC. The most senior officers, up to and including the DCI, expressed concern and added cautionary language to the drafts of the statement. Despite this significant high-level attention, however, no one brought sufficient weight to the discussions to prevent transmittal of a statement to DoJ.

INADEQUATE CONGRESSIONAL LIAISON

10. When Chairman Gonzalez questioned CIA's cooperation with DoJ in his September 14, 1992 press statement, there was no attempt by OCA to meet with him to clarify the Agency's position. An OCA officer recalled that OCA probably did not do this because of the BNL litigation and the fact that the Attorney General had barred all government agencies from providing additional classified information to Chairman Gonzalez because of his actions. This explanation begs the question. OCA should have raised with senior Agency managers the possibility of a meeting with Chairman Gonzalez. At the very least, consideration should have been given to talking to Chairman Gonzalez's senior staffer about the Chairman's interpretation of the summary. It is by no means certain that additional classified information would have been required to be disclosed to the Chairman in explaining the purport of that already in his possession. OCA's role is to make every effort to ensure that congressional leaders, even those in non-intelligence oversight positions or with whom the Agency might have institutional differences, are not misinformed about Agency involvement in issues of significant congressional concern.

SYSTEMIC ISSUES

11. **Information Retrieval.** The Agency's information retrieval systems, including both manual and ADP components, clearly are inconsistent with a variety of current requirements and must be improved. In order to maintain internal compartmentation, records have been intentionally fragmented. The result is a system that was never designed to facilitate external requests that depend upon complete divulgence of all information in the Agency's possession.

regarding individuals or entities that may be of little or no operational intelligence interest to CIA. Some DO employees point out that the system also was not designed to facilitate internal requests of such a nature. The DO component that is the official custodian and retriever of DO operational records still does not have complete knowledge of and unilateral access to all DO records systems, making it impossible at this time for searchers to say with complete certainty that all information on a given subject has been found. Coordination among components involved in records reviews is seriously deficient. As late as August 1992, the key Agency components handling BNL matters were unaware of who was retrieving what, when, why, and for whom. Only late in the crisis that developed regarding BNL information were an Agency focal point officer and a central data base established.

12. **Relationships with Law Enforcement Issues.** The U.S. Intelligence Community and the U.S. Law Enforcement Community have developed in very different ways, under starkly different pressures, to respond to unique missions and objectives. *Intelligence* as gathered by CIA is often of hearsay-quality and comes from sources of varying degrees of reliability, can often never be verified and is rarely subject to public scrutiny. *Evidence* developed in criminal investigations, by contrast, is usually obtained from direct sources under threat of perjury or false statement prosecutions themselves and subject to the galvanizing test of public trial and cross-examination. Yet the two communities, driven by the increasing intertwining of domestic and international interests, are moving inexorably toward one another. Some accommodations have been made on each side, yet the two have failed to address adequately the fundamental distinctions in their practices, procedures and cultures. The less than complete response of the CIA to DoJ's BNL prosecution demonstrates the need for significant clarifications regarding the rules of crimes reporting and support to law enforcement by the intelligence agencies; better definition of the problems of law enforcement tasking and the protection of intelligence sources and methods within the parameters of criminal or civil proceedings; and the development of a strategy for overall improvements in CIA's cooperation with law enforcement investigations.

13. DO officers are understandably cautious since there exist broad strictures regarding their authority to collect information for U.S. law enforcement purposes, and on reporting on the activities of U.S. persons. Law enforcement officers and prosecutors are rightly apprehensive about the potential impact of unverified intelligence information and its attendant national security classification on the viability of their cases and investigations. Initiatives in this area must come from the Agency's top leadership, but ultimately the working levels of these agencies must be imbued by that leadership with a stronger sense of the requirement that they work together more cooperatively.

14. The Agency does not have sufficiently strong and direct working relationships between Agency operations and analytic personnel, on the one

hand, and law enforcement and prosecutive personnel, on the other. These should go beyond the existing relations that are focused on and through OGC. A model for such relationships exists in the continuous dialogue that Agency analytic personnel have with personnel elsewhere in the intelligence, defense and foreign policy agencies. The BCCI experience has led to an effort to develop such relationships with federal banking authorities.

15. **Degree of Senior Management Attentiveness.** No senior Agency manager paid sufficient attention to the developing crisis relating to the BNL matter. There were sufficient danger signals to indicate that someone should have seized responsibility for ensuring that Agency actions were well coordinated and fully considered.

FAILURE TO MEET PROFESSIONAL STANDARDS

16. Agency components and employees are expected to meet the highest standards of professionalism in carrying out their functions and duties. Individuals in the following components did not meet these standards in performing their responsibilities and duties with respect to the BNL matter as discussed in this report:

- **OGC**--for failure to ensure the proper supervision and handling of the BNL litigation on behalf of the Agency.
- **DI**--for not properly reviewing Agency information to be provided to a congressional committee and for providing analytical comments that proved to be misleading.
- **OCA**--for failure of senior management to take prompt steps to ensure that proper consideration was given to providing Chairman Gonzalez with a clear understanding of Agency information after he publicly disclosed what he believed CIA's information showed regarding BNL, and for failing to ensure appropriate review and coordination of proposed responses to the Congress and to DoJ.
- **DO**--for failure of senior line management to properly manage records holdings and develop and implement procedures within DO components to ensure full and accurate responses to DoJ inquiries, and for failure to coordinate the analytical comments on the Gonzalez Summary with OGC.

RECOMMENDATIONS

17. This investigation report recommends:

- A senior group be given responsibility for coordinating, overseeing, and ensuring accountability concerning developing situations that merit focused attention by senior managers.
- OCA submit a proposed amendment to existing law that would make it clear that CIA is not precluded from sharing with federal law enforcement agencies information relevant to possible violations of federal law.
- OGC work with DoJ to clarify when federal law enforcement agencies may task CIA to collect information related to federal criminal investigations and prosecutions.
- Establishment of a task force to develop proposals for establishing Agency relationships with law enforcement personnel similar to those that exist with defense, foreign policy, and other intelligence personnel.
- All components be directed to ensure that Agency materials or statements destined for DoJ, Congress, or the courts be fully coordinated within the Agency and be complete and accurate.
- All communications to Congress that require analytical input be tasked formally through appropriate DI management channels.
- The Agency adopt a firm policy of not commenting publicly concerning matters under internal or external investigation or in litigation.
- OGC, DI, and DO be directed to ensure that any characterizations of Agency information produced by their components are accurate and not misleading.
- Creation of a new DO information management system that will ensure timely searches for and retrieval of all information on a given subject.
- Consideration of appropriate disciplinary actions.