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Executive Registry

74-2866

17 September 1974

The President
The White House
Washington, D. C. 20500

Dear Mr. President:

Attached is a recapitulation of the Congressional oversight of CIA activities as requested by Secretary Kissinger.

CIA's relations with Congress are on three levels:

- a. Where appropriate (although infrequently), CIA appears in open session or releases testimony given in executive session when it is neither classified nor revealing of intelligence sources and methods.
- b. In executive session, CIA appears before a variety of committees to provide substantive intelligence data and assessments. We use our most sensitive sources as the basis for such testimony, but we do not reveal or discuss them or our operations.
- c. Oversight of our operations is conducted by Appropriations and Armed Services Subcommittees in executive session. No matters are held secret from these committees, and it is my obligation to volunteer to them matters of possible interest.

The above arrangement is longstanding and has been subject to various attempts to change it over the years. In particular, the Foreign Affairs Committees have pressed for greater exposure to our operational activities.

In my confirmation hearings and publicly I have taken the position that CIA will respond to Congress' oversight in any method established

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by the Congress, but that I propose to continue the established procedures until the Congress changes them. This is of course only a reflection of the Constitutional independence of the Congress and its power, in extremis, to legislate with respect to our authorities or appropriations. A bill currently exists in both Houses which would amend the National Security Act to provide that CIA's activities be reported to the Congress 'in such manner as the Congress determines.' I have indicated support of this amendment.

The attached paper presents on page 12 certain options for your consideration as to how this matter might be handled in the future. These might be used by you as the basis for the discussions you indicated you intend to have with the Congressional leadership. I would be pleased to discuss this with you further at your convenience.

Respectfully,

/s/ Bill

W. E. Colby
Director

Attachment

WEC:blp

Distribution:

- Original - Addressee via Secretary Kissinger (delivered to Rob Roy Ratliff on 17 September 74)
- 1 - OLC
- 1 - OGC
- ① DDCI
- 1 - DCI
- 1 - ER
- 1 - Assistant to the Director

NOTE: Copy also sent to Governor Rockefeller (w/atts) with covering note from DCI (on 18 September 74)

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CONGRESSIONAL OVERSIGHT - CIA

*This is a duplicate of
the attachment
to 74-2866.*

A. GENERAL

CIA was established as part of the National Security Act of 1947. The Agency's enabling legislation, the Central Intelligence Agency Act of 1949, provided for the general administration of the Agency and exempted the Agency from normal reporting requirements which could compromise Agency security. On the basis of the provisions of this latter Act, the CIA appropriation is handled securely and the organization, its functions, and the names of its personnel are protected.

1. The Armed Services Committees (on the basis of jurisdiction over the legislation) and the Appropriations Committees (to approve funds) have exercised continuous legislative oversight.

(a) The Committee on Expenditures in the Executive Departments (now the Committee on Government Operations) actually held hearings and reported out the National Security Act of 1947 but under the new Legislative Reorganization Act the House Armed Services gained permanent jurisdiction.

(b) In the Senate the corresponding Committee on Expenditures challenged the referral of the National Security Act of 1947 to the Armed Services Committee, but it was defeated when the Senate upheld the ruling of the President pro tem.

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(c) From time to time the Government Operations Committees particularly on the House side have insisted on a right of congressional oversight of the economy and efficiency with which the Agency conducts its activities. Up to now the issue has not been joined, essentially as a result of our voluntary cooperation with their various investigations or informal handling between committees. Chairman Holifield has been generally supportive of the Agency position. Mr. Moorhead and Mr. Moss being most interested in asserting some type of jurisdiction.

(d) The Senate Foreign Relations Committee, over recent years has pressed to extend its jurisdiction over intelligence activities through the efforts to establish the overall authority abroad of State, which it oversees, and to include broad limitations on funding of programs principally administered by CIA.

B. CHRONOLOGICAL DEVELOPMENTS

1. 1947 through early 1950's - Oversight was benign.

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(a) Controlled by strongly entrenched congressional leadership and senior chairmen.

(b) Cold war psychology--rank and file not pre-disposed to interference.

(c) On the appropriation side, the basic concern was--do you have enough money?

2. Late 1950's

(a) Record of infrequent briefings of oversight committees leads to Senator Mansfield's initiative for Joint Committee (defeated in 1956 by vote of 59 to 27, with 12 original sponsors opposing the resolution).

(b) Sputnik era triggered wider congressional interest in Agency information on the Soviet threat. Agency initiated program of debriefing members of Congress who had travelled abroad, inviting them to visit Agency facilities and on occasion field installations.

3. Early 1960's

(a) The Agency furnished intelligence briefings to a number of committees including the Joint Committee on Atomic Energy on the Soviet nuclear energy program, and general intelligence briefings to House Foreign Affairs and

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the Senate Foreign Relations Committee, Soviet space program briefings to the House Science and Astronautics Committee and Senate Aeronautical and Space Sciences Committee, and Soviet military posture briefings to the full Armed Services Committees and the Defense Subcommittee of House Appropriations.

(b) Pressure continued to grow for a Joint Intelligence Committee which spurred the CIA Subcommittee of House Armed Services to examine Agency activities rather intensively.

(c) Chairman Vinson appointed Representative Paul J. Kilday as Chairman of the CIA Subcommittee of House Armed Services with the mandate to give CIA more attention.

(d) The "Soviet Missile Gap" argument in the 1960 Presidential election spurred further interest in the Agency's intelligence product.

(e) The U-2 flight of Gary Powers over the Soviet Union and the Bay of Pigs invasion heightened congressional debate and the Cuban missile crisis of 1962 refocused attention on the Agency's capabilities.

(f) Reflecting Senator Russell's growing responsibilities for appropriations matters, sessions of the CIA Subcommittee

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of Senate Armed Services and Senate Appropriations were held in joint session. Even so by 1965 Agency briefings of these Subcommittees rose to 34 as contrasted with 9 the previous year.

4. Late 1960's

(a) In 1966, the Foreign Relations Committee reported a resolution to establish a Joint Committee on Intelligence with Senator Russell defeating the move by 61-29 on jurisdictional grounds.

(b) In 1967 the Agency undertook a programmed effort to contact and brief all new members of Congress on the Agency.

(c) 1967 was also the year of exposure of Agency funding of the National Student Association.

(d) In 1969 the Agency's intelligence product came to the front again on the ABM system leading to a closed session of the Senate to discuss the classified aspects of the subject including data provided by the Agency.

(e) Legislative initiatives were beginning to be proposed in an effort to circumscribe executive action through CIA principally in Southeast Asia.

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5. 1970's

(a) The congressional structure which has for a quarter of a century served to shield the Agency from intrusion or attack by the rank and file membership is in a state of flux. The Russell's and Rivers' are gone. McClellan is 78, Mahon is 74, and Stennis and Hebert are 73. Men down the seniority lists have become suspicious or jealous over the secretive manner in which the oversight responsibilities have been exercised and their ranks are being periodically reinforced by newly elected younger members. Many feel Agency information and Agency activities should be more broadly accessible to the Legislative Branch, and particularly to the Foreign Relations and Foreign Affairs Committees.

(b) In 1971, as a result of the limitation by the Democratic Caucus on subcommittee chairmanships and taking note of the writing on the wall, Chairman Hebert appointed Representative Lucien N. Nedzi (D., Mich.) as Chairman of a rejuvenated Intelligence Subcommittee of House Armed Services Committee. Nedzi has proved to

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be an invaluable ally in dealing with problems in the House because of his reputation for diligence, thoroughness, objectivity, and skepticism.

(c) In an analogous reaction to the changed political atmosphere in the Senate, both Chairmen Stennis and McClellan have changed earlier practices. Thus both now regularly take transcripts. Senator McClellan invited Senator Church to attend and participate in a Subcommittee meeting on ITT-Chile (no leaks occurred) and Senator McClellan has offered any Senator the specifics of CIA's budget on a classified basis (Tab A).

(d) Many members while sharply critical of foreign and defense policy appear to have a high regard for the Agency's intelligence product, fearful only that the Agency's capabilities in the covert action field may be misused by an Administration. They are anxious to have a closer relationship with the Agency and thus more influence on its activities. Others are highly supportive in foreign and defense fields, but are anxious to avoid battle on issues such as the Agency's covert action authorities.

C. CURRENT CONGRESSIONAL OVERSIGHT PROCEDURES

1. Under existing guidelines so far supported by the chairmen of our oversight committees, Agency operational activities are reported solely to the four oversight committees.

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2. Security Precautions: In formal sessions before these subcommittees, the following security procedures are followed:

(a) Only selected staff members of the subcommittee (no personal staff of members) are permitted to attend.

(b) Each hearing is preceded by a technical sweep for audio-surveillance devices and technical monitoring is maintained throughout the briefing.

(c) When transcripts are taken, only a reporter with Top Secret clearance is used and the Agency maintains control over the shorthand notes. The transcripts are placed under controls agreed to by the Committees and the Agency.

(d) Under House rules all members are entitled access to all Committee records. (Tab B)

(e) The membership of the four oversight Subcommittees are set forth in Tab C.

D. REVELATIONS ON CHILE

1. On 11 October 1973 the Director briefed Chairman Fascell's Inter-American Affairs Subcommittee, House Foreign Affairs

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Committee, on Chile. The purpose of the hearing as agreed to by Chairman Morgan and Mr. Fascal in advance was a substantive intelligence briefing on Chile.

(a) Mr. Harrington was present at that hearing, and pushed hard to learn about Agency covert action activities in Chile. The Director refused to answer these questions, citing congressional guidelines that such details are limited to our congressional oversight committees and that we have no secrets from them. Certain sensitive information, however, was included in that testimony, and it leaked. (Tab D)

(b) On 22 April 1974 the Director appeared before the Nedzi Subcommittee and provided a full briefing of the Agency's covert action in Chile. A transcript was taken.

(c) Under the House rules, Mr. Harrington requested access to that transcript and signed an agreement to abide by the full Committee's rules for treatment of such material (no notes, contents will not be divulged to any unauthorized person in any way, form, shape or manner).

(d) On 18 July 1974, Mr. Harrington wrote a letter to Chairman Morgan (also reportedly to Senator Fulbright) which contained a detailed rundown of the Director's 22 April 1974

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testimony before the Nedzi Subcommittee, outlining various "40 Committee" approved covert action activities in Chile from 1964 through 1973. Tab E.

(e) Although the letter was dated 18 July 1974, the first information received by the Agency of the proposed press revelations for the weekend of the 7th and 8th of September was from New York Times reporter Seymour Hersh, who suggested that his information had come from the minutes of the "40 Committee." (The House was in recess with most of the members out of town, including the House Armed Services Committee who were travelling in Germany.)

(f) Our Committees have been fully briefed on the Agency's activities in Chile. Tab F.

(g) Our Committees' reactions so far to the revelations are as follows:

(1) On 12 September 1974 the Director met with the Senate Armed Services Subcommittee (Stennis and Symington in attendance) and reviewed once again the Agency's activities in Chile, 1962-1973, and other current covert action programs. While Chairman

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Stennis had a reporter present who made a stenotape of the session, at the end of the hearing Stennis ordered that it not be transcribed and the stenotape is in the Agency's possession. Senator Stennis lamented the leak but was glad it did not occur on the Senate side--where he said the record is good, and it is--and agreed that the covert action capability is necessary and he had no problems with any of the current covert action programs.

(2) On 16 September 1974 the Director met with the Nedzi Subcommittee and reviewed current covert action programs. A reporter was present for a preliminary substantive intelligence briefing but was dismissed by Chairman Nedzi before the Director's briefing on covert action. All members except Messrs. Arends and Fisher were in attendance. Mr. Nedzi said that the Harrington matter is a matter for the Committee to investigate and they will be meeting with Harrington possibly later in the week.

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(3) Chairman Mahon has scheduled a briefing of the House Appropriations Subcommittee on 19 September 1974 to review the matter.

(4) The Senate Appropriations Subcommittee, in a joint session with the Senate Armed Services Subcommittee, was fully briefed on the Chile covert action program on 13 March 1973. The staff is reminding Chairman McClellan of this fact.

Except for the incident involving Mr. Harrington, the four Agency Subcommittees have had an outstanding record on the protection of covert operational information.

E. OPTIONS

Clearly the credibility of this Government in its ability to protect intelligence sources and methods is under suspicion as a result of the revelations concerning Chile. (We have already received many inquiries from cooperative foreign intelligence services.)

(1) In light of the House rules, the most obvious protective device is that our Subcommittees not maintain records on covert operational information provided by the CIA. The Nedzi Subcommittee

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action on 16 September 1974 in dismissing the reporter was a result of an affirmative determination by the Committee in this regard.

Senator Stennis' action on 12 September is of a like nature. The problem with this solution is that there is then no evidence of the information provided by the Agency, which makes it possible for the Committees to distance themselves from responsibility in the event serious issues arise in the future about the extent to which the Agency has kept its oversight committees informed.

(2) The overall arrangement could be made for the Committees to keep no transcripts or records but that CIA would keep them in a segregated collection. As directed by the four Chairmen, they could be made available under escort for examination but not copying. However practical, this might pose political and constitutional problems.

(3) The House rules could be changed to limit access to sensitive operational information to the Subcommittee and perhaps certain other designated members in leadership positions. This would not be likely to be accepted by the full House.

(4) Committee access to certain operational information having a substantial impact on the deliberations of the House Foreign Affairs Committee and the Senate Foreign Relations Committee could be expanded to those Committees, or selected subcommittees thereof, on the premise that such information would be handled with wisdom and restraint. The increase in the exposure possibility from such a course of action is clear. (Letter from Representative Fascell to Chairman Morgan, Tab G.)

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(5) A Joint Committee on Intelligence might be established with members from Appropriations, Armed Services, Foreign Affairs and Government Operations, with a separate staff. The resolution establishing it should clearly state that it will have access to all information but that no information about intelligence sources and methods will be made available to other committees or Members without a specific congressional resolution.

(6) All of the above, of course, would have to be worked out with the appropriate leadership and, in addition, the President might want to consult the leadership as to other alternatives.

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