

Intelligence Policy and Reform

27. Memorandum From Samuel Hoskinson of the National Security Council Staff to the President's Assistant for National Security Affairs (Brzezinski)¹

Washington, January 25, 1977

SUBJECT

PRM/NSC-11 Intelligence Mission and Structure

Attached is a revised draft of PRM/NSC-11 directing a comprehensive review of major foreign intelligence activities and the organizational structure of the Intelligence Community.²

I have talked over with Bill Hyland and the leading players in the Intelligence Community the problem of how best to organize the study. The basic problem is that no one wishes to see the other fellow in the chair because they fear their own views and interests will be suppressed. Everyone has a lot at stake in the outcome and is concerned that study be "impartial." Defense, which controls over 80 percent of the resources, is particularly adamant that the Director of Central Intelligence, or his Deputy for Intelligence Community Affairs, not be Chairman. Hank Knoche as Acting DCI is not insisting on the DCI's "right" to be chairman, but notes that the new DCI could see things in a different perspective.

The only acceptable solution *to all concerned* is that *you act as* chairman, i.e., as a sort of final court of appeal and neutral umpire. This could most easily be accomplished by assigning the study to the Special Coordination Committee which you, of course, always chair. As Chairman you could then ask the DCI's Intelligence Community Staff to develop, in consultation with David Aaron and me, a detailed terms

¹ Source: Carter Library, National Security Affairs, Staff Material, Office, Box 137, Intelligence: PRM-11, 11/75-2/77. Confidential. Sent for action.

² At a question-and-answer session with Department of State employees on February 24, Carter stated his goals for the intelligence community: "I am conducting now a very careful analysis of the entire intelligence community. Admiral Stan Turner is going to be the new Director. He shares my commitment. But working with Cyrus Vance, with Admiral Turner, with Dr. Brzezinski, with the Attorney General, and with Harold Brown and myself, we are trying to evolve very rapidly what the intelligence community ought to be, what the limit of divulging this [sensitive and classified] material ought to be, and how can we at the same time guarantee to the American people that the abuses will be permanently eliminated." (*Public Papers: Carter, 1977*, Book I, p. 243) Carter was referring to the number of people in the Executive branch with access to classified national security information.

of reference and division of drafting labor. Once this game plan was approved by you, we would be in business and hopefully the mere fact of your neutral chairmanship would be enough to ensure that everyone got his say. Your major involvement would not come until the draft study was completed and ready for consideration by the full SCC.

RECOMMENDATION

That you sign the PRM at Tab A commissioning a comprehensive study of foreign intelligence activities and organizational structure.

Tab A

Draft Presidential Review Memorandum/NSC-11³

Washington, undated

TO

The Vice President
The Secretary of State
The Secretary of Defense

ALSO

The Secretary of the Treasury
The Attorney General
Director, Office of Management and Budget
The Chairman, Joint Chiefs of Staff
The Director of Central Intelligence
The Administrator, Energy Research and Development Administration

SUBJECT

Intelligence Structure and Mission

The President has directed that the NSC Special Coordination Committee undertake a comprehensive review of major foreign intelligence activities and the organizational structure of the Intelligence Community.

The review should be completed by June 1, 1977, and should include:

1. Complete assessment of Executive Order 11905⁴ in light of experience gained this year, including:

³ Secret.

⁴ Executive Order 11905 was issued on February 18, 1976. Section 1 of the executive order defines its purpose: "The purpose of this Order is to establish policies to improve the quality of intelligence needed for national security, to clarify the authority and responsibilities of the intelligence departments and agencies, and to establish effective oversight to assure compliance with law in the management and direction of intelligence agencies and departments of the national government." Executive Order 11905 is printed in *Foreign Relations, 1969–1976*, vol. XXXVIII, Part 2, Organization and Management of Foreign Policy; Public Diplomacy, 1973–1976, Document 70.

(a) a description of the implementing actions that followed promulgation of the Order and identification of the procedural problems that have developed since it went into effect;

(b) an evaluation of the performance and capacity of the former Committee on Foreign Intelligence (CFI) and Operations Advisory Group (OAG), as well as the role of the Office of the Director of Central Intelligence and the Intelligence Community Staff as effective instruments for interagency control and direction;⁵

(c) an assessment of the role and effectiveness of oversight organizations and the impact of E. O. 11905 restrictions, and associated guidelines promulgated by the Attorney General, on foreign intelligence activities.

2. Existing definitions of mission, divisions of responsibility and management relationships should be re-examined in terms of organizational efficiency and utility. All elements of the National Foreign Intelligence Program (NFIP)⁶ and Defense Intelligence activities coming under the cognizance of the Director for Defense Intelligence should be examined as well as the role of the National Foreign Intelligence Board and the DCI interagency committee structure. The adequacy of existing laws, executive orders, NSCIDs and departmental directives should be considered, as well as the necessity for statutory charters.

3. The following special problem areas should be addressed:

(a) Identification of the scope of existing liaison relationships with friendly intelligence services, the degree of our reliance on these relationships and their potential for negative impact on diplomatic relations through incidents here and abroad.

(b) Legal sanctions for the protection of sources and methods and the issues raised by the Privacy Act and Freedom of Information Act.⁷

(c) National counterintelligence policies and coordinating mechanisms.

⁵ The CFI was composed of the Director of Central Intelligence, the Deputy Secretary of Defense for Intelligence, and the President's Deputy Assistant for National Security Affairs; the group reported directly to the NSC. The CFI was charged with, among other things, establishing the collection and production priorities for national intelligence and providing guidance to the intelligence community in order to maintain the NSC's policy directions. The OAG was composed of the President's Assistant for National Security Affairs, the Secretary of State, the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the Director of Central Intelligence. The OAG managed sensitive intelligence issues, including policy recommendations to the President and collection operations.

⁶ The NFIP was defined by the National Security Act of 1947. It included all programs and projects undertaken by the intelligence community, except for intelligence activities undertaken by the armed forces in order to execute tactical military maneuvers.

⁷ P.L. 93-759 and P.L. 89-554, respectively.

(d) Legislation that both protects the civil rights of U.S. persons and provides for appropriate collection of foreign intelligence and counterintelligence through electronic and physical surveillance.

(e) Definition of a NFIP that provides a clear-cut distinction between national programs and those that are strictly departmental in nature or intelligence-related.

(f) Establishment of an effective intelligence requirements mechanism and evaluation process for measuring intelligence production performance.

(g) Production of national current and estimative intelligence.

Zbigniew Brzezinski⁸

⁸ Brzezinski did not sign this draft of the PRM; see Documents 28 and 29.

28. Memorandum From the Deputy to the Director of Central Intelligence for the Intelligence Community (Murphy) to Director of Central Intelligence-Designate Turner¹

Washington, February 17, 1977

SUBJECT

Redraft of PRM-11 and Comments

1. Fritz Ermarth, my Director of Performance, Evaluation and Improvement, took the lead in preparing the attached proposed draft of PRM/NSC-11.² It attempts to accomplish three things:

a. It levies a comprehensive review including most of the substance of the earlier (Hoskinson) draft;³

b. It separates in a suitable way what should be separated, namely the management and performance issues from the legal environment issues;

¹ Source: Central Intelligence Agency, Office of the Director of Central Intelligence, Job 97M00248R: Policy Files, Office Level and Above, Box 1, Folder 12: PRM 11—Intelligence Structure and Mission (Folder 1). Secret.

² Not attached.

³ See Document 27.

c. And, most important, it gives you the kind of central *leadership* role—not dictatorial role—that you should have in this review.

2. There are several reasons why your leadership is crucial: First, the key Community management issue is the balance between responsibilities and authorities. Numerous past studies and directives, dominated by those who did not have to implement them (including the Schlesinger study of 1971⁴ and Executive Order 11905)⁵ dodged or fuzzed this fundamental issue. They ended up giving the DCI responsibility for rationalizing Community resource allocations that exceeded his authority or power to achieve in an effective and *convenient* way. This is not to say that the Executive Order was a misstep or that working with it is impossible. It is just very difficult, and probably unnecessarily difficult, to achieve its objectives with the powers it provides. The essential point is this: People who do not have to bear the responsibility for a management result almost always underestimate the problems of achieving them through vague, collegial, committee-like instruments.

3. The second reason why you should be given the charge is that such a role at this time is crucial for your image, your reputation, your standing as the man to whom the President looks for wise and fair stewardship of US national intelligence affairs. As you know, the President has talked about fully relying on his senior officers to manage in their spheres of responsibility. Therefore, *not* putting you in charge would prejudice the effective outcome of the review, whatever the specific decisions resulting therefrom turned out to be. It would say, in effect, the President does not really want you to manage the national intelligence community.

4. There are several important reasons why it is possible for your leadership of the major portion of this review to be fair and balanced. First, as this draft does, the President can outright tell you to take full account of all options, and all agencies' views of them.

5. Second, I recall that Secretary Brown told Hank Knoche that the DCI *should* take the lead in this review. This negates the argument that Defense will never go along with DCI leadership.

6. Following are some additional comments on specific points of the proposed PRM to help explain, justify, and, if necessary, fall back gracefully:

Note 1, Page 1: It may be desirable for the President to sign this PRM, saying "I direct . . ." I have seen one draft PRM (10) which would

⁴ See *Foreign Relations, 1969–1976*, vol. II, Organization and Management of U.S. Foreign Policy, 1969–1972, Document 229.

⁵ See footnote 4, Document 27.

carry his signature. Fritz Ermarth called Hoskinson to ask, in passing, if they have any ground rules on which ones he personally signs. Evidently they do not. But it would surely add to the credibility of the instructions.

Note 2, Page 1: The charge to the SCC, headed by Brzezinski, is more than a mere bone. It tells the senior working level of the NSC machinery, in effect, to take seriously the task of looking at its intelligence needs and developing some reliable way of conveying them. In part it would be a forced learning process for the new team, but it would also, early in the review, help to set the ultimate substantive goals and priorities of intelligence management that you are supposed to pursue.

Note 3, Page 1: This review of past performance could rely on recent studies such as the IC Staff Semiannual Review for the NSC—which the previous Administration never really came to grips with. And we could feed the second semiannual review into this SCC effort with, hopefully, more substantial results.

Note 4, Page 2: This look at mechanisms is intended to embrace such functions as OAG, WSAG, and it could also include PFIAB.

Note 5, Page 2: Here is the crunch! You will be the chairman of the PRC for the main body of this review. The arguments for this are in the opening paragraphs of this memorandum. But we could retain the *essence* of your leadership if the chairman were Brzezinski while you were charged to run the study effort and personally report the results to the PRC. If we went this way, we would have to get a clear understanding from Brzezinski that, while chairing the review meeting of the PRC, he would *not* try to organize the study himself or micro-manage the proceedings. In any case, a senior NSC staffer should be represented in the actual working machinery that produces the study.

Note 6, Pages 3 and 4: The language of the Hoskinson draft PRM makes it clear that the review should not only look at your management responsibilities under present or alternative structures, nor merely at areas outside your responsibilities that directly affect them, but *also* at how purely departmental intelligence management meets departmental needs. This is supposed to be a national level review of *all* US foreign intelligence. Thus, for example, the role and control of Foreign Service reporting is a germane topic.

Note 7, Page 4: We include counterintelligence as a major management issue for the DCI. We dropped a bullet on covert action, but it would naturally be addressed under the first bullet on your roles.

Note 8, Page 4: This omnibus item on intelligence planning, evaluation, and improvement is there in part because Hoskinson told Ermarth the study had to go beyond responsibilities, powers, and organization;

it had to say something about how, in fact, you would seek to optimize performance and resource allocations; by what tools, methods, and suborganizations. Clearly this would get into, among other things, staff organizations, the role and use of NFIB, data bases and management techniques for controlling resources, zero-base budgeting, the committee structure, etc.

Note 9, Page 5: Assigning the job on the legal environment to the Attorney General seems proper for a number of reasons. He is the lawyer of the President and the Executive Branch. In the matter of legal powers, you might be seen to have credibility problems in an area of greater *public* concern than resource management. Putting the Attorney General role here would force him, and the subordinates he puts on this job, to take hard looks at the national security imperatives of the subject, which his predecessor seems to have failed to do. "Close collaboration with the DCI" would assure that your interests get a fair shake. Incidentally, if Brzezinski is designated to chair the PRC on intelligence management, it might be wise that he also chair the one on intelligence law, with the Attorney General and yourself as chief rapporteurs.

7. Ultimately, I would expect the President to chair a full meeting of the NSC to make decisions on the whole package. How the PRM process leads from study tasking to Presidential decision, in a procedural sense, is still somewhat confused. Those on the NSC Staff who have been asked about this say they know it is confused now but that it will get sorted out in time.

Daniel J. Murphy⁶

⁶ Murphy signed "Dan" above this typed signature.

29. Presidential Review Memorandum/NSC–11¹

Washington, February 22, 1977

TO

The Vice President
The Secretary of State
The Secretary of Defense

ALSO

The Secretary of the Treasury
The Attorney General
Director, Office of Management and Budget
The Chairman, Joint Chiefs of Staff
The Director of Central Intelligence
The Administrator, Energy Research and Development Administration
The US Representative to the United Nations

SUBJECT

Intelligence Structure and Mission (U)

I have directed that the NSC Special Coordination Committee undertake a comprehensive review of major foreign intelligence activities and the organizational structure and functioning of the Intelligence Community.

This review will be undertaken in the following manner:

1. A subcommittee of the SCC under the direction of the Attorney General shall review the adequacy of existing laws, Executive Orders, National Security Council Intelligence Directives and Departmental Directives, including:

—Legal sanctions for the protection of sources and methods and the issues raised by the Privacy Act and Freedom of Information Act.

—Legislation that both protects the civil rights of U.S. persons and provides for appropriate collection of foreign intelligence and counter-intelligence through electronic and physical surveillance, and

—The need for statutory charters for all foreign intelligence agencies.

2. Under the direction of the Director of Central Intelligence, a subcommittee of the SCC shall review the responsibilities and powers of the Director of Central Intelligence in his role as Foreign Intelligence Advisor to the President, central authority for the production of national intelligence and manager of the national foreign intelligence

¹ Source: Carter Library, National Security Council, Institutional Files, 1977–1981, Box 2, PRM–NSC 1–24 [I]. Secret.

program and budget. This examination should include an analysis of the mechanisms for:

- planning, evaluating and improving the Intelligence Community performance;
- identifying intelligence requirements and tasking all sources;
- processing, analyzing, producing and distributing intelligence for anticipated activities, warning, crisis support, current and estimative intelligence and net assessments;
- evaluating intelligence production performance.

3. Based on the foregoing analysis, the Special Coordination Committee should undertake a complete assessment of Executive Order 11905 in light of the experience gained over the last year, including:

- Evaluation of the performance, capacity and procedural problems regarding the former Committee on Foreign Intelligence and Operations Advisory Group, as well as the Office of the Director of Central Intelligence and the Intelligence Community Staff to act as effective instruments for control, direction and management of the Intelligence Community.

- An assessment of the role and effectiveness of oversight organizations and the impact of Executive Order 11905 restrictions, and associated guidelines promulgated by the Attorney General on foreign intelligence activities.

- A critique of existing definitions of mission, division of responsibility and management relationships in terms of organizational structure, efficiency and utility. All elements of the National [Foreign] Intelligence Program (NFIP) and Defense Intelligence activities coming under the cognizance of the Director for Defense Intelligence should be included as well as the roles of the National Foreign Intelligence Board and the DCI interagency committee structure.

- An analysis of national counterintelligence policies and coordinating mechanisms.

This assessment should present alternative options for dealing with the above issues. These options should address, but need not be limited to:

- Preserving and improving present arrangements under Executive Order 11905, as amended.

- Adding to the line of authority of the Director of Central Intelligence over national intelligence collection programs.

- Separating the role of the Director of Central Intelligence as community manager from the role of the Director of Central Intelligence.

- Separating Central Intelligence analysis and production from all collection, operational and intelligence-related research and development activities.

The final report should be completed by June 1, 1977.²

J. Carter

² Carter added a final paragraph by hand, "Interrelationships among the various intelligence agencies will be assessed and recommendations made to me by the SCC as a whole." Three subcommittees were formed to review the three "tasks" set forth in paragraphs 1, 2, and 3 of PRM/NSC-11.

30. Letter From the Chairman of the Intelligence Oversight Board (Murphy) to President Carter¹

Washington, February 26, 1977

Dear Mr. President:

The Intelligence Oversight Board wishes to bring to your attention, and to the attention of the Attorney General, a practice which, the Board believes, raises serious questions of legality and propriety. The practice involves both the dissemination, by the Federal Bureau of Investigation, and the retention, by other intelligence agencies, of information concerning the domestic activities of United States persons.

The FBI, pursuant to guidelines issued by Attorney General Levi on May 28, 1976,² conducts foreign intelligence and foreign counterintelligence operations which electronically intercept, within the United States, the telephonic communications of certain governments, organizations and individuals. In the course of conducting electronic surveillance targeted on non-U.S. persons the communications of U.S. persons are, frequently, incidentally acquired. Certain of these incidentally acquired communications are, in turn, disseminated to other agencies of the government.

The Intelligence Oversight Board has reviewed a number of the communications which have been disseminated. The Board believes that at least some of the material can not reasonably be said to constitute foreign intelligence information and, accordingly, it should not be dis-

¹ Source: Carter Library, National Security Affairs, Brzezinski Material, Subject File, Box 29, Intelligence Oversight Board, 3-12/77. Secret. The original is attached to a covering memorandum from Joe Dennin to Brzezinski, February 26.

² Not found.

seminated by the FBI nor should it be retained by other intelligence agencies.

Enclosed for your consideration is an internal IOB memorandum³ which discusses this matter in greater detail.

Respectfully,

Robert D. Murphy
Chairman

³ Not found attached.

31. Memorandum From Samuel Hoskinson of the National Security Council Staff to the President's Assistant for National Security Affairs (Brzezinski)¹

Washington, February 28, 1977

SUBJECT

President's Foreign Intelligence Advisory Board (PFIAB) and Intelligence Oversight Board (IOB)

This memorandum reviews the performance of and makes recommendations on the future disposition of PFIAB and IOB. I have reviewed a special PFIAB study on itself, talked at length with both Leo Cherne (Chairman) and Wheaton Byers (retiring Executive Secretary), and exchanged views with a number of senior intelligence officials. My personal experience with the Board is fairly extensive, both as a member of the NSC Staff and as a senior intelligence official. I have talked at length with IOB's principal staff member (Joe Dennin) and have observed the working of the Board close up for about eight months.

PFIAB

At Tab B² is "A Commentary on the Background and Activities" of PFIAB prepared by the Board's Executive Secretary and approved

¹ Source: National Security Council, Carter Intelligence Files, Intelligence Oversight Board, 7 March 1977–12 May 1977. Secret. Outside the System. Sent for action.

² Attached but not printed.

by Leo Cherne. It was drafted, of course, by advocates but provides a useful summary history and statement of what the Board perceives as its role.

The Board perceives its role as follows:

—Providing the President with an “independent source of advice” on the effectiveness of the Intelligence Community in meeting his intelligence needs and “the vigor and insight with which the Community plans for the future.”

—“Appraisal” rather than “investigation” of the “objectivity and excellence” of intelligence.

—Not normally “prepared or suited” to discuss major intelligence activities in “programmatically detail.”

A review of PFIAB recommendations over the past 21 years (Tab C)³ indicates that it has focused on the most important national intelligence production and organizational problems. It is hard to judge with any precision, however, just how important its actual contributions have been.

In some areas—like covert action—the Board has played virtually no appraisal or advisory role at all and—so far as I can determine—it had no knowledge of any of the “abuses” that were revealed by Congressional investigations.

Most of the Board’s activities have been concerned with intelligence collection and analytical production. In the early years the Board spent much of its time appraising intelligence collection efforts and reportedly played an influential role in the decisions which led to the establishment of the present overhead reconnaissance program. In recent years, however, its focus of primary attention has shifted to intelligence analysis. This had included an examination of economic intelligence reporting and a review of the estimating process that led to the recent “A Team-B Team” experiment concerning Soviet strategic forces.⁴ The Board has recently also been active in such areas as the vulnerability of U.S. communication systems to Soviet intercept, quasi-legal procedural issues arising out of E.O. 11905 and promotion of improved relationships between different elements of the Intelligence Community and, at times, the White House. Attempts have been made to facilitate intelligence producer-consumer relationships.

³ Attached but not printed.

⁴ The Team A/Team B exercise, conducted in late 1976, was an experiment in competitive analysis of Soviet military capabilities. Team A was comprised of intelligence community analysts; Team B was a group of reviewers with expert knowledge chosen by the DCI from both within and outside government. See *Foreign Relations, 1969–1976*, vol. XXXV, National Security Policy, 1973–1976, Documents 165, 169, 170, 171, 172, 173, and 174.

PFIAB may well be a classic case of an institution whose original purpose was valid but which has outlived most of its usefulness because of the creation of newer institutions more qualified to perform its functions in a changed environment. Thus, whereas PFIAB was for many years virtually the sole functioning oversight body—albeit with some significant blind spots—we now have several more-or-less healthy specialized oversight mechanisms within both the executive and legislative branches that do the overall job better.

On the legislative side we now have the new Senate Select Committee on Intelligence (SSCI) which has carved out for itself a strong oversight role in virtually every aspect of foreign intelligence activities and taken on the sizable and experienced staff to do the job.⁵ In the House, the Appropriations Committee has demonstrated an especially vigorous oversight role in some areas.

In the Executive Branch, the PRC (as the successor to the CFI) is concerned with setting overall management policy for the Intelligence Community and the development of specific programs responsive to intelligence requirements. The SCC (as the successor to the OAG) is concerned with the oversight of all sensitive special activities. Finally a 200-man Intelligence Community Staff has been created to work on Community-wide programs and budget development, policy, planning and production performance, evaluation and improvement. The overall performance of these new institutions will be one of the prime subjects of PRM/NSC-11, but it is clear that in terms of oversight they accomplish much more than PFIAB ever can.

Despite the fact that PFIAB's original functions have been supplanted by newer, more effective institutions, it still serves some useful purposes. PFIAB provides a small measure of reassurance to the American people about our country's foreign intelligence activities. It is also a vehicle for the President to involve trusted friends outside the USG in oversight of the Intelligence Community and put them in a position to advise him in an educated way on foreign intelligence matters. Finally, the Board provides a temporary home for prominent people deserving of special Presidential recognition at least in part for domestic political reasons.⁶

In sum, at best only a marginal case can be made on strictly intelligence oversight grounds for retaining PFIAB as an institution. This is

⁵ SSCI was established in May 1976 as a successor to the Senate Select Committee To Study Governmental Operations With Respect to Government Operations, formed in April 1975 and known as the Church Committee after its Chairman, Senator Frank Church (see footnote 3, Document 32).

⁶ An unknown hand wrote "the real key" in the margin adjacent to the last sentence.

clearly one board that can be eliminated without serious loss in the drive to reduce the extended White House family and advisory groups.

Intelligence Oversight Board (IOB)

The theoretical case for the IOB is much stronger than for PFIAB and, in any event, the President's public endorsement makes the issue of IOB continuance academic.⁷ On the other hand, several actions should be taken to strengthen the Board's performance in the future.

The basic IOB concept of a small independent board focused exclusively on identification of possible illegal or other improper activities within the Intelligence Community was one of the most important reforms of E.O. 11905. While not technically an investigatory body, the IOB system of requiring strengthened and semi-independent (at least for IOB reporting purposes) Inspectors General and General Counsels to report possible infractions on periodic basis appears sound. One measure of success is the large volume of trivia which has been reported to the Board over the last year and, the minor issues it has then passed on to the President. (See Tab D⁸ recent analysis prepared for the President.)

The IOB nonetheless has a very serious problem in the form of a superannuated chairman and a weak staff. While Robert Murphy is a man of unquestioned integrity and high reputation, the hard fact is that he is no longer able to perform well on a sustained basis. He has, therefore, virtually abdicated much of the chairman's role to Joseph Dennin, the IOB's present sole staff member. Dennin is a fairly able lawyer with Church Committee experience but even after about eight months on the job, remains naive about many aspects of the foreign intelligence world and is given to slightly moralistic judgments. He was, for example, the author of the IOB report to President Ford questioning the propriety of CIA's relationship with King Hussein. Moreover, the leading candidate for the Hussein leak appears to have been an assistant Dennin hired who among other things flaunted his ties with Bob Woodward⁹ and was as much interested in ingratiating himself with the press as serving the President.

The other members of the IOB—Leo Cherne and Stephen Ailes—are much more active and alert than Murphy. Cherne in fact has been the real moving force in many instances and Ailes is a prominent lawyer. Both men, however, have failed—at least as reflected in IOB

⁷ Carter discussed intelligence community oversight, mentioning the Intelligence Oversight Board, during his February 24 session at the Department of State. See *Public Papers: Carter, 1977*, Book I, p. 243.

⁸ Not found attached.

⁹ Bob Woodward was an investigative journalist with the *Washington Post*.

reports—to discriminate between minor, and in some cases, inadvertent infractions and serious problems worthy of the President's attention. In part this may stem from the fact that the Board was new and had no established operational pattern, but in part it must reflect a certain lack of perspective.

My strong feeling is that it is important to the President (so that he can be personally assured about the activities of the Intelligence Community) and to Intelligence Community (in helping to regain the confidence of the American people) to have a strong and effective IOB. Oversight is simply too important to leave in the hands of a fading intellect as chairman and a young staffer.

RECOMMENDATION

That you send the memorandum at Tab A¹⁰ to the President recommending (a) abolishing of PFIAB and (b) reconstituting and strengthening the IOB.

¹⁰ Printed as Document 32.

32. Memorandum From the President's Assistant for National Security Affairs (Brzezinski) to President Carter¹

Washington, undated

SUBJECT

President's Foreign Intelligence Advisory Board (PFIAB) and Intelligence Oversight Board (IOB)

My staff has reviewed in some depth the activities of your Foreign Intelligence Advisory Board (PFIAB) and the Intelligence Oversight Board (IOB) with a view toward providing recommendations on their future disposition.²

PFIAB

The PFIAB has existed in various forms for over 21 years and has served a useful oversight role during much of that period. Its scope,

¹ Source: Carter Library, National Security Affairs, Brzezinski Material, Brzezinski Office File, Box 94, Subject Chron, Intelligence, 3/77. Secret. Outside the System. Brzezinski did not initial the memorandum.

² See Document 31.

however, has been largely limited to appraisal of intelligence collection and analytical production. The Board has not gotten into covert action operations. The Board's most conspicuous failure was in apparently not perceiving the abuses that were revealed by Congressional investigations.³ Its success in recent years has been in helping to focus attention on intelligence analytical production issues and to a limited extent influencing organizational decisions.

PFIAB may well be a classic case of an institution which has outlived much of its original usefulness. New interagency committees and oversight mechanisms within both the Executive and Legislative branches have been created that perform better many of the same oversight functions as PFIAB and, in some important areas, such as oversight of covert action and investigation of possible abuses, go beyond PFIAB's traditional role.

On the other hand, PFIAB does still serve some useful functions. It provides, for instance, a small measure of assurance to the public concerning foreign intelligence activities. It has also in the past served as a vehicle for the President to involve trusted friends outside the government in oversight of the Intelligence Community and put them in a position to advise in an educated way. Finally, appointments to the Board to a limited extent have gone to prominent people deserving special Presidential recognition, at least in part for domestic political reasons.

In short, I believe that only a marginal case can be made for continuing PFIAB.

Intelligence Oversight Board (IOB)

The IOB was created by E.O. 11905 to meet a pressing requirement to establish a system whereby the President could be assured that foreign intelligence activities which raised serious questions of legality or propriety would be brought to his attention. The Board's performance to date indicates that this is possible.

The present Board has some problems which should be resolved soon so that it will function properly in the future. The most serious problem is the Chairman, retired Ambassador Robert E. Murphy. Put most candidly, Murphy, although a man of integrity, is no longer

³ A reference to the Church and Pike Committees. The Church Committee investigated abuses in the intelligence community in the wake of Watergate, published 14 reports containing their findings, and called for reform. The Pike Committee, established in 1975, became the House Permanent Select Committee on Intelligence in July 1977. It was named for its last chairman, Representative Otis Pike. Like the Church Committee, the Pike Committee also investigated abuses in the intelligence community. See *Foreign Relations, 1969–1976*, vol. XXXVIII, Part 2, Organization and Management of Foreign Policy; Public Diplomacy, 1973–1976.

up to the responsibilities of the Chairman's job, either mentally or physically, and should be replaced. Very careful consideration should also be given to the question of retaining the other two members—Leo Cherne and Stephen Ailes. While more able and active than Murphy, Cherne and Ailes have demonstrated an inability to distinguish in their reporting to the President between activities that raise genuinely serious legal issues or questions of propriety and minor infractions that, in some instances, are inadvertent.

The quality of the IOB's staff support should also be strengthened. At least two good staff members are required.

*RECOMMENDATION*⁴

1. That PFIAB be abolished, in the context of reconstituting and strengthening the IOB (a separate implementing memorandum would be provided).

APPROVE _____ DISAPPROVE _____

2. That the NSC Staff attempt to identify for your approval a proposed new IOB membership.

APPROVE _____ DISAPPROVE _____

⁴ Carter did not indicate his preference with respect to either of the recommendations. On May 4, Carter abolished the President's Foreign Intelligence Advisory Board by issuing Executive Order 11984. See *Public Papers: Carter, 1977*, Book I, pp. 801–802.

33. Note From President Carter to Vice President Mondale, Secretary of State Vance, Attorney General Bell, the President's Assistant for National Security Affairs (Brzezinski), Director of Central Intelligence Turner, and the White House Counsel (Lipshutz)¹

Washington, March 5, 1977

To Mondale, Vance, Bell, Brzezinski, Turner, Lipshutz

Please arrange a two-to-three hour meeting early next week to give me a recommendation on overall policy and individual cases concerning intelligence and national security.

¹ Source: Carter Library, National Security Affairs, Brzezinski Material, Agency File, Box 16, State Department (State), 1–3/77. Confidential. The note is handwritten.

The Vice President should preside.²

Subsequently I will meet with appropriate Congressional leaders.

J. Carter

² A record of discussion summarizing the conclusions of this March 8 meeting is in Central Intelligence Agency, Office of the Director of Central Intelligence, Job 97M00248R: Policy Files, Office Level and Above, Box 1, Folder 12: PRM 11—Intelligence Structure and Mission (Folder 1).

34. Memorandum From the General Counsel of the Central Intelligence Agency (Lapham)¹

Washington, March 18, 1977

MEMORANDUM FOR

Deputy Director of Intelligence
Deputy Director of Operations
Deputy Director of Administration
Deputy Director of Science and Technology
Office of Legislative Counsel
Director of Security
George W. Clarke, Asst. to DDCI

SUBJECT

PRM/NSC-11 Subcommittee

1. The first agenda item of the PRM/NSC-11 Subcommittee that is operating under the direction of the Attorney General² is to consider proposed legislation relating to the unauthorized disclosure of national security information.³

¹ Source: Central Intelligence Agency, Office of the Director of Central Intelligence, Job 97M00248R: Policy Files, Office Level and Above, Box 1, Folder 12: PRM 11—Intelligence Structure and Mission (Folder 1). No classification marking.

² This subcommittee was charged with Task 1 of PRM/NSC-11: to review the adequacy of existing laws and directives. See Document 29.

³ See footnote 11 below.

2. The main features of this bill as we see them include:

A. Language which restricts the criminal act to the disclosure of classified information as defined by Executive Order 11652⁴ and implementing directives promulgated pursuant thereto—(a) and (b)(1).

B. Language which requires that the disclosure be to an unauthorized recipient yet permits unrestricted communication between identified classes of individuals authorized to possess, control or receive classified information—(a) and (b)(2).

C. A provision making it a defense that the information was previously placed in the public domain, either officially or unofficially—(c)(3);

D. A provision which eliminates as a criminal act disclosure of classified information to a member of Congress or to a court of the United States—(c)(2);

E. A provision which conditions prosecution on the availability of administrative review of the classification either internally or under the Administrative Procedures Act⁵—(c)(1);

F. A provision which provides that in certain cases (the failure of the individual to seek review of the classification) the lawfulness of the classification shall not be an element of the offense—(e).

3. Several of these provisions are similar, though broader, than provisions which were incorporated in the Administration's sources and methods legislation introduced in H.R. 12006.⁶ The items mentioned in paragraphs A, B and F are new.

4. The Agency is required to submit its comments at the next Subcommittee meeting scheduled at 2 p.m. on 18 March 1977. I recognize that it will be impossible for you to adequately examine this legislation in the time provided. Accordingly, I will not represent my comments to be a coordinated-agency position on this matter. However, I would appreciate the communication of any first impressions you may have regarding the Department of Justice bill or general comments relating to criminal sanctions for the unauthorized disclosure of classified information. These comments may be telephonically communicated to [*less than 1 line not declassified*]

Anthony A. Lapham⁷

⁴ E.O. 11652 established a new system for classification and declassification of government documents relating to national security.

⁵ P.L. 79-404.

⁶ H.R. 12006 (94th Congress) proposed to amend the National Security Act of 1947 to make the Director of Central Intelligence responsible for protecting intelligence sources and methods. The bill was referred to the House Committee on Armed Services in February 1976, where it died.

⁷ Printed from a copy that bears this typed signature.

Attachment

Memorandum From the General Counsel of the Central Intelligence Agency (Lapham) to the Members of a PRM/NSC–11 Subcommittee⁸

Washington, March 18, 1977

SUBJECT

CIA Comments on Draft Unauthorized Disclosure Legislation and Related Matters

1. This memorandum pertains to the first item on the agenda distributed at last week's organizational meeting of the PRM/NSC–11 subcommittee chaired by Mr. Harmon. That agenda called for comments by 16 March on a draft criminal statute,⁹ copies of which were also distributed at the meeting, relating to the unauthorized disclosure of national security information, and on other possible civil or criminal approaches to the overall problem addressed by the draft statute.

The Context

2. The basic existing statute dealing with unauthorized disclosure of national security information is the Espionage Act, enacted in 1917 and largely unchanged over the last 60 years, and particularly two sections of that Act, 18 U.S.C. §§793 and 794.¹⁰ These provisions are vague and clumsy in their wording. For example, they describe the category of information to which they relate as "information relating to the national defense," which quite conceivably could include everything from the most vital national secrets to the daily stock market reports. Some of these uncertainties have been sorted out by judicial interpretation, so that it is now settled that at a minimum the provisions apply, and are constitutional as applied, to those activities commonly

⁸ No classification marking. Brackets are in the original.

⁹ Attached but not printed.

¹⁰ There are a number of other provisions, in the Espionage Act and other statutes, but none are of such general application. So, for example, the statutory inventory would include the so-called photographic statutes (18 U.S.C. §§795 and 797 and 50 U.S.C. §781, outlawing sketches or photographs of certain military installations or equipment), 18 U.S.C. §798 (which covers cryptographic information), 18 U.S.C. §952 (which relates to disclosure of foreign diplomatic codes), the so-called restricted data statute, 42 U.S.C. §§2271–81 (applicable to information concerning atomic energy and weapons), and 50 U.S.C. §783 (making criminal the disclosure by Government employees of classified information to foreign agents). Other statutes become applicable only in wartime. All the statutes in this group have limited utility in that they are directed to rather specialized circumstances that do not often occur. [Footnote is in the original.]

associated with "spying," e.g., selling secrets to the Soviets. It remains unclear, however, whether as a matter of law these provisions could be applied to other very different forms of unauthorized disclosure, such as the publication of books or leaks to the press. It is extremely doubtful that the provisions were intended to have application in such situations, and as a matter of historical fact, leaving aside the unsuccessful Ellsberg prosecution and possibly one or two other cases, they never have been so applied.¹¹ The draft statute would pick up where the Espionage Act appears for all practical purposes to leave off and would extend criminal sanctions to acts of disclosure in situations not characterized by dealings with foreign agents or powers.

3. In other than espionage situations, there obviously are critically important public policies favoring the free flow of information and ideas necessary to informed public discussion and debate, and at the same time there are well-known or at least widely suspected bureaucratic tendencies to overclassify, undoubtedly fed by the slipperiness of the classification standards, and occasional efforts to conceal embarrassing mistakes, or something worse, behind bogus national security claims, all of which are factors that produce hostility and skepticism when it comes to proposed secrecy legislation. Beyond these barriers lie the fundamental constitutional precepts with a direct bearing on legislation in this field, namely, the First Amendment prohibition against the enactment of any law abridging freedom of speech or press, the mandate, rooted in the Fifth Amendment, that legislated norms of conduct be expressed in terms that are reasonably certain and definite, especially where criminal penalties are attached, and the procedural guarantees surrounding the judicial process, not to mention the rules of discovery.

The Key Elements

4. In view of the opposing forces and values, it seems to us that any proposed legislation must be as finely drawn as possible if it is to have any decent chance of survival in both the Congress and the courts.

¹¹ Under current Justice Department procedures, unauthorized disclosures of national security information, in other than espionage situations, are almost never even investigated, let alone prosecuted. Apart from a natural reluctance to proceed in such situations, stemming from the absence of any clearly applicable statute, the principal stumbling block standing in the way of investigations is the Department of Justice practice of insisting on an advance commitment that the compromised information, which as disclosed is very apt to be fragmentary and only partially accurate, will be declassified for purposes of prosecution. Essentially a commitment to declassify is a commitment to officially confirm in accurate terms, and probably to augment, the information involved, and thus the more sensitive the information, the more painful the declassification decision required to be made. The upshot is that the worst and most damaging leaks are the ones least likely to be investigated. [Footnote is in the original.]

Further, it seems to us that any proposed bill must have the following essential features:

(a) A clear definition of the class of persons that would be exposed to liability.

(b) A clear definition of the type of information that would be covered—that is, as to which communication would be restricted.

(c) A clear definition of the kind of communications that would be restricted—that is, the circumstances in which the disclosures of restricted information would constitute an unlawful act.

(d) A provision establishing a mental standard of culpability—that is, the intent element of the offense.

(e) Provisions creating a procedure for prompt and independent review, upon request by a person subject to the law's restraints, of official determinations that particular information requires protection against disclosure.

(f) Provisions that eliminate or at least minimize the need to publicly disclose sensitive information, over and above the information compromised by the unauthorized disclosure, in order to establish the commission of an offense.

(g) Sanctions effective for the purpose of deterring the conduct declared to be unlawful.

The Draft Statute

5. In form, the draft statute would amend Chapter 93 of Title 18 of the United States Code by adding a new section 1924, entitled "Unauthorized Disclosure of Classified Information." Chapter 93 contains an assortment of criminal provisions relating to the conduct of public officers and employees, and since the draft statute is in keeping with that theme, we think its placement in Chapter 93 would be appropriate.

6. Generally speaking, as we understand the basic scheme, the draft statute would make it an offense for any member of a class consisting of all those persons authorized to possess or control classified information to communicate such information to any person not a member of that class. We have several reservations about that basic scheme, and we have organized our comments in the order of the considerations that we deem to be of key significance, as outlined in paragraph 4 above.

7. Subsections (a) and (b)(2) must be read together to determine the coverage of the bill, as to persons. Subsection (a) provides:

(a) Whoever, being or having been in authorized possession or control of classified information or material, or being or having been an officer or employee of the United States, a member of the Armed Forces of the United States, a contractor of the United States Government, an employee of such a contractor, or an employee of Congress, and in the course of that relationship acquires knowledge of classified information or material, knowingly communicates such information or material to a person not authorized to receive it shall be fined not more than \$10,000 or imprisoned not more than five years.

Under this language, the affected class consists of specifically enumerated categories of persons (members of the Armed Forces, etc.), to the extent they acquire knowledge of classified information in the course of government employment or employment by a government contractor, plus anyone else formerly or presently "in authorized possession or control of classified information or material." The latter catchall category is explained by subsection (b)(2), which provides:

(b)(2) A person is deemed to be authorized to possess, control, or receive classified information or material, (A) if he is an officer or employee of the United States, a member of the Armed Forces of the United States, a contractor of the United States Government or an employee of such contractor, with a security clearance of the same characterization as the classified information or material, (B) if he is a Member of Congress, an employee of Congress, or an officer or employee of the Judicial branch of the United States Government, or (C) if he has been authorized in writing to possess, control, or receive classified information by an officer of the United States appointed by the President.

8. As we see it, subsections (a) and (b)(2) are redundant in some respects and inconsistent in others. So, for example, looking just to subsection (a), one would conclude that employees of Congress, but not members of Congress, are part of the affected class. However, looking to subsection (b)(2), as one must in order to find the meaning of the phrase "[w]hoever, being or having been in authorized possession or control of classified information or material," as that phrase is used in subsection (a), the conclusion to be drawn is that the affected class includes members as well as employees of Congress. The confusion comes about because subsection (b)(2) introduces the concept of a class of authorized recipients of classified information, without however making clear the function of that concept, and the net result is that the bill lacks a plain and definite statement indicating who is, and who is not, exposed to liability.

9. The preferable approach in our judgment would be to devote a single subsection to a delineation of the affected class, rather than squeezing the definition into multi-purpose subsections such as (a) and (b)(2). As to the proper dimensions of that class, we think that if anything the net may have been cast too widely in the draft statute and that consideration should be given to narrower definitions of the class. In addition, we note that if the affected class is defined to include all former government employees who may have had access to classified information, it will necessarily include at least some newspapermen, and therefore, assuming that publication is one of the forms of communication to which the bill applies, a direct albeit limited control will be placed on what information a newspaper can publish without a threat of prosecution.

(b)¹² *The type of information that would be restricted*

10. Under subsection (a) the restraint on communication would extend to all classified information, which is defined in subsection (b)(1) to mean:

. . . any information, (A) regardless of its origin, that is marked or designated pursuant to the provisions of a statute or an executive order, or a regulation or rule issued pursuant thereto, as information requiring protection against unauthorized disclosure for reasons of national security, or (B) that was furnished to the United States by a foreign government or international organization and was designated by such foreign government or international organization as requiring protection against unauthorized disclosure.

The essential effect of this language is to incorporate by reference Executive Order 11652, and the implementing National Security Council directive of 17 May 1972, governing the procedural and substantive aspects of classification, declassification, and downgrading of national security information. We doubt the wisdom of this approach. In the first place, E.O. 11652 and the implementing NSC directive are subject to amendment at the stroke of the President's pen, so that the adoption of subsection (b)(1) would leave the President free to fix and revise the standards of criminal liability as he might see fit, a prerogative that Congress would almost certainly not want to endorse even assuming that such a sweeping delegation of power would be constitutionally valid. In the second place, the importation into the bill of the executive classification system, in its entirety, would open up the possibility that genuinely sensitive information might go unprotected due to some procedural irregularity in the manner of its classification (classifying official not identified on the face of a document, etc.). And in the third place, it seems to us that the universe of classified information is quite simply too large, and encompasses such a great variety of material of so many different degrees of importance to the national security, as to make impractical the idea of extending criminal sanctions to the unauthorized disclosure of all such information.

11. Here again we would favor a narrower and more discriminating approach along the lines of the sources and methods legislation that CIA has previously supported and that was introduced as H.R. 12006 in the last Congress. We also believe that the standards against which information is to be measured to determine whether it falls into the restricted category should be spelled out in the bill rather than identified by reference to E.O. 11652 or any other existing executive branch directives. Additionally, under subsection (b)(1) as drafted, it is a point of special interest to CIA to know whether the Director's statutory duty to prevent the unauthorized disclosure of intelligence sources

¹² There is no section labeled (a) in the original.

and methods, 50 U.S.C. §403(d)(3), would authorize him, independently of E.O. 11652, to designate certain information as restricted.

(c) *The kind of communications that would be restricted*

12. As already noted, the conduct declared unlawful by subsection (a) is the communication of restricted information by any person authorized to possess it to any person not authorized to receive it. Assuming the intent element of the offense is clarified, this strikes us as workable, although we believe that “communicates” should be a defined term and that the definition should include the acts of furnishing, transmitting, or otherwise making available [restricted information to an unauthorized person], as well as the act of publication.

(d) *The intent element*

13. Under subsection (a) an offense is committed if a person acts “knowingly.” However, it is unclear with reference to what fact or facts a person must have knowledge. Must he know that he is a member of the affected class, or that he is dealing with an unauthorized recipient, or that the character of the information is such as to bring it within the law’s definition of restricted data, or some combination or all of these facts. That matter requires clarification. Similarly, since it presumably is not the intention to make punishable an inadvertent act (as for example a communication with a person reasonably believed to be an authorized recipient), willfulness should probably be added as an element of the offense. In the same vein, consideration should be given to some sort of a general exclusion for communications made in the course of the performance of official duties, this to take care of the not uncommon situations in which high-ranking officials disclose classified information during news briefings, etc.

(e) *Review procedures*

14. Subsection (c)(1) provides:

(c) It shall not be an offense under this section:

(1) If at the time of the disclosure there did not exist a review through which the defendant could obtain review of the lawfulness of the classification of the information or material. Any failure to declassify information or material pursuant to such review shall be agency action adversely affecting the individual requesting the declassification.

As we understand this provision, it would require a showing, presumably to a judge as a preliminary pre-trial matter rather than to a jury as an element of the government’s proof at trial, that there existed at the time of the alleged unauthorized disclosure an administrative procedure through which the defendant could have sought and obtained review of the information involved to determine whether it

could be classified. It is our further understanding that this provision would create a judicial remedy under the Administrative Procedure Act, 5 U.S.C. §§701, *et seq.*, in the event a review requested and conducted pursuant to the required administrative procedure resulted in a refusal to declassify.

15. Subsection (c)(1) is obviously designed to enhance the appeal and acceptability of the draft statute, by providing safeguards against arbitrary classification decisions by executive branch officials. More than that, this subsection is woven into the fabric of the statute and, in conjunction with subsection (e), discussed below, it would play a major role in shaping the offense of unauthorized disclosure by eliminating, in circumstances where the defendant did not avail himself of the review procedure, any requirement of proof that the classification of the information was valid and justified.

16. In principle we have no objection to a two-tier system of administrative and judicial review. Indeed such a system exists today in connection with FOIA requests, more particularly those requests as to which the Agency considers or claims the exemption set forth in 5 U.S.C. §552(b)(1), which provides that the FOIA does not apply to matters that are “(A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified pursuant to such Executive order.” And in addition to the internal Agency and external judicial reviews that are available to an FOIA requester, in cases where the documents subject to the request are classified, there is an existing avenue of appeal to the Interagency Classification Review Committee, an entity established pursuant to Section 7 of E.O. 11652 to monitor the implementation of that Order.

17. While we are comfortable with the concept embodied in subsection (c)(1), we would like to know more about the characteristics of the administrative review procedure that it would require. For that matter, we think the required procedures should be described in some detail in the bill, both in order to enable agencies to determine whether their existing procedures satisfy the requirement and in order to head off potential arguments by defendants that the opportunity for review afforded them was not the sort of opportunity contemplated by the bill. There is also a point relating to the comparability of the standards of judicial review available under the APA on the one hand and the FOIA on the other that needs to be discussed.

(f) *Provisions limiting the proof necessary to establish the commission of an offense*

18. Subsection (e) provides:

(e) In any prosecution under this section where the defendant did not seek review of the lawfulness of the classification of the information

or material, it shall not be an element of the offense that the information or material was lawfully classified at the time of the disclosure.

This provision rules out the validity of classification as an element of the offense, in cases where the defendant did not pursue the administrative and judicial remedies mandated by subsection (c)(1). It is not clear whether, although the government need not establish the validity of classification in these circumstances, an accused could still defend on the grounds that the information in question was not properly classified. In our opinion that issue should be ruled out as a defense as well as an affirmative part of the government's case. Apart from that consideration, the provision seems to us to represent a promising approach to the problems of proof often associated with prosecutions involving the unauthorized disclosure of sensitive information.

(g) *Sanctions*

19. Subsection (a) provides that an offense would be punishable by a fine of not more than \$10,000 or imprisonment for not more than five years. These penalties are adequate and sufficiently flexible in our view, assuming the appropriateness of criminal sanctions.

(h) *Other*

20. Subsection (c)(3) provides:

(c) It shall not be an offense under this section:

(3) To disclose any information already in the public domain, but to disclose additional details or information confirming previously unconfirmed information, which details or information remain classified, continue to be an offense under this section.

We regard this provision as undesirable. Whether information is in some sense in the public domain, and how it came to be in the public domain (i.e., by official statements or otherwise), are questions that clearly have a bearing on the continuing validity of the classification of that information, and that being true those questions should certainly be open for consideration in the review process to which subsection (c)(1) refers. But those questions have no evident relevance at a trial in which the validity of classification is foreclosed as an issue, as is contemplated by subsection (e).

Anthony A. Lapham¹³

¹³ Printed from a copy that bears this typed signature.

35. Memorandum for the Record¹

Washington, April 1, 1977

SUBJECT

Meeting of PRM–11, Task 2 Subcommittee of the Special Coordinating Committee (NSC/SCC), 1 April 1977

1. *General.* The Subcommittee met at the call of the DCI, to consider a preliminary issue paper prepared by the Working Group secretary.² Attendees are listed in the attachment.³ The meeting ranged broadly, diffusely, and somewhat inconclusively over the best approach to take to task 2; the perspective represented by the paper on the table; relationship to task 3 (assigned to the NSC/SCC rather than this subcommittee); and the pros and cons of splitting the DCI and the Director CIA roles. The meeting concluded with a new charge to the secretary of the working group to continue with the basic task 2 report (not on the table at this meeting) but to revise the approach therein to reflect the results of the meeting.

2. *Approach to Task 2.*

The meeting opened with a statement by the DCI that there was a need to ensure PRM–11 efforts paralleled and supported Community responses to Senate Select Committee draft legislation. The secretary then noted the paper on the table was intended to solicit guidance for the conclusions portion of the task 2 report.

General discussion followed, led by State and Defense but with the general support of the DCI, on the need to begin the paper with a general discussion of the purposes of intelligence *per se*, followed by description of DCI responsibilities and powers. An analysis of the balance between responsibilities and powers would lead to specific issues, optional steps toward improvement, and discussion of the pros and cons of the options.

Defense noted that responsibilities and powers of SECDEF, as well as DCI, were pertinent. A DCI comment, that list of Community responsibilities was ipso facto coincident with DCI responsibilities as head

¹ Source: Central Intelligence Agency, Community Management Staff, Job 79M00095A: Official Subject Files (1975–1977), Box 2, Folder 1: PRM–11, Vol. IV. Secret. Drafted on April 4.

² Presumably a reference to the paper entitled “Issues for Meeting of SCC Subcommittee on PRM–11, Task 2, 1 April.” A copy is in the Central Intelligence Agency, Office of the Deputy Director for Intelligence, Job 82M00587R: Policy Files, Box 7, PRM/NSC–11 (cont’d).

³ Attached but not printed.

of the Community, was challenged by Defense on grounds that it begged the question of roles within the Community (and *how* they are to be accomplished) and on grounds that it failed to take account of statutory SECDEF responsibilities. State agreed that the Subcommittee had to define DCI powers, not assume them. D/DCI/IC asserted E.O. 11905 defined the roles clearly and could be the starting point for the paper. Defense rejoined that the E.O. was not universally admired, and that there are other pertinent documents including the National Security Act of 1947 and the Presidential memo of 1971,⁴ to which some might prefer to revert. This issue was not resolved.

On the theme of diagnosing the status quo, as part of the approach to task 2, the meeting then digressed to discussion of how well the first year of E.O. 11905 worked vis-a-vis DCI budget control. Views were varied. D/DCI/IC thought it went well, although he needed more authority to get information earlier from program managers, and to direct development of options to be costed and evaluated. State said it worked only because INR's budget was not touched. Defense allowed that it worked because SECDEF chose to accept the CFI decisions. NSC was dubious about the effectiveness of the CFI process.

The meeting then reverted to the outline of the task 2 report, with the DCI directing the purposes-responsibilities-powers-issues-options approach. The secretary noted that this reversed the Subcommittee's last guidance to the working group to avoid "philosophy" in favor of "hitting the real issues".

This reference to philosophy led to a brief digression on the "national/tactical" issue, which concluded with D/DCI/IC recommending all read the ICS paper on the subject.⁵ The DCI then commented that he hoped tasking of even national clandestine human sources for military purposes would not be ignored by the Subcommittee.

3. *Perspectives on the Draft Paper.* Defense introduced the question of the perspective on the issues embodied in the draft paper. The Defense point was that the paper assumed every-thing from the "national" perspective, and tended to ignore departmental and tactical responsiveness. The DCI agreed that the report must cover all Community responsibilities.

4. *Consideration of Substantive Options.* The DCI then asked the meeting to consider an actual issue: splitting the DCI and DCIA. General

⁴ A reference to President Richard Nixon's November 5, 1971, memorandum entitled "Organization and Management of the U.S. Foreign Intelligence Community." For the text, see Document 242 in *Foreign Relations, 1969-1976*, vol. II, Organization and Management of U.S. Foreign Policy, 1969-1972.

⁵ Not further identified.

discussion revolved around the advantages/disadvantages of splitting, the sub-options contained in the split options, and elucidation of the possible consequences of various sub-options. It was clear from the discussion that CIA and ICS strongly believe splitting would be disastrous and is not really necessary. The DCI seemed to have an open mind on the subject. Defense saw pluses and minuses, depending on the details. Critical to the question will be determination of how much of a production and analysis capability the DCI should retain, and what to do with the rest of DDI, as well as DDO and DDS&T. Also critical to the question will be determination of the level of resource control to be held by the DCI, with the options being generally review and veto only, or full programming, budgeting and allocation. No decision was reached.

5. *Relationship to Task 3.* NSC then noted, in support of the secretary, that this consideration of options really was a responsibility of the full NSC/SCC under task three, not a responsibility of the subcommittee under task 2. After some discussion, the DCI concluded the meeting and resolved the issue by directing the secretary to address the pros and cons of options, particularly side-effects, but to avoid resolving the options.

P.J. Doerr

Captain, U.S. Navy

Assistant Deputy Director

for Special Collection Projects

36. Summary of Conclusions of a Special Coordination Committee Meeting¹

Washington, April 14, 1977, 9:00–10:15 a.m.

SUBJECT

Consideration of Attorney General's PRM/NSC-11 Subcommittee report on "Foreign Intelligence Electronic Surveillance Legislation"

PARTICIPANTS

The Vice President
Denis Clift

State
Secretary Cyrus Vance
Harold Saunders

NSA
Benson K. Buffham
Gerard Burke

Justice
Attorney General Griffin Bell
John Harmon
Michael Kelly
William Funk
Frederick Baron

Defense
Secretary Harold Brown
Charles Duncan, Jr.
Deanne Siemer
Robert T. Andrews

CIA
Stansfield Turner
Anthony Lapham

NSC
Dr. Zbigniew Brzezinski
David Aaron
Samuel Hoskinson
Robert Rosenberg

SUMMARY OF CONCLUSIONS

Dr. Brzezinski opened the meeting with commendation for the subcommittee's efforts, noting that they concluded that the Administration should introduce legislation on this subject. Failure to do so promptly will result in unilateral and potentially counterproductive initiatives by members of Congress. Each of the seven issues and conclusions discussed follow:

1. Should the bill include authorization for physical search? It was agreed that physical searches should not be included in this bill but that this problem should be studied further as part of PRM/NSC-11.

2. Should the bill be expanded to cover electronic surveillance of U.S. persons overseas? The Subcommittee had recommended that it should not, but that Justice should work on separate overseas legislation, which might include judicial warrant procedures. The Attorney General, Secretaries of State and Defense and DCI all expressed concern

¹ Source: Carter Library, National Security Council, Institutional Files, 1977-1981, Box 85, SCC011 Intelligence Structure and Mission, 4/14/77. Top Secret; Sensitive. The meeting took place in the Situation Room. The version of the subcommittee report under discussion was not found.

that the application of warrants to electronic surveillance operations abroad would severely complicate our problems in dealing with foreign intelligence services and result in exposure of liaison relationships or in denial of cooperation by foreign services who feared “leaks.” The Vice President disagreed on the basis that the Constitution follows Americans abroad and without this provision, the Administration will face serious credibility in Congress. *The group deferred a conclusion and remanded this issue back to the subcommittee for research on how liaison relationships might be protected prior to Monday 18 April.*

3. Should the bill include communications intelligence and, if so, in what way? The subcommittee had recommended that the bill authorize without a warrant NSA’s activities [*less than 1 line not declassified*] which are directed solely against foreign powers and non-U.S. persons. The Attorney General and the Vice President dissented, proposing that special one-year and limited judicial warrants be required. The Secretary of Defense and DCI supported the Subcommittee recommendation, noting that this effort is directed only against foreign powers, with minimization procedures approved by the Attorney General to protect incidental intercept of U.S. persons, and that to involve the judicial branch would either be cosmetic in nature, or would tie our hands so much that the sources would dry up waiting for approval. Secretary Vance questioned what warrants would really accomplish but was inclined to agree with the Attorney General and Vice President. *The group deferred a conclusion pending a further research by the Subcommittee due 18 April.*

4. Should an explicit reservation of Presidential powers be included in this bill? *The group unanimously agreed that no reference to Presidential powers should be within the bill.*

5. What should be the standards for targeting a U.S. person? *The subcommittee, with all principals except the Vice President concurring, concluded that a U.S. person should be able to be targeted if he engages in criminal activity related to clandestine intelligence, sabotage or terrorism or if he engages in non-criminal activity which clearly evidences activities on behalf of a foreign intelligence service which threaten the national security or our foreign relations.* While acceding to the majority, the Vice President asked the Attorney General to separately look at changes to the criminal law which would enable us to target U.S. persons without going beyond criminal standards.

6. Should the Executive Branch certification to the judge, when U.S. persons are targeted, that the information sought is properly foreign intelligence be subject to judicial scrutiny? *The subcommittee recommended and the principals unanimously concluded that the judge should be able to review the certification only to determine if it is clearly erroneous.*

7. What should be the standard for disclosure of sensitive information on judicial proceedings? *The subcommittee recommended and the*

principals unanimously concluded judicial review should be limited to a finding as to whether certification was clearly erroneous.

It was agreed that one last attempt would be made to resolve issues 2 and 3 prior to 18 April and subsequent review by the President.

Zbigniew Brzezinski

37. Draft Paper Prepared by an Ad Hoc Interagency Group on Intelligence Structure and Mission¹

Washington, April 19, 1977

INTELLIGENCE STRUCTURE AND MISSION
RESPONSE TO PART 2 OF PRM-11

Good intelligence is a prime requirement at every level of government concerned with national security, from the President and members of the National Security Council to the military field commander.

At the national level the purpose of the U.S. intelligence community is to produce high quality, relevant, and objective intelligence for the President, the NSC principals and, increasingly, for the Congress. These national needs range from information and analysis supporting the formulation of major policy decisions to providing strategic and tactical warning. Such intelligence is drawn from technologically advanced collection systems as well as traditional forms of collection.

Intelligence must also serve the particular needs of the various components of the Department of Defense, including the military services. At the Departmental level, intelligence is used in making decisions as to what weapons systems to develop and their necessary characteristics, as well as in force structure planning. At another level, intelligence provides essential information for crisis response and support for the planning and conduct of military operations including time urgent data on military force movement and activity. A greater degree of timeliness and specificity tends to distinguish DoD's needs from those of civilian agencies. The means and manner of collecting, processing, and producing such intelligence are as diverse as are the needs.

¹ Source: Central Intelligence Agency, Office of the Director of Central Intelligence, Job 97M00248R: Policy Files, Office Level and Above, Box 1, Folder 13: PRM 11—Intelligence Structure & Mission (Folder 2). Secret. Brackets are in the original.

At issue is what organizational arrangements will most effectively serve the wide variety of intelligence needs of national, departmental and tactical users.

The division of responsibilities set forth in the 1947 National Security Act and National Security Council Directives of the late 1940's and 1950's was between the CIA,² which was to support the National Security Council, and the "departments and other agencies of the Government," which were to "continue to collect, evaluate, correlate, and disseminate departmental intelligence." The distinction was not between military and non-military but rather between that intelligence needed by the NSC and that needed by departmental and agency heads.

In the charge to the Director of Central Intelligence under the 1947 act to advise the NSC on "coordination of the intelligence activities of the several Government departments," President Truman sought to prevent repetition of the intelligence confusion and delays that occurred prior to Pearl Harbor. The problem addressed under the act was how to collect, collate, process, and especially disseminate intelligence reports and estimates that would best serve the national leadership—the President and the NSC.

Since 1947 intelligence collection has become far more technically sophisticated and complex. The old distinctions between national and departmental intelligence have blurred, but not disappeared.

Four issues concerning the modern intelligence community have been particularly controversial:

(1) How best to allocate resources in a way which supports all levels and types of intelligence users and does so in peace, crisis, and war;

(2) How best to control the targeting of intelligence collection assets in support of all users in peace, crisis, and war;

(3) How best to distribute line authority over the various intelligence elements;

(4) Whether and how to deal with the potential conflict which results from the DCI being the principal intelligence staff officer to the President and the NSC while at the same time (wearing his CIA hat) being one of the intelligence line officers of the government.

With respect to these issues, two differing viewpoints have characterized the debate over the years. One viewpoint emphasizes a centralized intelligence structure and the resource allocation process as a DCI responsibility. A second emphasizes the interaction and overlap among

² For the NSC Intelligence Directives (NSCIDs) of this time period, see *Foreign Relations, 1945–1950, Emergence of the Intelligence Establishment*, and *Foreign Relations, 1950–1955, The Intelligence Community, 1950–1955*.

national, departmental and tactical needs in both the tasking and resource allocation process and would decentralize responsibility to recognize this. The first stresses resource rationalization and economy; the second stresses responsiveness to user needs.

Resource Allocation

The rapid growth of sophisticated Soviet weapons systems and communications technology, coupled with the advent of advanced U.S. collection systems over the last 15 years, has driven up the total cost of operating the government's intelligence programs. Since 1971, there has been pressure both within the Executive Branch and from Congress to impose constraints on the total funds spent on intelligence and to ensure that there is no wasteful duplication of effort.

The November 1971 Presidential Memorandum,³ which followed the OMB "Schlesinger Study,"⁴ directed the DCI to play a larger role in recommending "the appropriate allocation of resources to be devoted to intelligence" including tactical intelligence. It further directed the DCI to prepare a consolidated intelligence program budget including tactical intelligence. Finally the President directed the DCI to turn over to his Deputy as much day-to-day control over CIA as legally possible.

Over the succeeding several years, the DCIs played a greater or lesser role in the resource allocation process depending on their own proclivities and their interaction with the Secretary of Defense. However, for a variety of reasons, largely related to recognition of the integral role of tactical assets in the conduct of military operations, the DCIs never made a significant resource allocation impact on the tactical assets of military commanders.

E.O. 11905, issued in February 1976, removed tactical intelligence from the National Foreign Intelligence Program and specifically stated that neither the DCI nor the Committee on Foreign Intelligence (CFI)—now Policy Review Committee (Intelligence)—should have responsibility for tactical intelligence, although the CFI was to "provide guidance on the relationship between tactical and national intelligence."

The CFI was empowered by E.O. 11905 to "control" budget preparation and resource allocation for the National Foreign Intelligence Program and to review and amend the NFIP budget. The DCI was made chairman of the CFI but no guidance was provided in the event that a majority of the CFI disagreed with the view of the DCI. In addition, some confusion was created within the Executive Branch and in Congress since the Secretary of Defense is by law responsible for

³ See footnote 4, Document 35.

⁴ See footnote 4, Document 28.

the DoD budget while E.O. 11905 states that the CFI shall “control” and “amend” elements of the DoD budget.

[At present, resources for those elements of the National Foreign Intelligence Program which are under the direction of the Secretary of Defense are subject to the same planning, programming and budget processes as all other DoD programs, except that they are also subject to the CFI review. The Services, Defense agencies, and Program Managers are given program guidance early in the calendar year by the Secretary of Defense for the next fiscal year and, since E.O. 11905, from the DCI as well. During May each year, the Services, Defense agencies and Program Managers send their Program Objectives to the Secretary of Defense for review. In July, the Policy Review Committee (Intelligence) reviews the proposed NFIP Programs and approves or amends them as required. The PRC (Intell) decisions are then reflected in the Program Decision Memoranda issued by the Secretary of Defense.

In the September–October time frame each year, the DoD Comptroller holds budget hearings on DoD programs including intelligence. OMB and the ICS participate in those budget hearings. In November, the Secretary of Defense issues Program Budget Decisions which reflect PRC (I) decisions. The final DoD budget submitted to the President incorporates these decisions, or they become issues for Presidential resolution. As the budget year progresses, reprogrammings from or to intelligence programs must be reviewed by the Policy Review Committee before going through the normal DoD process.

Other elements of the National Foreign Intelligence Program are subject to the PRC July program and November budget reviews] (*this section is, in Mr. McGifferts' view, dispensable. But it is Dr. Brown's decision since he proposed it*)

Tasking

Operational tasking at present reflects the traditional primacy of the DCI in this area. The DCI controls CIA clandestine services and the principal interagency committees which prioritize SIGINT and imagery tasking report to the DCI.

Tasking has been complicated because intelligence collection systems have grown increasingly capable of serving the broad interests of the policy makers and defense planners, the more specific technical interests of weapons developers and the combat intelligence needs of field commanders. Communications intelligence provides political and economic data, as well as information on military capabilities and operations. Agents are asked to collect information on Soviet weapon technology, political intentions, grain harvests, etc. Satellites produce pictures which are critical both to the SALT policy maker and the Army Commander on the East German border.

One issue is how to provide the tactical commander in the field not only the appropriate product from nationally controlled intelligence assets, but how to permit that commander to task those assets which can be directly responsive to his needs. There is also an issue in the opposite sense, mainly of ensuring that the appropriate product of "tactical" intelligence collection is made available to national policy makers. A third issue is whether there is a need to establish a central mechanism to prioritize the tasking of national systems. Proper resolution of these issues must take into account the need for a rapid, effective transition from peace, to crisis, to war.

Line Authority

There appears to be general agreement that systems and organizations which are substantially tactical in nature should remain under DoD control, although there is a significant grey area in defining what is "tactical." The principal questions relate to operational control of national intelligence collection systems. One issue is, what line authority arrangements best facilitate transition from peace to crisis to war? The interface between national intelligence collection systems and the non-NFIP military facilities essential to support them such as missile ranges, shipyards, base operations also has implications for the distribution of line authority.

Alternatives

In national systems, one key question with respect to resource allocation, operational tasking and line authority is the proper balance between (a) centralization of control in the DCI and (b) DoD dedicated resources designed principally for support of military operations such as aircraft, submarines, satellite boosters, and the like. Another way of looking at the same balance is to ask how to task the multiplicity of collection systems (that, given the diversity of targets, will exist in any event) so as to be as responsive as possible to the needs of all consumers consistent with an acceptable overall cost.

A second key question relates to the wisdom of mixing management responsibility (e.g., resource allocation or line authority over collection organizations and assets) with responsibility for analysis, evaluation, and the setting and prioritization of requirements.

Alternative forms of resource management, operational tasking, and line authority, which can be considered for national systems are:

Resource Management:

Subject to appeal to the President acting with the advice of the NSC —

R1. Decisions could be negotiated collegially, with neither the DCI nor the Secretary of Defense having final decision authority in the

absence of negotiated agreement. This is approximately today's situation.

R2. Either the DCI or R3 the Secretary of Defense could have the final authority either independently of, or after recourse to, a collegial forum. This raises questions of operational control since if (for example) DCI had resource allocation authority, the people and hardware (e.g., submarines) presumably should belong to him. The governing statutes and E.O. 11905 would require substantial modification.

R4. The DCI could have the power (either with or without a collegial forum) to veto, but not to add, with respect to the NFIP elements in the budgets of a Department as determined from time to time by the Department. This would strengthen the DCI's control of upward pressures on Departmental intelligence budgets while leaving the Departments some downside flexibility. E.O. 11905 would need to be modestly modified, but not the governing statutes.

The foregoing choices relate to peacetime operations. In wartime the choices might be different but that question need not be addressed since it does not appear critical to the effectiveness of rapid transition to a wartime footing.

Operational Tasking

O1. Continue present arrangements, based on separate collegial mechanisms, under which the DCI has final tasking authority during peace, crisis, and war. Under this system military commanders must go through these DCI mechanisms to task national systems not only in peacetime, but in time of crisis or war as well.

O2. Continue collegial mechanism, but shift from DCI final tasking authority in peace to SECDEF in war and crisis.

O3. Establish under the DCI a single centralized non-collegial mechanism for tasking.

O4. Same as 3, but shift final tasking authority to SECDEF in war and crisis.

Line Authority

L1. Retain existing distribution of line authority over national systems.

L2. Shift line authority over NSA [*less than 1 line not declassified*] to the DCI.

L3. Separate the DCI from operational control of all national collection assets.

The following matrix represents all possible combinations of the *resource management* and *line authority* alternatives which have been discussed. An "X" connotes an alternative which is infeasible or illogical.

		LINE AUTHORITY		
		L ₁	L ₂	L ₃
RESOURCE MANAGEMENT	R ₁			
	R ₂	5		5
	R ₃	5	5	
	R ₄			

In fact, the matrix is three dimensional. *Operational tasking* alternatives are, for all practical purposes, independent of decisions made with respect to the other two. In any event, the four tasking alternatives (O1–O4) discussed earlier apply equally to each element in the matrix.

From these options one can construct a variety of interrelationships, requiring either minimal or major change to existing statutes and Executive Branch directives. Considerations of effective span of control, duplication of existing management and budget systems, and optimum functioning of the structure in peace, crisis and war impact on choosing the best mix in assigning responsibilities. The resulting structure must support the DCI in his primary role as the principal intelligence advisor to the President and must support the Secretary of Defense in the conduct of his responsibilities under the National Command Authority.

⁵ If either the DCI or the SECDEF is to have final *resource* authority over all national collection assets, it would be inconsistent to have some or all of them under the *line* authority of the other. [Footnote is in the original.]

38. **Memorandum From the Deputy Director of Central Intelligence (Knoche) to Director of Central Intelligence Turner¹**

Washington, April 22, 1977

CIA VIEWS ON THE FUTURE MANAGEMENT OF
THE INTELLIGENCE COMMUNITY

It seems evident to us that your role as DCI and the way in which the Intelligence Community is managed are going to be altered, to some extent, either by legislation or Executive Order. In the debate over past problems and the discussion of new “guiding” principles that are being advocated by the diverse interest groups involved in this process, there is a real danger that too much attention may be diverted from the basic issue. As one of the involved organizational interest groups that will be, perhaps, dramatically affected by organizational changes, and because we were here and were a part of the process that has shaped the DCI’s role, we wanted to present the problems and issues as we understand them. We have not examined all possible options, nor do we intend this paper to be considered as an alternative to the PRM–11 study. Our insights and analysis are based upon our collective experience modified and sharpened by the clarity hindsight always provides.

Summary

In any discussion of the future management of the Intelligence Community, the role of the DCI emerges as the central issue. Does his authority allow him to carry out his job as the head of the Intelligence Community in general and of the CIA in particular? In our paper we have tried to define the DCI’s responsibilities and to balance them against his enabling authorities. We found that there is a serious imbalance in the DCI’s ability to manage the resources of the major components of the National Foreign Intelligence Program. While the DCI’s responsibilities are clear, it is just as apparent that he cannot be expected to improve significantly the intelligence product by matching resources

¹ Source: Central Intelligence Agency, Office of the Director of Central Intelligence, Job 97M00248R: Policy Files, Office Level and Above, Box 1, Folder 13: PRM 11—Intelligence Structure & Mission (Folder 2). Secret. Knoche did not initial the memorandum. In a cover note dated April 22, Knoche wrote “DCI a week or 10 days ago, we agreed I would assemble some CIA views concerning PRM II and organizational intelligence matters. This paper is the result of a collective look at some issues and alternatives. It is no single person’s view but it represents an institutional, agency view. I have sent a copy to Dan Murphy. When you’ve read it over, you may want to meet with the collective CIA group that put it together. H. Knoche.”

against national intelligence requirements unless he has line command as well as budgetary authority over CCP, NRP and CIAP. Nor can he ensure that intelligence activities of the Community are compatible with the Constitution and Presidential policy guidance without real authority over the Community. The process of logic, the experience of the past several years, the evolutionary trend toward centralization in the Community, and the demands of a changing world for improved and more responsive intelligence production capability have led us to this conclusion.

Basic Options and Recommendations

In the planning for the reorganization of the Intelligence Community there is only one non-negotiable principle. The United States must continue to have at least as effective an intelligence capability as it has now. In our view there are two basic motivations which should underlie proposals for basic change in the Intelligence Community—a desire to improve the quality of the intelligence product and to provide more efficient management. We and the Senate Select Committee place more weight on the former; OMB and the House Appropriations Committee will probably focus on the latter; the President wants and the country deserves both. For us, at least, the key question is: How do we get better intelligence? Under any reorganization, the head of U.S. Intelligence can only carry out his responsibility to protect and enhance the national security if he is given sufficient and appropriate authority. He must be effectively supported by an all-source production unit, an overseas oriented clandestine collection capability with viable cover, innovative technical collection capabilities in the SIGINT and reconnaissance areas, and such other support units as may be required.

With PRM 11, the question of whether to give to the DCI somewhat more authority, a lot more authority, or perhaps to abandon the effort to weld the various intelligence components into an effective community is once again the subject of heated debate. In the last analysis, there are only three fundamental options, though there are many detailed variations on these themes, and all focus on the central issue in the current debate, your responsibilities and authorities.

Should the DCI's responsibilities be reduced to those he can handle under his present authorities? This option would presumably be based on a frank assessment that there is really no way to give the DCI an effective role in the management of the Intelligence Community, save that which he now has in the production world by virtue of the 1947 Act, and thus that the sensible approach would be to return to the basic arrangements which applied before the creation of a serious effort to give the DCI budgetary control within the Intelligence Community. It would however be a step backwards for those who regard effective central management of American intelligence as important. Pursuing this approach would be an admission that the Executive Branch cannot

solve what many in the Community and in the Congress consider an important management problem. We would in fact be acknowledging that only the Congress can cope with the managerial and budgetary issues which arise between components within the Intelligence Community.

What would happen if the DCI's *statutory authority over the Intelligence Community budget* or some significant part of it was increased? Giving to the DCI real budgetary authority (in contrast to what is now essentially a staff role with respect to preparation of the Intelligence Community budget for the President) would greatly increase his leverage and hence his ability to shape the Intelligence Community. There is, however, a basic problem: Giving the DCI statutory responsibility over budgetary matters outside CIA without also giving him line management authority would mean that the Director of NSA, the Director of the NRO, and possibly the directors of certain other components of the Community (perhaps including CIA) would have two bosses: one to whom they responded on general management and policy issues, and one to whom they responded on issues having to do with the budget. Such an arrangement would be awkward, to say the least—both for program managers and for the DCI of the future.

Would an increase in the DCI's statutory budgetary authority and his *line management* authority over major parts of the Intelligence Community be a wise choice? This is the classical solution for every similar management problem: Make one man responsible for the management of the whole enterprise and hold him accountable for doing a good job. From the DCI's perspective, the most important parts of the Intelligence Community not under his operational control are the Consolidated Cryptologic Program (CCP) and the National Reconnaissance Program (NRP). Removing the CCP and the NRP from the Department of Defense may not be politically feasible. It is, however, workable if approached with a spirit of trust, cooperation, and institutional responsiveness to military requirements, and it could provide unified command over all national intelligence activities and ensure increased efficiency and coordination of national intelligence programs.

We believe it is line management authority over important elements of the Intelligence Community which the DCI needs to do the job which many expect him to do. But let us take you through the reasoning that led us in CIA to recommend this choice instead of a more evolutionary approach.

The DCI and How He Got There

CIA was established by the National Security Act of 1947. For approximately the first 20 years of its existence the DCI functioned effectively as the head of the CIA. Few within the Executive Branch or in the Congress paid much serious attention to the Intelligence

Community *as a community* or to the DCI as head of that Community. CIA existed in some isolation, certainly in comparison with today, from its partners in the intelligence process and tended to see itself as an elite organization somewhat aloof from others in the Community. At the same time, until relatively recently, CIA functioned in a highly decentralized way with real operating authority largely delegated to the four line Deputy Directors and with DCIs who selected those issues of interest to them and pursued them inside and outside the Agency but who generally did not consider themselves as managers of the whole of CIA.

Both of these characteristics of CIA during this period flourished because the President, the Congress, and the public had relatively low levels of interest in CIA and because the Agency's goals and methods, to the extent they were understood, enjoyed wide public and Government support.

During the late 1960s and early 1970s a number of developments began to call into question these relatively well established patterns. Growing public disaffection over the U.S. Government role in Southeast Asia and the Agency's prominent part in it promised eventually to create an atmosphere of massive public mistrust of Governmental decisions made in secret and to call into question much that CIA did. Watergate clearly contributed to public perceptions about the need for secrecy in Government and raised troubling questions for many components of the Intelligence Community who were sometimes accused of operating secretly only to conceal embarrassing mistakes. In that explosive atmosphere a *New York Times* story on alleged abuses by CIA during the 1960s generated a very vigorous move by both houses of the Congress to examine in great detail what had previously been largely ignored or accepted in many cases (though not always) as normal and acceptable.²

In retrospect, another important development occurred during this period and continues to affect us very much today: the 1971 study of the Intelligence Community carried out at OMB by Jim Schlesinger,³ later to become DCI. Broadly, the study asserted that the Director should be an effective head of the whole Intelligence Community and argued that the lack of leadership within the Community had produced a serious management problem which needed attention. Dr. Schlesinger observed that the lack of leadership over the whole Community and

² Reference to Seymour Hersh's December 22, 1974, article, "Huge C.I.A. Operation Reported in U.S. Against Antiwar Forces, Other Dissidents in Nixon Years," *New York Times*, p. 1. See also *Foreign Relations, 1969-1976*, vol. XXXVIII, Part 2, Organization and Management of U.S. Foreign Policy; Public Diplomacy, 1973-1976.

³ See footnote 4, Document 28.

the relative insularity of the various components of the Community led to duplication of effort and waste, and lowered the quality of the product. Dr. Schlesinger recommended the creation of the Intelligence Community Staff and broader involvement of the DCI in the Community resource review function.

Public attitudes arising from the U.S. Government's conduct of the Vietnam War, the Watergate situation, critical internal Executive Branch looks at Intelligence Community management, and the investigations by Congress—far from assuring the public and the nation's leadership that intelligence was effectively managed and under adequate oversight review—have so far led instead to continuing examination of the problem. Today it seems clear that the Executive Order issued by President Ford last year,⁴ a serious effort to establish workable mechanisms to cope with many of the problems identified in recent years, was only an interim step in the further definition and solution of a larger problem.

Working within the existing framework of legal authorities which give the Department of Defense legal responsibility for the conduct of some 80 percent of the Intelligence Community program (in budget terms) and the Director of Central Intelligence direct authority for only 20 percent of the program, Executive Order 11905 further codified the broad consensus which has emerged in recent years that someone should be in charge of the Intelligence Community, and that "that" someone was the DCI. On the other hand, because existing authorities did not permit giving legal authority for all aspects of the Community to the DCI, the framers of the Executive Order adopted a collegial management arrangement in which the Director would attempt to control the budget process as a first among equals, and the White House itself would assume some responsibility for the control of possible impropriety through the establishment of an Intelligence Oversight Board.

In assigning more and more responsibility to the DCI for Community management, however, both the Schlesinger report and the Executive Order made it more and more difficult for the DCI to function as the head of CIA. The Executive Order implicitly recognized this when it stated that the Deputy Director of Central Intelligence should be responsible for the day-to-day management of CIA.

Pushed towards responsibility for the whole Community, but lacking the legal authority to assume that responsibility and very mindful of strong Presidential and Congressional desires that they assume leadership, Directors have taken advantage of such mechanisms as are

⁴ Reference to E.O. 11905, issued on February 18, 1976.

available to them to lead without a clear basis in statutory authority for doing so. This has caused difficulty within CIA, where there is a widely-held perception that recent DCIs have bent over backwards to cooperate with other elements of the Intelligence Community, sometimes at the expense of CIA, in order to preserve their ability to carry out their Community leadership role. Within existing legal authorities, it is easy to see why this perception would exist. Many are aware that the fabric which knits together the Intelligence Community is extremely frail, that it depends heavily on personal not institutional arrangements and authorities, and that serious problems which pit one component of the Community against another must be avoided at any reasonable cost in order to preserve the fabric of the Community and the DCI's ability to function as its leader.

There is another problem which was caused by the collegial arrangements created by the Executive Order. As the CFI (now the PRC) has evolved, it is increasingly clear to many members of the Intelligence Community that individual components need to take steps to help insure that the PRC principals are adequately informed in detail on the issues presented. This has produced pressures on individual Community components, like CIA, to inform a wider audience than ever before of the need for decisions on programs which go to the PRC for approval and—in effect—to be as responsive as possible to demands for information in order to assure that the “right” decisions are made. Because it has been physically difficult to get busy PRC principals together for meetings—and because the more widely based the decision-making process becomes, the more necessary time-consuming prior coordination and information sharing becomes—there has been in the minds of many within CIA a general degradation of the quality, crispness, and security of the decision-making process.

Similarly, increasing outside demands for information about the Intelligence Community and CIA have created internal pressures for centralization of certain kinds of decision making, certainly in the Community as a whole, but also within CIA. As people outside the Community ask increasingly informed and penetrating questions about individual programs which relate or appear to relate to other parts of the Intelligence Community, there is an increasing need for centralization of decision making to insure that the Community has properly coordinated itself before it is subject to such probing. Similarly, within CIA historic decentralized patterns of management have been changing rapidly to accommodate to these outside pressures. [4 lines not declassified] Thus, searching outside questioning is forcing centralized consideration of many problems. In the not too distant past, this was only rarely required and hence all too often not pursued.

While the Executive Branch and the Congress were in effect telling the Director to assume more and more responsibility within the Com-

munity but failing to give him the necessary authority to do so, Congressional interest, growing out of the investigations, in control and oversight has been working simultaneously to enhance accountability not only over CIA but over other parts of the Community as well. As this process has broadened and deepened, however, CIA has perceived its past flexibility—the very thing which made it different and better in the eyes of its own employees—as diminished.

In recognizing that the DCI was becoming more and more a Community creature and less and less a Director of CIA, the Executive Order wisely noted that the Deputy Director should assume the CIA leadership role. However, the DDCI is the only “program manager” within the Intelligence Community who works directly for the DCI. Because of this unique relationship, it is awkward for him to push aggressively for the interests of CIA during a jurisdictional or resource allocation dispute with another “program manager.” The DDCI, therefore, is different from other managers who can exercise lesser restraint and who have another appeal route through their line command organizations. The problem becomes particularly acute when the DDCI is aware that in pushing his own Agency’s interests he may put the Director in a position which threatens the frail arrangements he has for coordination in the entire Community. This problem is but a symptom of the larger management problem referred to, namely, the Director’s lack of authority over the entire Community to cope with the responsibilities which others expect him to carry out.

In sum then, for a variety of reasons, as many have demanded that the DCI assume a larger Community role, the arrangements under which he has been forced to do so have made it increasingly difficult for CIA. This should not be construed as an argument for a return to the halcyon days of the 1960s. It seems clear enough that the demands for leadership of the Community require attention instead to a firmer articulation in law of the Director’s responsibilities *and authorities* for the whole Community or a substantial part of it.

The DCI—Powers and Responsibilities

DCI responsibilities within the Community now appear to fall into two categories; those for which he has adequate real authority accepted by most in the Intelligence Community and those for which he does not. Basically, we believe the DCI has adequate authority or status to fulfill the following responsibilities:

- Advisor to the President and the NSC;
- Collation and production of national level intelligence for civilian and military needs;
- Covert action;
- Control of intelligence related liaison with foreign governments, and protection of sources and methods, (within CIA, though probably not in the Community as a whole).

At the present time we believe the DCI lacks the necessary authority to carry out these responsibilities well:

- Management of intelligence community resources;
- Warning and crisis reporting;
- Coordination of counterintelligence activities;
- Representation of the Intelligence Community before Congress;
- Coordination of Community collection resources;
- Requirements and collection guidance direction for the Community;
- Evaluation of the effectiveness of national intelligence programs and ensuring that intelligence activities are compatible with our democratic system and policy objectives.

The nation and the Intelligence Community have lived with this situation for some time now and may be able to make do for some years while we wait for the evolutionary process to centralize the necessary enabling authority in the Office of the Director. Four separate but interrelated forces, however, appear to be working against the evolutionary process as a solution.

The pace of centralization in the Intelligence Community is being encouraged by advancing technology involving more complex opposing weapons systems, nuclear proliferation, near real time collection systems, and the increasing need for centralized integrated data processing techniques that are necessary to enhance our warning and crisis reporting. The growth of the Director's Community role is being accelerated by the desire of both Congress and the President to achieve Government efficiency through streamlining and reorganization, as well as post-Watergate legislative efforts to make the Intelligence Community more accountable to Congress and our democratic system. Finally, the diminishing availability of real dollars for intelligence purposes also argues persuasively for centralized management in order to ensure the most effective use of resources to meet the intelligence requirements of the consumer.

The DCI as the Intelligence Resources and Production Czar

There are basic variations in the organizational structure that would strengthen the DCI's role as the head of the Intelligence Community. The DCI, as the SSCI Bill suggests,⁵ could be given budgetary authority over all the Intelligence Community or major parts of it. This would

⁵ Not found. The Senate Select Committee on Intelligence drafted a "National Intelligence Act of 1977." A synopsis of the bill is in a paper entitled "Congressional and Executive Review of Major Foreign Intelligence Activities," which is an attachment to Vice President Mondale and DCI Turner's memorandum to the President dated April 14. (Central Intelligence Agency, Office of the Director of Central Intelligence, Job 97M00248R: Policy Files, Office Level and Above, Box 1, Folder 13: PRM 11—Intelligence Structure & Mission (Folder 2)) See also Document 39.

mean that all funds would be allocated to the DCI for disbursement to the separate components of the Intelligence Community. The DCI would then have a strong resource tool that he could use to exert influence over the Intelligence Community. But what would the Community look like and, if this approach were pursued, in particular, what would happen to the DCI's position as the head of the Community?

To enhance his role as the President's Intelligence Resources Czar and principal foreign intelligence advisor, the DCI probably should move his office to a central location physically near the President. His status in the Community would be increased by proximity to the President and the move would further demonstrate that the role of the DCI was, in fact, changed. To assure others in the Community and elsewhere of his objectivity, it would also be necessary to separate the DCI from his line control over the CIA. Physically and logistically detached from CIA, however, the DCI would need either to take part of CIA with him or to create a new staff to assist him in carrying out his dual role as the President's principal intelligence advisor and the Exchequer of the Intelligence Community. The latter function could be handled by the existing IC Staff organization though it would probably be reorganized somewhat to deal with its responsibilities in a new context. The more detailed the use of his budgetary authority, the larger the DCI's staff would have to be.

The staff he uses to support him in his role as the President's intelligence advisor would also be dependent upon the depth of his attention to the production process. The DCI may elect to use a small staff like that of the National Intelligence Officers to oversee the production of the important process of national intelligence and to provide substantive support for his Presidential advisory role. Alternatively, he could co-opt the entire Directorate of Intelligence and exercise direct control over the production mechanism, probably blending the NIOs into the DDI or vice versa to create an integrated national production unit. The DDI could report directly to the DCI but should probably continue to be physically housed at CIA Headquarters. Thus, under this arrangement, the DCI and the IC Staff would be located downtown while the DDI would remain in the CIA headquarters building. The DCI would exercise line control over the IC Staff and the DDI. CIA would be reconstituted as a new organization containing what is now the DDO, the DDS&T, and the DDA and would continue to report to the NSC for policy control and guidance. Similarly, the NRP and the CCP program managers would continue to report to the Secretary of Defense on all but resource matters.

The DCI would now have the organization and the statutory authority to advise the President and to control the financial resources of the Community. He still, however, faces some formidable problems.

While he exercises budget and fiscal control over the Community, he has line control only over the intelligence production component. The "collectors" report to different masters for command direction. Lack of line control over the major collectors would seem to limit the DCI's ability to make the collection mechanism more responsive to his national intelligence requirements and, in the last analysis, to focus the collection effort in support of the production process.

Our experience with the budgetary influence the DCI was able to exert over the Intelligence Community through the mechanism of the PRC has indicated that the purse string can be used effectively generally to influence or to coordinate national programs over a two or three-year period of time. By itself, however, the budgetary process is not sufficient to carry out all the basic responsibilities that we have listed above. For years, although OMB has had budgetary control over Government departments and agencies, it has not been able to use this power to exert the kind of direction over them OMB believes is desirable. The budgetary process can be used much more effectively negatively than it can positively. With this power you can exercise a slow veto over programs you wish to terminate but it is difficult to exercise bold initiatives or to explore new and imaginative programs solely through the control of funds in a long budget cycle. Instead a DCI needs to have the major collection systems immediately responsive to the requirements of his production organization. Over time it has become clear that some of these systems, particularly those in NSA, are in real life somewhat less than responsive to his requirements and that all of them can only be brought to respond through cumbersome, sometimes bewildering, and time-consuming collegial procedures. Moreover, the lack of central authority has meant that the case for the development of certain collection capabilities clearly needed to solve important analytic problems has not been effectively made either to Congress or to the OMB. [*less than 1 line not declassified*] is a particular case in point.

In summary, the DCI as Resources and Production Czar, measured against the yardstick of responsibilities vs. authorities, has significant problems. He does not have command authority over covert action programs, community collection resources and intelligence-related liaison with foreign governments. Thus, his ability to represent the Intelligence Community before Congress, to make collection systems more responsive to the national intelligence production process with the ultimate aim of improving the final product, and to ensure that intelligence activities are compatible with policy guidelines and our democratic system, appears to be handicapped. In fact, the DCI, even with vastly increased budget and fiscal authority, still cannot balance his responsibilities with enabling authorities. Separating the DCI from CIA,

his sole power base, without giving him broader command powers could result in less coordination of collection activities and a larger gap between collection and production with a resulting diminution of our national intelligence product.

The DCI and A Fine Tuning Option

Before going on to an option that gives the DCI both line and budgetary command over the Intelligence Community, let us examine what could be done to change the status quo enough to improve the national intelligence product and to meet the desires of the President and the Congress. Some have suggested that the DCI could maintain control over CIA and use somewhat increased budgetary authority to manage the Intelligence Community. Depending upon the extent to which his present budgetary powers are increased, this option, from an internal CIA view, could be called "fine tuning." For example, the DCI could be given the budget preparation powers he now must exercise in a collegial context within the PRC. He could, under this arrangement prepare the entire budget of the Intelligence Community for submission to OMB and exercise reprogramming powers without the need for concurrence from State or DOD. This is a significant step short of the management responsibilities under the Czar option, as the DCI would not be responsible for administering the budget after Congress had acted to appropriate funds except in the area of reprogramming. This option increases the DCI's ability to use the budget tool to manage the Intelligence Community but falls short of enabling him to provide imaginative leadership over the Community, for the budget tool is too cumbersome a mechanism to use to stimulate the Community to develop imaginative and resourceful approaches to meet future demands for an improved intelligence product.

If we increase the DCI's budgetary authority, as stated in the SSCI Bill, we significantly increase his authority over the Intelligence Community, as he is now responsible for disbursing the funds allocated to him throughout the Community. Giving this power to a DCI who has also maintained his control over CIA goes far beyond what could be titled a "fine tuning" option. Moreover, it is doubtful that the rest of the Intelligence Community, irrespective of the extent of his budgetary authority, would readily accept a DCI as the head of the Community who had not separated himself from CIA.

Under this option the DCI would control the production of national intelligence and maintain his command over CIA and the Community's clandestine collection and covert action capability. He still would have difficulty, however, in representing the Intelligence Community before Congress and in directing the collection resources of the NRO and NSA. While his direct influence over the Intelligence Community would

not be improved to the point that he is capable of meeting all his responsibilities, he would not lose the ground he would lose in the Czar option essentially because he could retain his direct control over CIA. Improvement in the responsiveness of collection agencies to the requirement of the national intelligence process, provision of an effective oversight authority for the Community, and an increase in efficiency from a more centralized management authority would have to await for a further development of the evolution process.

The DCI with Line and Budgetary Authority over National Programs

The Czar and "fine tuning" roles for the DCI outlined above, both in varying degrees, meet two tests of the DCI's requirement for sufficient authority to manage the Intelligence Community efficiently, and thereby improving the intelligence product. First, he would directly control the production and analysis of national intelligence. Secondly, he would have the budgetary authority that is an essential part of any management system. Neither of these two roles, however, give him the ability to integrate the collection and production elements of the Intelligence Community. It is difficult to see how the intelligence product can be significantly improved without the ability to orchestrate collection systems and production components. Budgetary powers are inherently not sufficient to direct the CCP and NRP. Reliance upon the DCI's personal relationship with national program managers as a management device when critical issues are at stake is not likely to prove any more effective in the future than it has in the past. Following this chain of reasoning leads to the conclusion that the DCI should have as much authority over the other two major national programs as he does over CIA.

If we emphasize the DCI's role as the President's substantive intelligence advisor, that in turn requires that the DCI have an independent intelligence production capability under his control, and the time to shape its output to meet presidential and other national requirements. Such a DCI cannot spend the bulk of his time either on management and resource problems or on fighting fires stirred up by the Congress, the press, and the Department of Justice.

A DCI with a relatively small staff could have under him three statutorily established separate agencies. Their directors would report to him and their budgets would be allocated to him. But under authority delegated by the DCI their directors would be responsible for the management and administration of their agencies. The Directorate for Intelligence would remain within the CIA for purposes of management and administration, but the Deputy Director for Intelligence would report directly to the DCI on substantive matters. Undoubtedly this arrangement would create some management difficulties for the new

Director of CIA. Given line and budget control over CIA, CCP and the NRP, which use 80 percent of the dollars and 75 percent of the manpower, the DCI would be able to balance his ledger of responsibilities and authorities. The foreign intelligence units of the Community represented by State/INR, DIA, intelligence arms of the uniformed services, ERDA, FBI and Treasury fulfill important departmental needs. But their programs are small and little, if any, increases in either efficiency or monetary savings could be expected to accrue from centralized management. Thus we would not include these programs within the DCI's direct purview. In addition to the expected benefits to be gained from a unified command structure, DCI line and budgetary control over the national intelligence programs would meet the major concerns of the Congress and accomplish a balanced authority for the centralization and the accountability of the Intelligence Community without destroying the opportunity for dissent from departmental units.

Such a solution would create a DCI not overly burdened with management. He would have capabilities for intelligence production under his direct control and the authorities necessary to ensure that collection served those capabilities properly. It would preserve the integrity of CIA and the obvious benefits that flow therefrom. And, because in this first stage the NRP and CCP would remain separate, it would be reversible, either if the arrangement proved a failure or in the event of war. This last would make it at least marginally more palatable to the DOD. Moreover, it is a real change, and one that should satisfy the President's desire for centralized authority. It would not go as far toward efficient centralized management as the DCI's power would allow but the preservation of the unique qualities and strengths of CIA seem to us worth this cost. Overall, it would place relatively more weight on the DCI as substantive adviser to the President and relatively less on the DCI as administrator.

At a later stage, after the dust had settled and after the DOD was persuaded that the detachment of the CCP and NRP had been accomplished without reducing the intelligence support afforded to it, rationalization of the various collection capabilities under the DCI might be undertaken.

This option presents the greatest potential for a significant increase in the ability of the Intelligence Community to collect, analyze and disseminate national intelligence. It also contains the danger of leading to a considerable decrease in our present capability because of the possible weakening of CIA through the separation of the DCI. Which of these two diverging paths the future holds seems to be largely dependent upon the managerial ability of the DCI, the Director of CIA, and the organizational structure that they must work within. To begin with, some of the most troublesome problems of the past would no

longer have any relevance. There would be no controversy over who produces national intelligence. Similarly, the argument that the DCI, whatever you call him, is still the Director of CIA first and foremost, would lose credibility as the Director of CIA and the program managers of the CCP and NRP would have the same leader. Disputes among these giants of the Community would have the same forum for argument, the same route for appeal and the same judge for decisions. CIA's special relationship with the DCI would no longer detract from the DCI's credibility in the Community as a dispenser of resources and an arbiter of disputes.

New Management Problems

Nevertheless, a very real jurisdictional conflict remains. The benefits of granting the DCI line command and budgetary control over such major parts of the Intelligence Community must be balanced by the immediate management problems that he would have as a result of his increased authority. Given time, good will and a pragmatic approach your new challenges appear manageable. First we should recognize that by giving you the authority over the national intelligence programs that is necessary to carry out your responsibilities, we have in turn increased the Secretary of Defense's concern that the tactical requirements of the Services will not receive adequate attention. This is an essential point and the very real concerns of DOD must be satisfied. Some of the collection capability of the CCP and NRP is tactical by any definition and it may be wise to transfer the clearly tactical portions of these national intelligence programs to the DOD. This could take place over a period of time to avoid the disruption that would be caused by an abrupt shift. Even with a DOD tactical intelligence collection capability and the best of intent, there would be areas of real disagreement between DOD and the DCI over what portion of national intelligence resources should be used to satisfy DOD requirements. The command relationship between the DCI and the NSC and the strong DOD position on the NSC should provide the Secretary and the Joint Chiefs with both an adequate appeal mechanism and a forum to bring pressure on the DCI to be more responsible. An NSC committee chaired by the President's Assistant for National Security Affairs with clear policy guidance jurisdiction over the DCI and his national foreign intelligence programs could lessen DOD concern on this issue. The war and peace resource control controversy is also an integral part of the DCI's inter-relationship with the Secretary of Defense. An arrangement that assured DOD that their wartime intelligence needs would be accommodated could also alleviate further their concern over the loss of DOD command control over CCP and NRP. Some parts of the General Defense Intelligence Program are concerned with strategic intelligence of national interest and could be examined on a case-

by-case basis to see if they should be included under the DCI's authority over national intelligence programs.

Whatever shape the reorganization of the Intelligence Community takes and however the scope of your role is defined, the DCI should establish the capability to make significant internal realignments of national intelligence elements and committees under his command in the coming years.

39. Memorandum From the Special Assistant to the Deputy to the Director of Central Intelligence for the Intelligence Community (*[name not declassified]*) to the Deputy to the Director of Central Intelligence for the Intelligence Community (Murphy)¹

Washington, April 29, 1977

SUBJECT

SSCI 25 April Draft of "Intelligence Reorganization Act of 1977"²

1. Reference is the latest draft of the Senate Select Committee on Intelligence proposed legislation, "Intelligence Reorganization Act of 1977," copy of which was provided by Bill Miller on 26 April. This is a revision of the 29 March draft earlier provided.³

2. Bill Miller's note was marked: "For your information. This is the latest draft. More to come."

3. This memorandum has been prepared for your background use in discussions relating to the bill. At Tab A is a comparison of the roles and duties of the senior U.S. intelligence officer as set out for the "Director of National Intelligence" (DNI) in the SSCI draft bill, and for the DCI in E.O. 11905. The SSCI bill would give the DNI much more authority than the DCI now has. At Tab B is a brief discussion of each section of the SSCI bill, indicating where problems are identified.⁴

¹ Source: Central Intelligence Agency, Office of the Director of Central Intelligence, Job 80M00165A: Executive Registry Subject Files, Box 6, Folder 15: C-38.2: Senate Select Committee on Intelligence (SSCI). No classification marking.

² A summary of the April 25 draft is *ibid*.

³ Not found. See footnote 5, Document 38.

⁴ Tab A, "Authorities and Duties of the Senior U.S. Intelligence Officer," is attached but not printed. Tab B, a review of the draft bill, is attached but not printed.

4. While various aspects of the bill are highly debatable, there is only one aspect that I consider essentially unworkable, and that is the responsibility assigned to the DNI for departmental, tactical and intelligence-related activities as well as national intelligence activities.

a. The DNI is charged, for instance, to review all ongoing and proposed tactical, departmental and intelligence-related activities to “assure” that they are “properly and effectively directed, regulated, coordinated and administered,” that they provide needed information, that they are not illegal or improper, and that they do not “adversely affect the national security, national defense, or foreign relations of the United States.”

b. It can be expected that execution of these responsibilities would pose severe jurisdictional problems with the Joint Chiefs of Staff and the Secretary of Defense and their supporters in Congress.

5. Other provisions of the draft bill that raise the likelihood of overlap or conflict between DNI and JCS/SECDEF authorities or interests are these:

a. The DNI shall review all national, departmental, tactical and intelligence-related activities of the U.S. and make recommendations to the President, the National Security Council and the Congress regarding their “most effective relationships.”

b. The DNI shall provide “guidance and direction” to the head of each IC entity to ensure the activities of each entity are “effectively and efficiently managed” and in conformity with the Constitution and laws of the U.S.

c. The DNI shall not only prepare the annual budget for all national intelligence activities, but also review and approve or disapprove all proposed reprogramming or fund transfer to or from any IC entity.

d. The DNI shall be responsible for security of U.S. communications. (COMSEC has not heretofore been an intelligence responsibility.)

e. The DNI shall have authority to terminate the employment of personnel of NSA and the special offices for reconnaissance, as well as CIA personnel.

6. Comment can be made on the bill without addressing whether or not the DNI also should head the CIA. By inference, the SSCI intends that the DNI be separated from CIA since the draft bill contains no reference to a particular relationship with CIA. If the phrase, “Act as operating head of the CIA” were added to the list of DNI duties in Sec. 106 no other amendment of the draft bill would be required to accommodate this change.

a. If the DNI is not the operating head of the CIA, staffing to execute his responsibilities could cause a partial dismantling of the Agency since the DNI is charged to “receive, correlate, analyze and

evaluate all national intelligence and be responsible for the production of all national intelligence” and to “produce” NIEs and SNIEs. As part of his responsibility for national intelligence, a DNI separate from the CIA would require his own current intelligence/indications and warning staff.

7. One aspect of the bill which may pose considerable problem to the Administration is that the legislation would put the legislative branch on virtually a co-equal basis with the Executive branch in terms of the substantive intelligence and reports to be provided by the DNI.

8. The definitions of “national” and “departmental” intelligence continue to be troublesome since the differentiation is made on the basis of “primary use” which fails to recognize that the same information can be important at national, departmental and tactical levels.

9. The SSCI is progressively tightening the criteria for approval of covert actions. The present standard used by the OAG is that proposed CA be “*important*” to the national security. The 29 March SSCI bill enjoined the President from approving any special activity unless it was “necessary because of a *grave threat* to the national security.” The 25 April draft would require that a proposed special activity be “*essential* to the national security.”

10. The 25 April draft to which these comments and Tabs A and B apply is not even a complete Title I of the bill. Section 117, “Prohibitions on Particular Forms of Special Activities,” has not yet been provided. Preliminary drafts of Title II, which will include charters for the various national intelligence agencies, are expected to be made available rather soon.

40. Memorandum From the Comptroller of the Central Intelligence Agency (Taylor) to Director of Central Intelligence Turner¹

Washington, May 6, 1977

SUBJECT

Further Thoughts on PRM-11 Issues

1. During your session with us the other day² on our paper on the options available under PRM 11,³ you asked several fundamental questions about the nature of the authorities we thought you needed to do your job. Following the meeting we spent some additional time talking with Mr. [name not declassified] about his related efforts and got from him some further insight into your questions. As I understand it, you have divided the question of authorities into three basic areas: those dealing with the ability to *task* the Community to do your bidding, those which involve enhanced *budgetary* authority, and those which deal with *line authority*. Mr. [name not declassified] suggested that a paper dealing with some of the issues inherent in these concepts might be helpful to you, and we offer the following.

2. We see the problem similarly but would argue that line authority and tasking are in fact one and the same thing. Tasking in our view is a subset of line authority and not an independent, stand-alone variable. But let us take you through our reasoning. To do that we will talk about the tasking question first, then line authority, and then budgetary authority.

3. There is a good deal of confusion surrounding the concept of tasking. Let us elaborate on two different views as to what tasking means. You are today under the 1947 Act⁴ charged with pulling together intelligence from all the various producers and collectors in the Intelligence Community and integrating it for the consideration of policy makers. You thus have the legal authority to *ask* for the product of all Community components and to ask collectors to collect certain kinds of information. In the case of CIA you cannot only ask that the information be collected but *direct* that that task be accomplished; and if it is

¹ Source: Central Intelligence Agency, Office of the Director of Central Intelligence, Job 97M00248R: Policy Files, Office Level and Above, Box 1, Folder 14: Intelligence Structure and Mission (Folder 3). Secret. Sent through the DDCI. Neither Taylor nor the DDCI initialed the memorandum.

² Not further identified.

³ Presumably a reference to Document 38.

⁴ Reference to the National Security Act of 1947, P.L. 80-253.

not done to your satisfaction, you are in a position to change that. With respect to the other collection entities in the Community, however, all you really can do at the present time is ask. The mechanisms available to you to ask the Community to contribute on problems basically consists of the DCI committee structure, which is a vehicle for the articulation to others of your requirements and needs. You have at the present time all the authority you need to *ask* through these mechanisms that work be done. What you lack is the ability to enforce those requests, i.e., to ensure that requests are met in whatever timeframe is appropriate. Because the DCI's role in the Government is important and cannot simply be ignored, the collegial committee process resting essentially on the consent of the participants often works, although rarely as crisply and efficiently as is ideally possible. In short, tasking should mean not only the ability to ask for information but the ability to ensure that you get it. The former you have; the latter you lack. It is line authority over the Community components involved which would give you the latter. It is for this reason that we would argue that the concept of tasking is in fact integral to the concept of line authority.

4. What would it mean if you had the ability to task the Intelligence Community to answer to your needs in the way we have suggested above? To answer this question, we picked the management problem you mentioned at our recent meeting—how far does your present staff authority have to be augmented to gain effective control over NSA? Or, as you put it, how much of the existing dotted line between the DCI and NSA would have to be inked in to give the DCI the necessary authority to manage NSA? As the solid line representing the authority of the DCI over NSA increasingly replaced the dotted line of staff guidance, the solid line that now extends from the Secretary of Defense to NSA must be correspondingly broken to reflect the DCI's increased authority. Thus, we have a twofold problem. Any increase in the DCI's ability to direct or manage NSA must be accompanied by a proportionate diminution of the power Defense now holds over NSA. The force of logic influences us to state that you cannot both have line control and not have it; or to answer that there is no such thing as a *little* line control. It seems to be indivisible. The owner of the heaviest solid line calls the shots and establishes the ground rules for the other players. But let's look at what powers the DCI *now* has to make NSA responsive to his direction and, then, enumerate what we think he must have to carry out his responsibilities. Some place between the powers the DCI now has over NSA and those we believe he should have, the border between the dotted staff line and the solid command line will be crossed.

5. The DCI is faced with two distinct management situations as he strives to carry out his responsibilities to the President. He must manage

the diverse resources of the Intelligence Community toward the fulfillment of long-term national intelligence objectives and, on an ad hoc basis, he must be able to utilize these same resources to support the President in crisis situations. Crisis management puts a different stress upon management capabilities than do the work-a-day problems he faces that are not time urgent. Therefore, we should examine the need for increasing the DCI's authority over NSA in both situations.

6. The DCI's present ability to "direct" NSA is made up of three separate but obviously interrelated approaches. First, is his unquestioned authority to promulgate broad collection guidelines in the form of Key Intelligence Questions⁵ and other more specific national intelligence requirements. Secondly, he can, through the budgetary process, veto some NSA activities, change the pace of ongoing activities where progress is closely related to dollar limits, and he can encourage new initiatives by providing funds to encourage NSA-originated initiatives. Lastly, he can selectively use the force of his personality and his access to the President to bring a recalcitrant Agency into line. The promulgation of broad guidelines and the selective use of special access to higher authority are textbook mechanisms that are traditionally used by staff personnel to get the job done. Strong budgetary power is one of the keystones of line authority. Thus, the DCI today has the usual staff powers plus one of the essential elements of line authority. The other essential element of line authority is the capability to reward directly those who effectively carry out their assigned responsibilities and to punish just as directly, those who do not. The rewards and punishment element of line authority encompasses the ability to hire and fire personnel, to have unrestricted access to all parts of your subordinate organizations and to evaluate the performance of subordinates against the tasking they have been given by their chief.

7. How can the DCI use the tools he now has to direct NSA? If the DCI decides that the needs of national intelligence require more economic reporting and less military reporting from NSA, he can issue collection guidance requirements that "task" collection systems to increase their economic reporting. No one will question the DCI's right to issue collection guidance and if the Director, NSA, and the Secretary of Defense agree with the DCI, the necessary adjustments will be made. If they do not agree, the collection ratio between military and economic coverage will remain more or less the same. The DCI, in the course of time, will find out that NSA is not responding to his tasking. At this point, he can wait for the next budget cycle, or he can appeal to the

⁵ William Colby, DCI from September 1973 until January 1976, established the Key Intelligence Questions in 1973, which were to provide the entire intelligence community with intelligence targets critical to policymaking.

President to tell the Secretary of Defense to honor the DCI's request to collect more economic intelligence. The DCI may decide this is really not a proper problem to bring to the President's attention, and the DCI will then have to pick up his budget stick. He will soon discover, however, that he cannot find an effective place within NSA to use the budget stick to cause a shift from military to economic reporting. The same collection systems serve both reporting categories. This is also true of the processing mechanism. There is nothing to veto; no unit to deprive of funds and no slots he can refuse to fund. The choice may be to cripple the ability of NSA to collect intelligence at all or to let them continue their practice of selectively responding to DCI collection guidance. Thus, all the tools in the DCI's inventory can prove to be ineffective in the most elemental test of his powers—the bringing of collection systems into line with national intelligence needs. He can, of course, given a world of "limitless" resources, give NSA the extra funds they would need to expand their overall collection capability in general and thereby increase economic coverage, but that is rarely a real option.

8. As would be expected, a crisis situation which calls for a rapid shifting of collection emphasis to support the President's need for the rapid formulation of foreign policy initiatives shows even more clearly the handicaps the DCI must overcome to orchestrate collection and production resources. With his present powers, the DCI can order his human source collection mechanism to respond, and the DDO will move immediately to redirect its collection assets. The DCI's Human Resources Committee is not even relevant to this process. In fact, most DDO collectors have only the vaguest notion of this Committee. One leg of the DCI's collection triad has responded immediately to his direction. The other two legs of the triad, represented by SIGINT and reconnaissance systems, are not as easy to redirect in crisis situations. The assets of the CCP and the NRP are owned by the Secretary of Defense. If the Secretary perceives the crisis with the same level of priority as does the DCI and if he agrees with the "trade off" involved with any redirection of collection assets, then all will go relatively well. The DCI's SIGINT and COMIREX Committees will work their collegial magic, and the technical collection systems will slowly swing around to focus on the crisis. The DCI has effectively matched Community resources with national intelligence needs. Or has he? Maybe the Secretary of Defense played the key role. For what would have happened if the Secretary had not agreed with the importance of the crisis and refused to go along with the collection trade off that would occur if his CCP and NRP assets were moved from their standing collection responsibilities? In that case the collegial committee process would not work as harmoniously. The inevitable compromise process would

set in with its attendant delays, and the DCI's effectiveness in focusing Community resources on a crisis area would not be as impressive. In essence, the DCI can do anything with the resources of the CCP and the NRP that the Secretary of Defense lets him do. In short, you are not in a position to make trade off collection decisions because it is the Director of NSA who must do the balancing between your needs and those of the components or organizations which he serves most directly in a command sense. Giving you line authority over the two other parts of the Community as suggested in our earlier paper, the NRO and the CCP, would put you and not the Director of NSA in the position of weighing the competing intelligence and military needs. And it is, of course, for this reason that Defense will most strenuously argue with proposals to remove these components from the Department.

9. If Defense controls the resources of the CCP and the NRP, and if the DCI has essentially the same staff guidance relationship to both, why is it that the reconnaissance assets seem more responsive to DCI guidance than do the COMINT collectors? Of the two technical DCI resource tasking committees, COMIREX works more effectively through the collegial process than does the SIGINT Committee. In fact the COMIREX Committee has often been held up as a model for the other collegial committees to emulate. The answer to this is rather simple. COMIREX assets are limited by technology to collecting data within a narrow spectrum of national intelligence needs. Moreover there is a great degree of Community acceptance of COMIREX targets. Photographs seldom help us to understand the political process of a target nation. They are of limited use against economic targets. Pictures do not tell us much about basic research or the pre-prototype stages of weapon systems developments. Overhead photography, however, is a remarkably effective collector against targets of military significance. The importance of the military targets covered by COMIREX assets is understood and accepted. The limitations of this technology to collect against other targets is also understood. Therefore, the COMIREX Committee meets in an atmosphere of relative harmony with limited possibilities for significant "trade off" arguments. Discounting telemetry and ELINT collectors which enjoy the same relative target commonality as photographic satellites, SIGINT Committee COMINT assets have the technological potential for collecting against all national intelligence requirements. The probability of disagreement is correspondingly broad and the likelihood of agreement without extensive compromise and long delays is improbable. There are, of course, other differences between the collection programs represented by the COMIREX and SIGINT Committees but they are not as fundamental. CIA's historical role as the technological leader in satellite photography

and the physical location of important program managers within CIA and under the line control of the DCI also improve the DCI's ability to match COMIREX resources against intelligence needs. Since the DCI and the Secretary of Defense have fewer disagreements over photographic, telemetry or ELINT targets, DCI requirement guidance is more effective and the need for DCI line control to match resources against requirements is not as critical. The opposite is true with COMINT collectors. Without real line authority there is no way of making sure COMINT collection will be guided by your perception of national intelligence needs.

10. In our meeting on Wednesday,⁶ there was a good deal of discussion about what it would mean to you if you were in fact responsible for not only the CIA but also the CCP and NRO in a line management sense. Questions were raised as to whether the management job was so large that your ability to carry out substantive responsibilities would be seriously compromised by the time required to be spent on managerial duties. Basically, we think this is somewhat of a red herring. There are many Government officers who have responsibility and authority over programs larger than that which would emerge if CIA, NRO, and CCP were combined. Further, we think there is a plausible argument that line control over those other two organizations would in fact make your Community resource and other responsibilities easier to handle than they now are. You would then have the more manageable task of making your organization responsive. The collegial Community management process developed over the years and further enshrined in E.O. 11905 is, because it is built on a Presidential order which cannot modify statutory responsibilities, necessarily a cumbersome and time-consuming apparatus. If your real authorities were clearer, it can be argued that the managerial task you would have would in fact be simpler. In the last analysis, the question is really one of delegation. In combining the three organizations, it would be important to build an effective staff organization which enabled you to focus the organization on the questions you wished addressed, and it would be necessary to build procedures to ensure that the large questions in which you wanted to be involved were brought to your attention but the others were handled by subordinate elements. In other words, the way in which you delegated your authority and indeed your management style would probably be as critical to the question of whether or not you had time for substance as would the size of the organization you would be managing.

⁶ May 4. Presumably the meeting with DCI Turner.

11. We have talked about tasking and about line authority and argued that one is but a subset of the other. What of the various proposals to give you expanded budgetary authority in the Intelligence Community *without* line authority? To answer this question let us lay out the two different models which as far as we are aware have been attempted in the Government and give you a sense of what each would mean and how it would work.

12. The first of these is essentially reflected in the existing IC staff arrangement. You were given under the Executive Order last year what is essentially a staff responsibility to the President, not unlike that of OMB, to advise him on the appropriate mix and disposition of resources within the Intelligence Community. The authority you have been given under the Executive Order is limited to making a *recommendation* on the proper allocation of resources. If a decision is made, it must be the President's or the Secretary of Defense's, and you have no legal responsibility for the defense of the program before the Congress or the execution of it once it is approved except in the case of CIA. The ability to recommend actions on the budget is a powerful tool although it has, as we pointed out in our previous paper, limitations.

13. Another model which has been suggested would involve appropriation of funds to you for that portion of the Intelligence Community for which you wish to have a budget responsibility. These funds would be directly apportioned by you among the various programs which make up the Community. In such an arrangement, you would theoretically be given the power to run an effective budget process, to raise issues and decisions with the President, and to defend the program before the Congress, and to execute the budget as you saw fit within any limitations imposed by outsiders. There is precedence for such an arrangement. The so-called poverty program set up by President Johnson in the Office of Economic Opportunity (OEO) in the early 1960s in fact was designed to function in this manner. The basic concept was that funds would be appropriated to the Director of OEO but that the responsibility for actually conducting programs would generally be delegated to other existing departments of the Government. The Director OEO would shape the budget in accordance with his priorities, defend it before Congress, but leave the day-to-day management of, for example, manpower training programs, to someone else, in this case the Secretary of Labor. By the late 1960s when OEO's appropriation was about \$2 billion, about \$1 billion was appropriated to the Director of OEO but transferred thereafter by him to the Secretary of Labor for the conduct of manpower programs. The idea had a good deal of appeal but in fact was largely judged a failure. (The whole program was thought by many to be a failure; here we are discussing only this peculiar budgetary arrangement.) The fact was that the Secretary of

Labor had vastly more influence over the budget which legally was to be prepared by the Director OEO than one would have thought, given the original concept established in law. This happened for very human reasons, and we doubt that were you, for example, to have a similar responsibility with respect to NSA today the situation would be much different. Because the Secretary of Labor operated the manpower programs, because he had good Congressional contacts, because OMB turned to him for advice on these programs rather than to Director OEO, because even the White House turned to the Secretary of Labor instead of the Director OEO for advice, OEO found itself essentially rubber stamping what the Secretary of Labor had already agreed to do with others. In fact OEO was never able to get the Labor Department to concentrate on the areas it thought were important in the manpower program area. Doubtless there have been other analogous approaches to this problem in previous times although we personally are not aware of any of significant size. In this particular case, after a fair amount of backbiting between OEO and the Department of Labor and a growing recognition by everyone that little was gained by appropriating the money to OEO, a decision was eventually made to appropriate the funds for these programs directly to the Department of Labor. No one knew the difference.

14. A net assessment of *that* experience is that it was not worth the trouble. In addition, our previous paper suggests to you what we believe are some of the other important limitations of the budgetary tool alone.⁷ Also, we explained our view that your assumption of a more far-reaching budgetary role within the Community would lead to demands from others in the Community, particularly the Department of Defense, that you separate yourself from CIA. This in turn would require that you take at least the production apparatus out of CIA so that you would be able to fulfill your most fundamental intelligence responsibility, thereby raising the question of whether CIA without the production apparatus could continue to exist. Perhaps more fundamental from your point of view, however, you would be left with line command over essentially only the production apparatus and faced with a “residual” CIA (i.e., the CIA today minus the DDI and the NIOs) which reported around you in a line command sense to either the NSC or the President. We doubt that the budgetary authorities you would gain would compensate for the losses sustained through your separation from the CIA and the end runs which would, we think, occur with some regularity.

⁷ Document 38.

15. Thus, we return to the argument posed in the earlier paper, that it is line command over the essential elements of the Community which you need to do the job which others expect you to do. In this connection, we might explore one further option. If it is clear that it is line command over the Intelligence Community which should be established, is it necessarily clear that it is the DCI who should exercise this authority? Why not, for example, make the CIA responsible to the Secretary of Defense and establish a position of Intelligence Community czar within the Department of Defense? This solution is conceptually the same as giving line authority over the Intelligence Community to the DCI, and it would solve the Community management problem analyzed in our earlier paper. This arrangement would have the great strength of not provoking an enormous battle with the Department of Defense. In avoiding that battle, however, we believe that you would create several others which would be equally, if not more, difficult. Perhaps the only issue on which almost any Congressman (from conservative to liberal) will agree regarding CIA is that it must be independent of the policy making apparatus of the Government. A proposal to include CIA within the Department of Defense would we think provoke a very strong and negative reaction. In a large study of this question last year,⁸ we pursued this option at some length and considered whether there might not be some arrangement which would accommodate to those concerns. We considered, for example, the idea that the DCI might be established as a statutory official within the Department of Defense responsible for the management of all intelligence including CIA and that in an arrangement similar to the Joint Chiefs of Staff, he would be able to see the President independently on substantive or other matters of concern. The concept has a certain appeal and it would in fact solve a number of managerial concerns. In the last analysis, however, we believe that the approach is flawed. Customers in departments and agencies other than Department of Defense would see such a move as a threat to the support which they now receive. This would be particularly true in the case of the Department of State. We doubt that a CIA lodged in the Department of Defense could attract the quality of personnel it needs to do its job, primarily because the intelligence profession must always be viewed within Defense as *support* to the Department's primary responsibility to guarantee the nation's military security. Despite legal provisions guaranteeing the independence of the Director in a substantive sense from the Secretary of Defense, we doubt such independence could in fact be guaranteed or that others would believe that it could.

⁸ Not further identified.

16. We hope that this paper is helpful to you. We would be happy to either pursue some of these ideas further on paper or explore them with you in another meeting. There may also be practical problems on which you may like short papers. One of these might be concerned with the management structure you might need to exercise line control over CIA, NSA and the NRO.

James H. Taylor⁹
Comptroller

⁹ Printed from a copy that bears this typed signature.

41. Memorandum From the President's Assistant for National Security Affairs (Brzezinski)¹

Washington, May 31, 1977

MEMORANDUM FOR

The Vice President
The Secretary of State
The Secretary of Defense
The Attorney General
The Director, Office of Management and Budget
The Director of Central Intelligence

SUBJECT

PRM/NSC-11

The attached report has been prepared by a special interagency drafting team for SCC consideration in response to the requirements of Section 3 of PRM/NSC-11. It is intended to provide a reasonable starting point for SCC deliberations that will result in recommendations to the President on the future mission and structure of the Intelligence Community. It should be read in conjunction with the separate

¹ Source: Central Intelligence Agency, Office of the Director of Central Intelligence, Job 97M00248R: Policy Files, Office Level and Above, Box 1, Folder 14: Intelligence Structure & Mission (Folder 3). Secret. Copies were sent to Lipshutz and Eizenstadt.

reports prepared by the DCI² and Attorney General PRM/NSC-11 Subcommittees.³

The first SCC meeting on PRM/NSC-11 is scheduled for 8 June at 10:00 a.m. in the White House Situation Room. The agenda for this meeting will be:

- a. How to structure the PRM/NSC-11 decisionmaking process
- b. Strategy for dealing with Congress
- c. Views on structural options
- d. Views (time permitting) on "other solutions."

Zbigniew Brzezinski

Attachment

Report Prepared by an Ad Hoc Interagency Group on Intelligence Structure and Mission⁴

Washington, undated

[Omitted here is the table of contents.]

INTRODUCTION

This report is submitted to the NSC Special Coordination Committee for its consideration in fulfillment of the responsibilities assigned to it by the President in PRM/NSC-11. The report draws on material prepared in support of both the DCI and Attorney General PRM/NSC-11 SCC subcommittee deliberations and reflects extensive written departmental inputs and deliberations within a special senior level Working Group.

The report consists of four principal parts related to each other in the following manner:

—Section I, Objectives and Principles for US Foreign Intelligence, provides the essential broad criteria against which any improvement options, especially organizational, ought to be judged. They are what the President should expect from intelligence and are in effect a broad set of guiding principles.

—Section II, Problem Areas, then defines and analyzes the basic problem areas within the Intelligence Community in the present organi-

² See Document 42.

³ Brzezinski sent the three PRM/NSC-11 subcommittee reports to Mondale, Vance, Brown, Lance, and Turner under cover of a June 4 memorandum. (Washington National Records Center, RG 330, OSD Files: FRC 330-80-0017, 350.09 (June) 1977) See also Document 36.

⁴ Secret.

zational, leadership and political environment. It is based on a comprehensive review of US foreign intelligence activities but is not itself a definitive critique. Its purpose rather is to provide enough background on the present performance of the community to comprehend the implications of possible organizational and other changes in terms of their impact on major difficulties encountered by the present system.

—Section III, *Structural Options*, begins with a concise description of the present structure, then identifies a representative range of organizational options. It is not intended to be theoretically comprehensive but rather to portray real-world possibilities responsive to the guiding principles and problems previously identified in Sections I and II of this report.

—Section IV, *Other Solutions*, recognizes that while organizational changes may resolve some of the problems associated with the management and operation of the Intelligence Community, there are other problems that will be virtually unaffected by structural change. It identifies certain perennial problems that will require sustained and creative attention by Intelligence managers and on which the President should be kept informed.

I. Objectives and Principles for US Foreign Intelligence

A. Objectives

American foreign intelligence is a complex and costly information service operated by the Executive Branch of the United States Government to support its conduct of foreign policy and national security affairs. Government intelligence is distinguished from other public and private information services by:

- Concentration on the information needs of official decisionmakers;
- Systematic collection, by human and technical means, of information that other governments try to keep secret;
- Evaluation of all information, including that from public sources, available to the Government;
- Dissemination of resulting data and judgments to those who need them;
- Disciplined efforts to keep secret that information about its operations and results, the disclosure of which would undermine intelligence effectiveness and national security.

US intelligence is unique in the world for its state of the art, the scope of its activities and the extraordinary range and variety of organizations and activities that constitute its consumership.

The President is the most senior consumer of US intelligence. While he receives and uses intelligence directly, more importantly, he is the chief executive of a large hierarchy of intelligence-using organizations.

US intelligence must serve all elements of the US foreign policy and national security establishment in the Executive Branch, mainly

the Office of the President, the Departments of State, Defense, Treasury, and the Arms Control and Disarmament Agency. To a lesser degree, it also serves other elements of government with foreign affairs concerns.

Intelligence is also provided to entities outside the Executive Branch. Congress has long been and is increasingly important as a consumer of intelligence. The US public indirectly derives much of its information, especially on closed societies, from intelligence. Officially cleared contractor organizations supporting foreign and defense policy efforts draw on intelligence. [2 lines not declassified]

The Intelligence Community itself consumes intelligence, stores it for the future, or exploits it to guide operational or developmental decisions.

Within the core of the US national security establishment in the executive departments, consumers of intelligence exist at all levels. They include:

- The President, the National Security Council, Cabinet, and sub-Cabinet officials.
- Departmental planners of foreign economic, arms control force structure, strategic, and R&D policy.
- Operational planners of political, economic, and military actions.
- Field planners and executors of policy and operations.

Viewed from the top of the structure, Washington consumers seem to dominate the constituency of US intelligence. But there are many very important consumers outside Washington. Like intelligence assets themselves, military commands and diplomatic missions that depend on intelligence are distributed around the world. Important military consumers of intelligence, for example, some unified and specified commanders, combat commanders, weapon system developers, and training facilities, are also distributed around the US.

The essential mission of US intelligence is to deliver high quality information and judgments on foreign developments of enormous variety to this multiplicity of consumers, from the President down to military and civilian officials engaged in tactical decisionmaking and planning. Achieving each of the hallmarks of quality presents US intelligence today with serious challenges.

—Intelligence information be *accurate*. Beyond sorting out the pervasive background noise of world affairs that confronts any observer, this means intelligence must penetrate the secrecy barriers erected by skillful opponents. It also means that intelligence data available to the total system must be stored, retrievable, and disseminated in a reliable and timely manner.

—Intelligence must cover needs that are *very extensive*. As a global power, US interests and, hence, information needs lack readily defined

limits. Some argue, however, that presenting US intelligence needs as inherently without limits leads to excessively costly effort, in terms of resources and political risk. Those of this view have difficulty defining what the limits should be but insist they nevertheless exist. Others take the view that US intelligence needs should be expected to shrink as US commitments and involvement around the world are reduced; for example, in Southeast Asia. But the contrary effect impresses itself on intelligence managers: as US unilateral power to shape world events is reduced relative to that of others, US policy choices become more difficult and, hence, needs for information to refine its interests, commitments, and forces appear to expand. This presents US intelligence managers with thinly spread resources and the requirement to focus their resources more skillfully. Whether or not US relative power is shrinking, the US will continue to pursue a foreign policy of global dimensions. This will demand an intelligence effort of substantively global scope. Nevertheless, the priorities among regions and topics, as well as the means of collecting and exploiting information, will have to be refined with new rigor.

—US intelligence must be *responsive* in two senses. It must be *relevant* to the real needs of US decisionmakers. It may need to tell them things they *need* to hear even if they do not think them relevant. It must not only be about the problems that concern them; it must help them make decisions. It must be responsive to needs that the consumer does not yet fully appreciate, not just for today's problems, but more importantly for the future. This requires a close dialogue between intelligence suppliers and consumers that proves in practice very hard to achieve and sustain. It must also be *timely*, a condition that may be measured in months or years for some problems, or minutes for others, particularly in the case of intelligence support to commanders of military forces.

—US intelligence must be *analytically penetrating and sophisticated*. In theory, there is an unbroken continuum between "facts" that an agent or sensor can report as intelligence, and weighty policy judgments that political and military leaders must make. Intelligence could be asked to supply "just the facts," and leave to the statesman or general the task of integrating and analyzing the facts as part of the process of policy choice. But US intelligence has long been required to move beyond the raw data it collects to grapple with judgments that are not too distant from policy choice. For example, "What are Soviet strategic objectives?" or "What is the future of Black Africa?" are issues typical of those on the intelligence docket. This requires that intelligence must have high-quality talent and organizational structures for demanding research and analysis to support intelligence production.

—Intelligence judgments must be *candid and objective, unbiased* by policy preference. It must supply the decisionmaker with information

and judgments he ought to hear, including those he may not want to hear. Where large hierarchical organizations are involved, this demand is obviously not easy to square with the imperatives of responsiveness to decisionmakers' needs and of analytic sophistication on subtle or subjective issues. It also means that where intelligence is serving well, it must face some dissatisfaction from customers that dislike its findings.

—Finally, intelligence must provide for *safeguards against abuse* in balance with security needs. Many intelligence activities are secretive of necessity and occur at the edge of interstate conflict, where governments have always assumed extraordinary powers. This makes such activities susceptible to abuses more grave than corruption or misuse of authority that any public or private enterprise must protect against. Prevention of such abuses must be of paramount concern in structuring the system to satisfy national security needs.

In addition to supplying effective intelligence service to its many consumers, US intelligence must meet two more essential objectives:

—Its activities, particularly the most expensive activities of intelligence collection and processing, must be managed in an efficient or generally cost effective manner;

—Its activities must be demonstrably consistent with US legal and basic political standards.

B. *Principles*

It is possible to postulate a number of general principles that should govern the management and operations of a US Intelligence Community intended to meet these objectives. Some of these principles relate to the organizational structure of the Community, others to the style of management and oversight.

1. *Diversified Service*

The Community must be structured and managed so as to provide responsive intelligence support to the wide diversity of consuming organizations at many levels. This means that many consuming organizations must have their own intelligence production entities who know and can respond to their unique needs. In addition, consuming organizations must have means of tasking or influencing the current activities of the Community as a whole, in production and collection. They must also have some means to influence the longer-range programming decisions of intelligence that create capabilities for the future. In principle, then, there must be numerous entry points for statements of need and numerous exit points for delivery of intelligence services, however the Intelligence Community is structured.

2. *Pooling Information and Collaborating in Judgment*

The post-war intelligence system of the US grew out of the need to assure communication among intelligence elements the lack of which

was perceived to have permitted surprise at Pearl Harbor. It is a long accepted principle that US intelligence must be so structured that, within the limits of sound security and reasonable divisions of labor, the entire system must be able to share data and judgment within itself, and, on major issues, to collaborate in disciplined agreement or disagreement. This is a process that can always be improved but which must take place, whatever the Community's structure.

3. An Independent Source of Judgment

Another well established principle of US intelligence management is that there must be at the center of the Community an entity capable of pulling together the data and judgments of other entities, but sufficiently strong and independent to offer intelligence judgments that are, to a maximum extent possible, uncolored by policy preferences, or other institutional considerations that may influence the judgments of departmentally based entities.

Taken together, these three features of intelligence production structure—diversity, pooling and collaborating, and a policy-independent source—afford a system of checks and balances required for effective intelligence performance over the long term on issues necessarily open to debate and differing judgments.

4. Readiness for War

It is increasingly apparent that, while devoted to assist in the maintenance of peace, US intelligence must be capable of supporting the conduct of war with the minimum of disruptive transition. This capability must be appropriate to a range of possible conflict situations from those like Vietnam to a major central conflict with the USSR and it must be regularly exercised by those who will use the capability in crises and war. In the modern world intelligence structures cannot count on a protracted period for adjustment to the needs of conflict support, be they national entities or tactical elements organic to military forces. This is particularly pertinent with regard to unique national intelligence assets with wide coverage, such as reconnaissance satellites.

5. Efficient Management

US intelligence must be managed so as to provide the most effective service at reasonable cost. Given the lack of comprehensive "sufficiency" or "value" criteria for intelligence, this is very difficult to accomplish in a systematic and measurable way. Approximating the ideal and elusive standard of cost-effectiveness for intelligence requires careful structuring of authorities and decision processes that govern the [illegible word] use of current resources and the assembly of resources for the future.

a. Resource allocation means choices and trade-offs. It must be decided what programs should compete against each other. Some intel-

ligence programs should clearly compete against other intelligence programs under a central system. Some intelligence programs should compete directly against non-intelligence activities, such as combat forces. At higher levels, the President and Congress must balance intelligence against national security outlays as a whole and the total federal budget. Rational resource allocation means building a framework with the attention span, competitive participants, and incentives that encourage a rational choice.

b. Because intelligence is a highly diversified service function, no single central authority acting alone can know enough about what is needed to make effective resource decisions. There must be reliable means for those served by intelligence—its constituency—to state their needs to and bring influence upon intelligence resource management decisions.

c. At the same time, there must be sufficient centralizing authority to force painful choice where it is needed on a rational basis, to compel programs to be justified on the basis of their ultimate contribution to intelligence or other product, and to preclude resource allocation purely on the basis of organizational ownership and clout. The decisionmaking power of this central authority must be commensurate with the responsibility it has to assure efficient resource management. Three levels of decisionmaking power can be brought to bear on intelligence resources:

- power to define goals, requirements, and priorities;
- power to shape the allocation of funds;
- line management control over personnel, actual operations, and support activities.

For some intelligence activities of preeminently national character, all of the above powers might be rationally centralized, although many of them have been historically managed on a decentralized basis owing to their location in and need to serve a policy department. For others, central authority might effect adequate efficiencies through the first and second levels of power with line control in departmental hands. For yet others, decentralized resource allocation authority outside of intelligence is appropriate because these activities should be balanced against non-intelligence needs at a low level of aggregation. Power to define goals, requirements, and priorities and power to allocate resources can be exercised with collegial advice or after collegial decision.

6. *Safeguards Against Abuse in Balance with Security*

Intelligence abuses, like military or police abuses, carry the potential of subverting constitutional principles and basic individual rights. Prevention of such abuses requires:

a. A viable system of laws and regulations that defines both the limits of proper intelligence activities and a viable secrecy regime to assure its effectiveness.

b. A set of oversight mechanisms within and outside intelligence that places responsibility for prevention of abuse in the hands of a few duly constituted and informed officials.

c. Clear lines of authority over and responsibility for intelligence activities.

d. Strong leadership from the President and all intelligence managers in cultivating professional ethics among all engaged in intelligence activities, upon which prevention of abuse ultimately must rest.

C. International Environment

Decisions on the principles and structures that govern the management of US intelligence must be made against the expectation that the next generation will be more difficult for the United States in many respects than the generation past. US relative power in the world has diminished; that of major adversaries has grown. Although US commitments have been adjusted, US current and potential interests have not diminished. They remain global, and an increasingly complex and interdependent international environment has made them more subtle. The international environment remains volatile and rich in potential for violence. Meanwhile, urgent domestic business constrains what can be allocated to traditional goals of national security, including intelligence. The public also demands assurance that those governmental activities necessary to provide for the common defense do not pervert its legal and political values.

The burden on US intelligence necessarily remains large. At a minimum, bearing that burden adequately requires a strong framework that can endure for a considerable period, adjust to changing needs, and allow the intelligence business of the nation to proceed with reasonable confidence after the turmoil of recent years.

II. Problem Areas

This section defines in general terms the major problem areas of the Intelligence Community. It is based on a comprehensive review of all U.S. foreign intelligence activities but is not itself a definitive critique. Its purpose rather is to provide enough background on the present performance of the Intelligence Community to comprehend the implications of possible organizational and other changes in terms of their impact on major difficulties encountered by the present system.

A. Production of National Intelligence

All serious reviews of the performance of the Intelligence Community have identified intelligence production to be a major problem area. In recent years it has almost become conventional wisdom that national intelligence production fails to provide the President, the NSC and

other senior decisionmakers with the consistent high quality analysis and judgments they require. This situation is of concern because as the Church Committee report so aptly stated: "The production of finished intelligence is the principal purpose of all U.S. intelligence activities; neglect of it is unacceptable for the future."⁵

1. *Organization Performance*

The major finished intelligence production agencies are the Central Intelligence Agency (CIA), the Defense Intelligence Agency (DIA), the Military Service Agencies and the State Department's Bureau of Intelligence and Research (INR). The intelligence elements of Treasury and ERDA play a more limited national intelligence role. Briefly defined finished intelligence production is the process whereby collected "raw" data is transformed into "finished" analytical reports and studies that are relevant to the requirements of a plethora of intelligence users. Intelligence production involves the specific tasks involved in the collection, evaluation and analysis of the full range of information collected not only by Intelligence Community human and technical sources but available to anyone from open sources.

The roles and performance of the major agencies involved can be characterized as follows:

—CIA was originally conceived as a central and independent agency devoted primarily to coordination and final "correlation and evaluation" of all foreign intelligence data, irrespective of its original source, and with the objective of providing senior officials with high-quality finished intelligence reporting free from possible departmental bias. To achieve these ends (i.e. the production of so-called "national" intelligence) a sizable analytic corps has been created at CIA which is able by itself to produce on most questions that are of major importance and that is able to act as a competitive balance to the production of departmental intelligence agencies. The DCI also has a small independent senior professional staff of National Intelligence Officers who devote most of their time to overseeing development of interagency analytical products, including most importantly National Intelligence Estimates, and other more formal interagency coordinating mechanisms, such as the National Foreign Intelligence Board. This appearance of order, however, is deceptive since—like in other areas—the DCI's responsibility for national intelligence production is much greater than his actual authority which in

⁵ See footnote 3, Document 32. The Church Committee report comprises 14 volumes. An Interim Report on Alleged Assassination Plots Involving Foreign Leaders was published in 1975. The other 13 volumes were published in 1976. See *Hearings Before the Select Committee To Study Governmental Operations With Respect to Intelligence Activities, United States Senate, Vols. 1-7 and Final Report of the Select Committee To Study Governmental Operations With Respect to Intelligence Activities, United States Senate, Books I-VI.*

reality runs no further than his line control over CIA's analytic elements. The success of the interagency production effort in the final analysis rests on the voluntary cooperation of the participating departmental production elements. This system works best when conflicting demands on the departments are lowest (i.e. non-time critical situations) and on the least controversial, (and frequently the least important) subjects. CIA's critics believe it does not pay enough attention to military factors and tends to take an ivory tower approach isolated from the real world of policy interests.

—*DIA*, as a departmental production agency, has many problems. It is seriously handicapped by the physical division of its production elements and it has never been able fully to solve the problem of recruiting high-quality civilian personnel using regular civil service procedures to work in an agency where many senior positions are restricted to military officers. The high turnover rate of its military officers is another mixed blessing. DIA's greatest problem, however, is its mission of providing a full range of production intelligence support to many consumers: the Secretary of Defense and his office, the Joint Chiefs of Staff, the military services and field commanders. The wide range of requirements of these sets of customers are often different and together they are much more than the present DIA structure can accomplish. DIA's involvement in the national intelligence production process and support of the Secretary of Defense often compete for scarce resources with the need to meet the tactical requirements of field commanders and the strategic ones of the JCS. Some critics believe that DIA analysis is too influenced by the military services.

—*Service Intelligence Agencies*. To some critics these agencies appear to be duplicative, but they do much useful work that contributes to national intelligence. The analyses of the service scientific and technical intelligence centers, buttressed by their close rapport with service laboratories, are essential inputs to national estimates and judgments on foreign military capabilities, as well as vital to service responsibilities for weapons development, doctrine, and force structure decisions.

—*INR*. Insofar as intelligence production is concerned INR's missions are: (a) to provide analytical support for the Secretary of State and other policy officials of the State Department as well as diplomatic and consular missions; (b) to provide the Department of State's contribution to national intelligence; and (c) to furnish political and economic analysis for the use of other intelligence agencies through its own series of analytical reports. INR is also an interpreter of the foreign policy implications of analysis in other fields of intelligence, including strategic and military. Living as it does among policy and operational officials, the Bureau is in a good position not only to serve the specific needs of its foreign affairs clients but also to bring this perspective

to bear in focusing national intelligence. This closeness to end users sometimes opens INR to criticism that it may be unduly influenced by policy views, but the benefits to the intelligence process clearly outweigh any threats to objectivity. The analytic quality of INR's product, while not uniform, is usually high. INR's small size, in comparison with its sister agencies, is a constraint on its ability to be fully responsive by itself to the needs of policymakers on a broad scale or to the demands of interagency intelligence production.

2. *Specific Problems*

Sweeping indictments are easy to make but it is more difficult to be precise in defining the national intelligence production problem. The most recent authoritative study of this problem was produced last year for the NSC by the Intelligence Community Staff.⁶ It found that in the eyes of its users, the products of the Intelligence Community are "uneven, a mixture of demonstrable strengths and significant weaknesses." In summary, the most important specific findings of this study on user perceptions were:

- Inadequate Intelligence Community understanding of the needs of various sets of users and of priorities among these needs.
- General user satisfaction with current, short-term reporting on most topics and geographic regions, but a serious deficiency in anticipatory analysis which alerts policy components to possible problems in the relatively near future (one to three years).
- User desire for more multi-disciplinary analyses which integrate political, economic, technological and military factors to provide a broad appraisal of issues and events for developing US policies and programs.
- User discontent with NIEs and interagency products, especially regarding their utility, and relevance to policy issues.
- Problems in the Community's ability for early recognition of impending crises, in integration of intelligence with information on US political and military actions; and in the definition of responsibilities of the DCI and other Government officials concerned with warning and crises information.
- User concern about what they view as unnecessary compartmentation of many intelligence products.

⁶ Semiannual NSC Intelligence Review: An Assessment of National Foreign Intelligence Production, December 1976. [Footnote is in the original. See *Foreign Relations, 1969-1976*, vol. XXXVIII, Part 2, Organization and Management of U.S. Foreign Policy; Public Diplomacy, 1973-1976, Document 81.]

3. *Causes*

The causes for this uneven record are many, but the critical aspects appear to derive from certain systemic—though not necessarily organizational—problems:

a. *Changing Requirements*

The number of intelligence users is expanding and their needs are becoming more complex and sophisticated. Vital new issues concerning international economic, political, social and technological developments demand analytical treatment comparable to the more familiar and traditional national security issues. But the Intelligence Community cannot easily move to support these new concerns with its present relatively fixed fiscal and manpower resources. This is because at the same time the important traditional issues of Soviet and Chinese military capabilities and intentions are becoming both more resistant to collection and more complex in terms of the information required. Effective mechanisms for assigning priorities to competing analytical demands are central to resolving these problems.

b. *Producer-User Relationship*

The Intelligence Community too often has a poor perception of users' needs and cannot project future key requirements with confidence. Current mechanisms for adjusting intelligence priorities to match user needs are complex, imperfect and do not involve users to the extent that they should. At the same time, most major users of intelligence do not articulate their needs for intelligence particularly well and inadequately project their future needs. Thus intelligence managers have considerable difficulty setting firm priorities for allocating intelligence resources. This difficulty is particularly apparent in dealing with user needs that cut across traditional intelligence topics or regions, e.g., information relating to nuclear proliferation.

c. *Communications*

Information availability and communication problems inhibit the intelligence production process.

—The basic principle of a free and timely flow of all relevant available information into the national intelligence production process has not worked perfectly. This has been particularly true in the area of keeping intelligence analysts sufficiently informed of U.S. policies and activities which affect their analyses and estimates.

—No mechanism exists to insure that all relevant information collected by non-intelligence agencies is provided to the analytical elements of the Intelligence Community in a timely and systematic manner. As a result, considerable information of value to intelligence analysts and already in the possession of the USG is not adequately reflected in intelligence products. The free availability of such information would also make it possible to minimize to a greater extent intelligence collection efforts on that data unobtainable by other means.

—There are also persistent problems in effecting adequate directive communications between analysts and those charged with the collection of raw intelligence. Ideally collection should be driven by analytic production requirements, but this is only infrequently the case. Available data and the impetus of technology tend to govern what is produced. The Intelligence Community remains structured in such a way that collection guides production rather than vice versa.

d. *Balance of Production*

The traditional intelligence output is solid, descriptive reporting—the when, where, who, what and how of facts bearing on various issues. Producers of finished intelligence tend to give priority to these responsibilities because it is necessary for their own operations and it answers the first line demands of users for direct support. A vocal body of users (and critics) also increasingly want deeper, more sharply focused analyses, estimates, and projections to improve their understanding of current situations and likely future developments bearing on the principal policy, program and negotiating issues.

Producers have encountered substantial problems in moving from factual reporting to complex analyses. Analytic products require more comprehensive and detailed data and the best and most experienced personnel to produce it. Deeper analysis takes more time and closer review by supervisors. Finally, this kind of intelligence production is in direct competition with the needs of both users and producers for “bread and butter” work that maintains order of battle and capabilities data bases, reporting on scientific and technological trends, and description of day-to-day political and economic developments.

e. *Intelligence Objectivity versus Policy Relevance*

Good interpretive analysis often comes close to the meshing of policy and intelligence. By tradition, however, intelligence producers have favored passive over active support of users and have been reluctant to initiate a closer user-producer relationship. The worry has been that a closer relationship might somehow compromise the objectivity of intelligence judgments. As a result, many intelligence products have been less relevant and timely with respect to user needs than could be the case.

In those areas where production and policy are closest (energy, economics, terrorism, narcotics, SALT, MBFR and certain territorial negotiations) maintenance of objectivity usually has not in fact proved to be a serious problem. There is, of course, always a danger that close working relationships between intelligence analysts and departmental staff officers or senior policymakers will result in biased products that are structured to support policy positions, as producers come to identify with the policies they helped develop. This is a risk but one that can

be minimized by the proper degree of professionalism on both sides and alert management.

f. *Checks and Balances*

A doctrine has developed that calls for the DCI to deliver neatly packaged national intelligence, complete with dissenting views to the President and NSC. At the same time departmental intelligence organizations are authorized to service directly two of the principal NSC members—the Secretaries of Defense and State—and through them also have a channel for direct dissemination of their product to the White House. While these departmental entities insist that CIA's national product be coordinated with them and exercise vigorously their right to dissent, neither hesitates to issue uncoordinated views in conflict with a "national" intelligence position. CIA also provides "uncoordinated" views to NSC members. The result all too often has been a flood of overlapping papers of varying degrees of validity, unleashed on the policymaker.

Obviously, sheer duplication is to be avoided but as in many other endeavors a certain amount of competition is healthy. Intelligence analysis seeks to know the unknowable and penetrate the impenetrable. When evidence is insufficient or ambiguous or absent, the more minds and more lines of analysis pursued the greater the chance of approximating the truth. When the competitive system works right each organization is stimulated by the critical work of others; none can afford to stand pat on conventional wisdom.

g. *Personnel Problems*

All production elements of the Intelligence Community have encountered difficulty in developing proper personnel systems and management relationships. While the collection and processing functions lend themselves readily to standard managerial and technical approaches, the analytical production job is highly dependent on the intangibles of intellectual brainpower.

Put another way, in the final analysis the intelligence product can only be as good as the people that produce it. Attracting creative individuals and providing them with a directed but stimulating intellectual environment is difficult within normal bureaucratic constraints. Promotion systems that are structured to single out for advancement to managerial positions the most outstanding lower-level analysts sideline key performers too often in roles they are ill suited to perform. The normal tendency toward managerial "layering" results in too many people reviewing and managing rather than creating original reports.

B. *Translating Intelligence Needs into Collection Tasking*

The DCI is the senior and central requirements officer for national intelligence. He is in charge of the processes whereby the Intelligence

Community decides how to match current national information needs with currently available national collection assets.

[1 paragraph (10 lines) not declassified]

The operational tasking of the major national collection assets has been greatly complicated by the increasing capability of these systems to serve not only the broad interests of national policymakers and defense planners but also the more specific technical interests of weapons developers and the more time-sensitive indications and warning, crisis monitoring and combat intelligence requirements of field commanders. Communications intelligence provides political and economic data, as well as information on military capabilities and operations. Agents are asked to collect information ranging from details of Soviet weapons technology and grain harvests through worldwide political intentions. Imagery systems produce photography which is of critical interest both to the SALT policymaker and the Army Commander on the East German border.

In the case of overhead imagery, the COMIREX brings together statements of need, adjudicates conflicting priorities, and provides precise collection instructions. There is a high degree of confidence that these precise instructions will be followed in satellite collection, barring mechanical failure. The resulting imagery is distributed to some 25 major exploitation facilities among intelligence agencies and military commands, with the central requirements mechanism seeing that the priority needs for reading out information are met and that appropriate data bases are maintained. *[3 lines not declassified]*

By comparison with imagery, the SIGINT collection systems are much greater in number, widely varied in composition, and their output requires much more specialized processing. For these reasons, a single United States SIGINT System managed by the Director of the National Security Agency was created, and he was assigned additional national responsibilities for U.S. Communications Security. Given the existence of this single SIGINT system, the DCI's SIGINT committee translates information needs into actionable statements of requirements for the Director of NSA, with provisions for users to address time-critical requirements to NSA directly, keeping the central committee mechanism advised. However, only in the use of overhead satellite collection systems does the central committee structure provide prescriptive and prioritized collection guidance. Other SIGINT collectors make their own independent decisions when faced with the necessity for trading off national for departmental reporting requirements.

In the area of human resources collection, no consolidated national collection requirements system exists. Each HUMINT collection entity is provided guidance in the form of general DCI requirements statements; but each also operates on its own independent appreciation of

national and departmental requirements through direct contact with analysts and policymakers. The HUMINT tasking problem is made even more complex by the fact that much of [8 lines not declassified]

A serious deficiency in the current requirements system is the lack of a formal and unified system for “all-source” requirements development which can orchestrate collection across the basic disciplines. Another key unresolved problem is ensuring the responsiveness of the major national technical collection systems in time of crisis and war to the military needs, both national and tactical, which these systems are increasingly capable of serving. There is also the problem of providing for the tactical commanders access to the national collection systems to serve their needs in peacetime; and in the other direction, of ensuring that the appropriate product of “tactical” intelligence collection is made available to national policymakers.

The collegial tasking mechanisms have a potential for interagency conflict, but in practice have provided a measure of certainty that no one consumer will be either totally neglected or completely satisfied. Finally there is a persistent perception that the collectors are not really responsive to the DCI in his requirements tasking mode because he lacks the means to hold them accountable for their performance. Lacking a systematic performance evaluation system as a “grade-card” for collectors, it is difficult if not impossible, to prove this case.

C. Line Authority over Intelligence Elements

By the term “line authority” is meant day-to-day management and operation of an activity . . . what has been called “command, without operational control” in the Defense Department. There appears to be general agreement that systems and organizations which are substantially Departmental and tactical in nature should remain under line authority of the departments although there is a significant grey area in defining what is “Departmental” and “tactical.” The principal questions relate to responsiveness of nationally controlled intelligence collection systems to DCI requirements in producing national intelligence and to what line authority arrangements best facilitate transition from peace to crisis to war. The interface between national intelligence collection systems and the non-NFIP military facilities essential to support them—such as missile ranges, manpower, shipyards, base operations, logistics etc.—also must be considered in assigning line authority.

There are perceived problems in the DCI serving dual roles as a leader of the Intelligence Community and as head of the Central Intelligence Agency. The final report of the Church Committee observed that “the Committee has found concern that the function of the DCI in his roles as intelligence community leader and principal intelligence advisor to the President is inconsistent with his responsibility to manage one of

the intelligence community agencies—the CIA. Potential problems exist in a number of areas. Because the DCI as head of the CIA is responsible for human clandestine collection overseas, interception of signals communication overseas, the development and interception of technical collection systems, there is concern that the DCI as community leader is in a conflict of interest situation when ruling on the activities of the overall intelligence community.”

“The Committee is also concerned that the DCI’s new span of control—both the entire intelligence community and the entire CIA—may be too great for him to exercise effective detailed supervision of clandestine activities.”

A counterview to these concerns, expressed by CIA personnel in arguing for the status quo, suggests that removing the DCI organizationally from the CIA would deprive him of his substantive base of support, thus adversely affecting his ability to function as the substantive intelligence advisor to the President. They consider the DCI tie with CIA absolutely inseparable, given the direct access that provides to the President, and they hold the view that to be a strong Community leader, the DCI needs not less authority over CIA but rather greater authority over other principal elements of the community.

Individuals from the IC Staff and CIA maintain that the capability of the DCI to produce high quality and responsive national intelligence can be substantially enhanced if he is given line authority over the major nationally controlled collection assets (NSA, [*less than 1 line not declassified*]). Intelligence managers in State and Defense contend that such shifts of line authority are neither necessary nor desirable. They claim, the DCI can already obtain full support through his existing prioritization and tasking authorities and access to all their products, and that such shifts would be seriously disruptive to support for the conduct of diplomacy and military operations in crisis and war since these national collection programs depend in large part on DOD assets and expertise worldwide for effective operations.

D. Program/Budget Development and Resource Allocation

1. E.O. 11905

E.O. 11905 created a collegial forum—the CFI (now the PRC/I)—for intelligence program and budget decisions and charged it with controlling budget preparation and resource allocation for the NFIP, playing a role in establishing production and collection priorities, establishing management policies, and providing guidance on the relationship between tactical and national intelligence. The Intelligence Community Staff (ICS) was charged with supporting the CFI as well as serving the DCI who was also tasked with the development

of national intelligence requirements and priorities. The DCI, under this E.O., was to ensure the development and submission of a budget for the NFIP to the PRC/I. The CFI was to review and amend the budget, as appropriate, for the NFIP prior to submission to the OMB. These provisions, together with authorities over reprogramming and requirements on the members of the Community to furnish the DCI and CFI the information needed to perform their duties, lie at the heart of the Community's resource management structure and debate.

2. Ambiguities and their Results

The E.O. has certain ambiguities that plagued CFI operations during its first year. First, while the DCI's role in establishing intelligence requirements and priorities was reaffirmed in the E.O., the CFI in addition to its resources role, was given responsibilities for providing guidance, policy for management, and policy priorities for the collection and production of national intelligence in an attempt to relate requirements to resource planning. The relationship between the DCI's and CFI's role in those latter responsibilities was unclear and never resolved.

Second, while the CFI was to control budget preparation and resource allocation, the E.O. did not directly modify the roles of the heads of departments and agencies with respect to allocation of resources, describing their functions in terms of "conduct," "direct," or "operate" as contrasted to the "control" reserved for CFI. The intent was to accommodate to, not supplant, the resource management procedures of the departments/agencies in order to permit the DCI and CFI to fulfill their roles.

Third, the IC Staff, while charged with supporting all of the principals of the CFI, was subordinate to the DCI providing a much greater measure of support to him and staffs supporting the other principals were not only retained, but strengthened. The amalgamation of DCI/CFI authorities with Department/Agency authority was probably too subtle. This led to ambiguities, particularly with respect to program and budget decisions. The ambiguities, it is generally acknowledged, led to considerable confusion and unproductive debate over prerogatives and authorities on the part of the principals, their staffs, and the intelligence agencies on their respective roles in direction, resource control, and guidance of intelligence activities.

Despite these ambiguities in the E.O., there is general agreement on what the CFI, supported by the ICS, did during its first year of operation. Its dominant focus was on development of review procedures and review of the FY 1978 programs and budgets submitted by the individual intelligence components of the NFIP. The generally accepted views (while still heavily debated as to whether good or bad) are:

—The committee, the IC, DoD and OMB staffs had significant problems in developing procedures, and they spent considerable time ironing out these procedures.

- Defense tried to focus committee attention on a set of difficult, albeit real, management problems that have historically been resistant to central management authorities; it resisted committee involvement in the details of Defense activities which comprise over 80 percent of the NFIP on the basis that the committee should not redundantly, or “micro-manage” activities best left, in its view, to lower decision levels.

- The ICS, in turn, attempted to focus committee attention on a discrete set of precise dollar issues in the context of an individual program; it resisted committee involvement in either complex cross-program issues or longer range resource management alternatives.

- The OMB appeared to approach the CFI somewhat ambivalently. It tried to use an alliance with the IC Staff as a means of obtaining detailed financial and detailed technical program information on intelligence systems from the departments which it had, over the years, found difficult to obtain. At the same time, OMB appeared to react negatively to the situation where OMB was not a participant in the CFI as they had been in past intelligence resource management forums. This reaction took the form of fueling the procedural debate, reinforcing an OMB role between the CFI and the President, reserving to itself the prerogative to independently formulate issues for Presidential decision as in other Executive Department budgets.

—These differences in resource management philosophies resulted in an FY 1978 review that:

- Focused committee attention on a discrete set of precise dollar issues mostly within individual programs as identified primarily by the program manager.

- Submerged minor dollar issues, whether or not relevant to cross-program or longer range management objectives, in the belief that neither the committee nor the President could effectively deal with them.

- Deemphasized major intelligence management problems and establishment of policy priorities that would focus attention on cross-program issues or longer range problems.

—It coordinated appeals of FY 1977 congressional appropriation actions, made FY 1978 budget recommendations on the issues reviewed, presented a consolidated budget for review, and participated, with the President and OMB, in a final review to submission of the President’s budget to Congress.

There is also general agreement on what the CFI did not do (and still much debate over whether or not they should do) during its first year of operation:

—The CFI established no policy priorities for intelligence production or collection or framework for determining them outside of the generally implicit priority determined by resource issues.

—DCI requirements and priorities were not reasonably definable, either in total, across, or by individual collection technique, such that the CFI could relate them to resource needs and allocations.

—The CFI although charged to do so, established no guidance for clarifying the scope of intelligence in order to establish an interrelationship between intelligence needed at the Washington policy level and that needed at the field operating level.

3. Expectations for the Current Process

The CFI processes have been given a very short time to operate and the experience base for making judgments on their efficacy is extremely limited. Nonetheless, the broad outlines of the characteristics of the current resource review process for intelligence are reasonably definable:

—Lacking more precise Presidential allocation of specific authorities, there will continue to be considerable disagreement about processes/procedures, including access to financial information, programmatic detail, and justification data, which will detract from substantive review.

—With a PRC/I mechanism focused on resource allocation and a separate DCI mechanism focused on requirements, the necessary bridge between the two, essential to effective intelligence community resource management, is likely to develop slowly, if at all; the relationship between intelligence requirements and resources will continue to be obscured as long as separate processes and procedures for development of each are continued.

—Longer range intelligence management problems will continue to be resistant to review as long as the resource development and review processes are structured primarily along present lines.

—The resource issues amenable to PRC(I) review will continue to be a selected set of important but narrow and precise dollar issues, largely integral to an individual program because effective methods to crosswalk priorities, requirements and other programs are lacking.

—The problems of relating so-called national, departmental and tactical intelligence resources and capabilities will continue to grow with the potential for substantial duplication or, at worst, two separate streams of intelligence (national and tactical).

—Performance evaluations extending beyond the scope of an individual program will continue to be rare and difficult to perform.

Intelligence resource management today is tied to a set of individual programs largely structured along single or semi-unique lines, and

many of its characteristics would be present to some degree even with an effective collegial resource review process in place at the top. This specialization combines with institutional cultures, reinforced by security concerns, to impede open and frank discussions of concerns across specialized and compartmented lines.

There is, thus, some validity to the charge—widely voiced by operational personnel at various levels—that program managers, departmental staffs, the PRC(I), OMB, and the Congress—are micro-managing at a level of review and detail unbecoming their status. Since there has been no coherent aggregation of requirements and resources outside the individual programs, reviewers at all levels tend to address the same issues. Should 2 or 3 satellites be bought? Should an aircraft have X or Y equipment? Is human source collection in X country satisfactory? At times these questions are legitimate and should be pursued. But, there is a substantial degree of frustration on the part of both increasingly higher levels of program managers and outside reviewers—the former with the repeated reviews of their decisions and the latter with the inability to review decisions in a different or broader context. On the other hand, the broader questions are not being systematically addressed. Is the resource balance among collection, processing, and production about right? Is the allocation of resources among human source, imagery, and signals intelligence—either in total or on a given subject—appropriate? Is there proper resource emphasis on the USSR versus Western Europe, on political or economic versus military questions? Such issues are rarely raised and only partially answered because of the community's and the reviewers' ability to come to grips with them.

4. Dealing with Resource Management Problems

E.O. 11905 and the creation of the CFI neither attempted to nor solved many basic problems associated with intelligence resource management and, through various ambiguities, resulted in considerable confusion as to roles and responsibilities of those involved in the resource management task in solving them. Intelligence resource needs and their allocation among intelligence functions are heavily dependent on foreign and defense policies, priorities with respect to intelligence production and collection emphasis, requirements in the sense of information needed to be collected now or in the future, and the range of intelligence users intended to be served. Foreign and defense policies and alternatives are primarily an exogenous factor, though the interaction between policy and intelligence is complex and, at times, influences resource allocation. The remaining factors—intelligence community priorities, collection requirements and clarity with respect to the range of users the community is attempting to serve—are, however, primarily factors internal to, and controllable by the intelligence community and

can directly shape its resource needs and allocations. E.O. 11905 provided no new guidance on dealing with these factors and the CFI had a difficult time grappling with them.

One key problem is who should be charged with intelligence resource management and what are the respective roles of the PRC/I, the department/agency heads, the DCI, OMB, the program managers, and their staffs. In essence, since it has long been recognized that all have at least some role to perform in managing intelligence resources, this is a question of what mechanism should orchestrate the community resource management procedures and systems and what should be the extent of its authority. The PRC/I without specific Presidential guidance, can do it only with difficulty as the experience of the last year indicates. The IC Staff is effectively limited to areas where jurisdiction is agreed upon by the principals. The program managers' effectiveness is constrained to areas within his purview and has no responsibility or ability to integrate his resource management procedures and systems beyond his own domain.

In addition to deciding who is in charge and the extent of his authority, guidance on the type and nature of the resource decision process is needed. The major problems related to current processes include:

a. *Relating resources to consumer needs and priorities.*

Because the community cannot adequately relate resource inputs to outputs for consumers, both the community and the consumers are ill-equipped to determine what is needed at what cost. A reasonable means of conveying to the consumer alternatives on both information needs and on the related collection and production options/costs appears to be needed. Organizationally a single group or set of groups that can consciously translate among consumer needs, production capabilities and resources, and collection capabilities and resources appears to be needed.

b. *Relating collection requirements to resources.*

The link between producer information needs and collection requirements/resources is to a great degree intuitive and judgmental, and generally devoid of explicit consideration of resource implications. As a result, a systematic relationship between product needs and collection requirements/resources is lacking. Some more conscious tie between collection requirements and resources that forces an explicit consideration of the value of the information to be collected to the resources required for that collection needs to be developed. The community's individual programs have historically resisted this conscious interrelationship of requirements and resources, either for pre-budget justification or in a post-facto evaluation sense.

c. Identifying cross-program issues and analyzing them.

The vast bulk of community resources should be more competitive across present program lines. The community's current and past specialization both in terms of collection approaches and production does not facilitate cross-program comparisons. SIGINT, imagery, and HUMINT requirements are seldom compared either in terms of competitive potential collection against a given target or in terms of actual past accomplishments. Similarly, production resources are rarely compared either to consciously prevent undesirable overlap or to consciously promote competitive analysis.

The current organizational structure of the community's consumer liaison, production, requirements, and collection elements inhibits any attempt to crosswalk among its various components. Yet these seem to be fruitful areas for impacting on the overall size and allocation of intelligence resources. More explicit consideration of cross-program issues would be highly desirable and cross-cutting review mechanisms are required.

d. Focusing on longer range intelligence management problems.

The potential competitiveness of community resources extends beyond the current and future allocation of resources to encompass alternative management arrangements for many community functions. These would include such community-wide functions and services of common concern as ADP, communications, security, and liaison arrangements. Current community structure and resource review mechanisms fragment these activities among many components that make it difficult to focus management attention on these issues which have both resource and organizational implications. While cross-program by definition, they are unlikely to be resolved by a straight-forward cross-program resource approach without consideration of basic organizational and structural issues.

e. Relating national and tactical intelligence needs and resources.

The current dichotomy between national and tactical intelligence is becoming increasingly artificial with the development of technologies—both in collection and in communications—that knit the two together. There is general agreement that a tie is needed whereby the resources and needs of each can be wedded to the other. Current national and departmental management approaches are not conducive to this interaction and are unlikely to confront the relationship directly. Organizationally, the community needs an explicit mechanism either outside the NFIP or within it to force consideration of the relationship between national and tactical intelligence needs and resources. Since this largely affects Defense, it appears DOD should take the lead in making this relationship explicit, possibly through assignment of this responsibility to an OSD-level component.

E. Counterintelligence

Foreign counterintelligence—the protection of the United States and its citizens from foreign espionage, covert action and terrorism—is the only major intelligence discipline for which there is no agreed national policy and no policy-level coordinating body. The Rockefeller Commission,⁷ the Church Committee, the Senate Intelligence Committee and the President's Foreign Intelligence Advisory Board have each pointed to these deficiencies, and each has made recommendations to correct them. The subject was not covered substantively by Executive Order 11905.

1. *Nature of the Problem*

The counterintelligence problem is complex because espionage and covert action programs directed against the U.S. are activities which:

- are conducted by allies as well as enemies;
- depending on circumstances, may or may not be illegal (and even where illegal, may be more important to contain and counter than to prosecute);
- vary in importance from benign to critical;
- are pervasive, but their extent is impossible to measure with precision;
- are demonstrably serious, but the damage is difficult to assess;
- are systematically organized and directed, but the evidence about them is fragmentary and isolated;
- seldom touch us knowingly as individuals, but significantly affect U.S. collective defense and national welfare;
- affect our international relationships, and infringe upon the responsibilities (often conflicting) of a number of departments and agencies;
- thrive on human weakness, greed, and misdirected idealism.

Counterintelligence embodies elements of intelligence activity and criminal investigation but is a distinct pursuit and responsibility. It can provide intelligence on foreign plans and intentions, but this is a valuable by-product. It can lead to criminal prosecution, but this is not the purpose. Unlike positive intelligence, the object is to deny, not acquire, information and, unlike criminal investigations, counterintelligence starts with the presumption of an intent to injure the national interest, not with evidence that a crime has been committed. Foreign

⁷ The Rockefeller Commission was created in January 1975 to investigate CIA abuses against U.S. citizens. It was charged with assuring that individual rights were protected while intelligence agencies were engaged in intelligence activities meant to preserve national security. For the Rockefeller Commission Report, released June 10, 1975, see *Report to the President by the Commission on CIA Activities Within the United States* (Washington: U.S. Government Printing Office, 1975). Documentation on the report and its recommendations is in *Foreign Relations, 1969–1976*, vol. XXXVIII, Part 2, Organization and Management of U.S. Foreign Policy; Public Diplomacy, 1973–1976.

counterintelligence serves one purpose—to protect the national security and the national welfare from secret incursions from abroad. It is an activity which requires continuous judgments ranging from policy considerations to operational decisions, but these judgments must be made against a background of changing views on what constitutes the national interest and security. Counterintelligence must be conducted by experts, but guided and defined by elected and appointed officials.

2. *Definition of the Threat*

There are several ways to assess the threat of foreign espionage, each of which has a bearing on the nature of the counterintelligence response.

a. The traditional assessment of the espionage threat has been an attempt to describe the enemy force structure. Such assessments have been based on a combination of hard facts, extrapolated data, and logical conjecture. In every case, they present a picture of forces so overwhelming, diverse, complex, and secretive that efforts to arrive at a coordinated national response are effectively paralyzed; how do we cope with the activities of [number not declassified] hostile foreign intelligence officers scattered throughout the U.S., let alone the cadre of agents who furnish these officers with intelligence information; how do we cope with the additional thousands of hostile intelligence officers and their agents whose activities are directed at the recruitment for espionage of U.S. citizens living or traveling abroad—[1½ lines not declassified]

b. Another and still imperfect assessment of the threat, but one which aids in establishing counterintelligence priorities, is the damage assessment: an effort to assess the consequences on national defense and national welfare of the flow of classified and proprietary information abroad. This kind of assessment seeks to describe the impact on our military preparedness of the compromise of a weapons guidance system or the effect on a diplomatic negotiation of a spy in the foreign office. However, such events are dealt with in isolation, seldom sustain policy-level attention, and there is a bureaucratic premium on limiting the damage assessment because the cost and programmatic implications of a full assessment can be catastrophic. For instance, it is virtually impossible to assess the full impact of such recent operations as the Soviet penetration of TRW, their repeated penetrations of NATO, and the East German penetration of the office of the Chancellor of the Federal Republic of Germany.

c. A third consideration in assessing the threat posed by foreign espionage is the degree to which it trespasses on the rights and freedoms of U.S. citizens. Does not Soviet intercept of U.S. telephone circuits invade the right of privacy? A correlated question is to what extent can an open and democratic society meet the threat to the collective

welfare through counterintelligence investigations? Present statutes do not provide an adequate base for the investigation of potential acts of espionage and terrorism.

Recently, documentary evidence has become available which shows that the Soviets (in particular) are systematically collecting secret Government and sensitive proprietary information on virtually every aspect of American life. In addition to the Federal Government (from the White House to the Equal Employment Opportunity Commission), the Soviets are methodically collecting information from defense contractors, oil companies, basic industries, commodity brokers, banking activities, computer and high-technology industries, etc. That the information is used against us has been demonstrated by Soviet efforts to exacerbate the 1973 oil embargo, the manipulation of international money markets, and the catastrophic increase in the price of sugar two years ago. Through collusion with U.S. citizens the Soviets have illegally acquired proprietary data processing know-how and embargoed electronic equipment.

3. Institutional Responsibility

Responsibility for various aspects of counterintelligence is divided between the FBI, the CIA, the Army, the Navy, and the Air Force. The jealously guarded prerogatives of each and the acknowledged need for the utmost discretion in handling counterintelligence cases have in the past prevented the implementation of effective coordination. Equally important, each case of foreign espionage requires the responsible agency or agencies to deal with other elements of the Government which often have different kinds of responsibilities, inadequate guidelines and authority for dealing with counterintelligence issues and, in many cases policy considerations which run counter to the practice of effective counterintelligence.

An excellent single example of the coordination problem concerns the admission of foreigners to the U.S. The complex visa regulations which establish who and for what purpose a foreigner enters the U.S. are administered by the Department of State. Determination as to whether or not a foreigner (even with a visa) is actually admitted is wholly the prerogative of the Immigration and Naturalization Service. In both cases, policy considerations permit the granting of a visa and admission to the U.S. of identified foreign espionage agents. This is notwithstanding the fact that with the exception of some Communist bloc nationals, a foreign visitor, once in the United States, is unrestricted as to what he does and where he goes and is generally accorded the same legal protection as a U.S. citizen in the conduct of counterintelligence investigations.

The intelligence community is working the counterintelligence problem, but their authority and responsibility are properly limited.

a. *FBI* foreign counterintelligence responsibilities are to identify and neutralize the intelligence activities of hostile nations in the United States, and to detect and counter the foreign support or direction of terrorist groups and the Communist Party of the U.S. *FBI* programs focus on the 14 Communist nations represented in the United States and seek to cover the intelligence activities (including contacts with U.S. and third country citizens) of their diplomatic personnel, employees in trade and international organizations, couriers, correspondents, exchange and commercial visitors, seamen, migrants and refugees. [2½ lines not declassified]

b. *CIA* is responsible for U.S. counterintelligence activities outside the United States. These include the penetration of hostile intelligence and security services, the detection and countering of espionage and subversive efforts directed at U.S. personnel and installations abroad, and liaison with certain foreign intelligence and security services on counterintelligence matters. [2 lines not declassified]

c. In the *Department of Defense* each of the three military departments is responsible for detecting, investigating and thwarting the intelligence activities directed against its personnel and installations worldwide, and for the prosecution of military employees involved in espionage. [7 lines not declassified]

Jurisdictional delimitation agreements and National Security Council Intelligence Directive (NSCID) 5⁸ define the geographic limits and coordinating responsibilities of the *FBI*, *CIA* and the military services. On the operational level coordination has been reasonably good but there have been serious gaps. On the policy level, particularly, where other departments and agencies are concerned, coordination and cooperation on counterintelligence problems have been limited to practical necessity.

The only official counterintelligence policy body is the Interdepartmental Intelligence Conference (IIC) created by the National Security Council in 1949 to coordinate "all investigations of domestic espionage, counterespionage, sabotage, subversion and other related intelligence matters affecting the national security." Its members are the *FBI* and the three military services but not the *CIA*. In 1962 supervision of the IIC was transferred to the Attorney General. While at various times the IIC has been an effective coordinating body, it has been inactive for the past several years and never fulfilled its ultimate potential as a national counterintelligence policy organization.

⁸ See *Foreign Relations, 1945-1950, Emergence of the Intelligence Establishment*, Document 423.

NSCID–5 provides inter alia that the DCI shall develop national policy for counterintelligence overseas, but the conscious formulation of such national policy has not been achieved.

There is now a consensus within the three branches of Government that the complex issues inherent in countering foreign espionage, covert action and terrorist activity directed from abroad must be squarely faced at the senior policy level. There is no quick fix. Foreign counterintelligence involves both domestic and foreign policy considerations and raises Constitutional and legal questions which can only be resolved by effective and systematic interaction between the involved department and agencies.

F. Public Trust and Confidence

Public trust and confidence in the Intelligence Community have been seriously undermined by disclosures of activities in the past that were illegal, injudicious or otherwise improper by today's standards. Moreover, many disillusioned persons who have come to believe the worst of their government tend to accept at face value exaggerated imputations of impropriety to legitimate foreign intelligence activities. In some quarters there is a persistent belief that U.S. foreign intelligence activities have still not been brought under adequate control. Clearly the Intelligence Community must earn wider acceptance of its legitimacy and role within our democratic form of government if a viable U.S. foreign intelligence effort is to be sustained over the longer term.

Congressional attitudes have also changed. Intelligence had as its original political base only a small group of senior congressmen, who protected it from and blocked its exposure to their colleagues. Over a quarter of a century, however, age and the electoral process took their toll of this group of elders and the position of those that remained was weakened, partly because the national attitudes of the 1940–45 period changed and the consensus they reflected was eroded by the Vietnam War and Watergate. Intelligence has thus been exposed in recent years to a rapidly growing new generation of political leadership that neither shares its traditions nor its view of the world. To complicate matters, the oversight of intelligence has become a testing ground both for the generational struggle within Congress and for overall balance of power between Congress and the Executive Branch.

Reorganization in and of itself will not create the indispensable base of public confidence and Congressional support which the Intelligence Community lacks today. Structural improvements in the name of efficiency must be accompanied by provisions for adequate controls and internal checks and balances—even at the cost of efficiency—in order to develop and sustain public confidence. Congress and the public must not only be satisfied that U.S. foreign intelligence activities pose

no current domestic threat but that such a threat cannot be created by another Administration in the future.

There are two other aspects to the question of public confidence: effective Executive and Legislative oversight; and reconciliation of the need for secrecy with greater public pressure for disclosure and accountability. Over the last year the need for effective oversight has been widely accepted within both the Executive and Legislative branches of government. The challenge here is to institutionalize the oversight concepts and functions.

The secrecy problem is much more complex. The need for secrecy is critical to the continued effectiveness of U.S. intelligence. Intelligence operations require a certain indispensable measure of secrecy and simply cannot be conducted unless Congress and the public accept this basic fact. This should not be impossible given the fact that the public already understands the need for secrecy in a wide range of other private and public matters from the lawyer-client relationship to the Federal Reserve's intervention in the nation's monetary system. However, resolving the issues secrecy raises in our open society will also require fresh analysis of what aspects of intelligence actually require protection, review of the concepts involved, and careful examination of the kind of legislation needed.

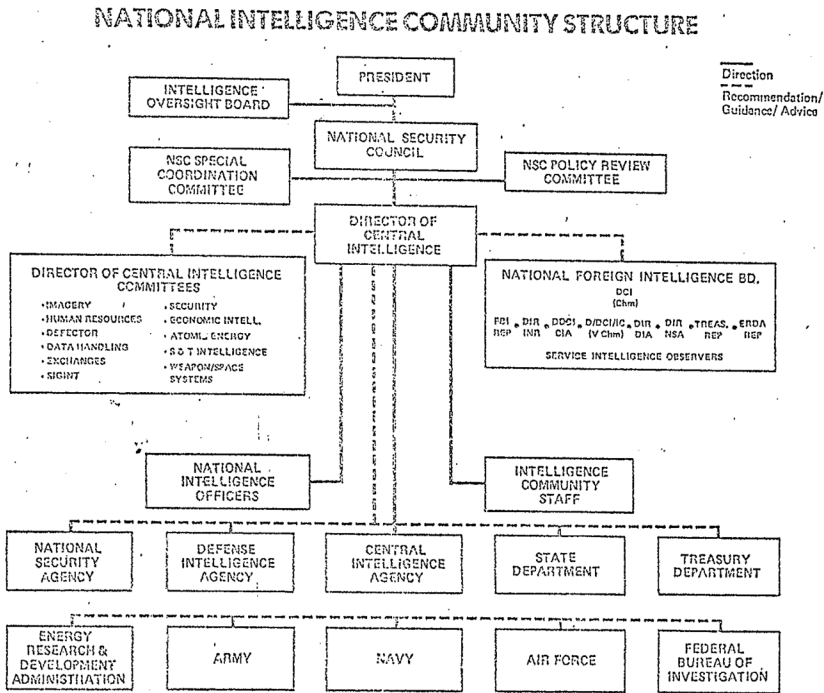
Projecting a positive image and promoting better public understanding is a difficult business. It must be rooted in the facts of performance yet circumscribed by the dictates of security. As the Intelligence Community, and especially CIA, engages in increasingly sophisticated analysis on a wide variety of nationally important topics it will inevitably be exposed to partisan criticism. For example, National Estimates on strategic issues will, if they are of any value at all, inevitably become part of the policy debate on SALT and U.S. military force structure. While intelligence analysis should be able to stand up to vigorous challenge by non-intelligence experts and be made available to all appropriate decisionmakers, care must be taken to insulate it from partisan public debate to the extent possible. Intelligence cannot become an open-ended public information service and still retain its special quality of providing discreet, no-holds-barred analysis for highest level governmental decisionmaking.

III. *Structural Options*

Beginning with a description of the present structure, this section then identifies a representative range of organizational options. It is not intended to be theoretically comprehensive but rather to portray real world possibilities responsive to the criteria and problems previously identified in Sections I and II of this report.

The United States Government has an intelligence structure (Figure 1) whose present shape and functions have been dictated more by

FIGURE 1



pragmatism and historical accident than conscious design. This structure is often referred to as the "Intelligence Community," an elusive term that tends to confuse more than clarify reality. There is in fact no single well-integrated and fully rationalized "community" but rather an aggregate of interlocking and in part overlapping intelligence-related responsibilities distributed in several major departments and agencies which are to varying degrees "coordinated" or "guided" by collegial mechanisms, through the process depicted in Figure 2.

Viewed functionally the organizations involved in the intelligence process may be grouped as follows:

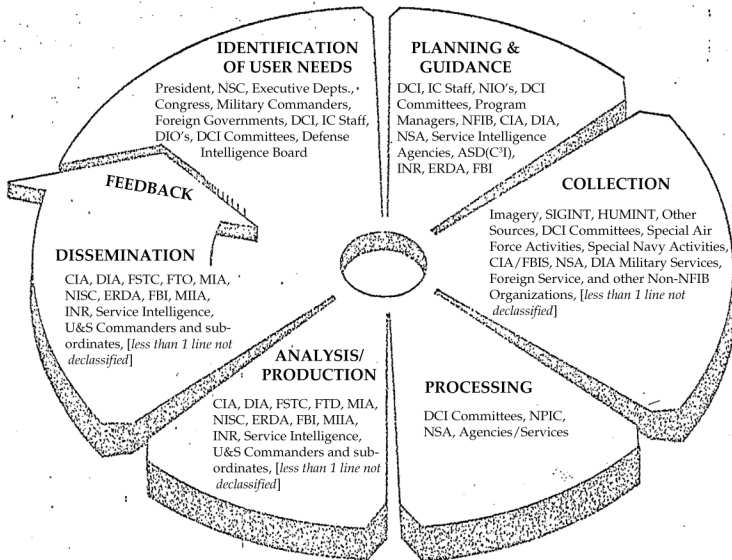
a. *The collectors and processors of information*

—CIA has primary worldwide responsibility for clandestine collection of human source information and collects and processes signals intelligence in certain unique circumstances. CIA also conducts as "services of common concern" monitoring of foreign public radio and television broadcasts and foreign press services, collection of foreign intelligence information from cooperating sources in the U.S., acquisition and translation of foreign publications and photographic interpretation.

—The *National Security Agency* (NSA) oversees a unified research, development and deployment program for the military cryptologic

FIGURE 2

INTELLIGENCE PROCESS



services, exercises control over the signals intelligence collection and processing of the government, and itself collects, processes and distributes signals intelligence in accordance with requirements and priorities established by the DCI.

—[1 paragraph (3 lines) not declassified]

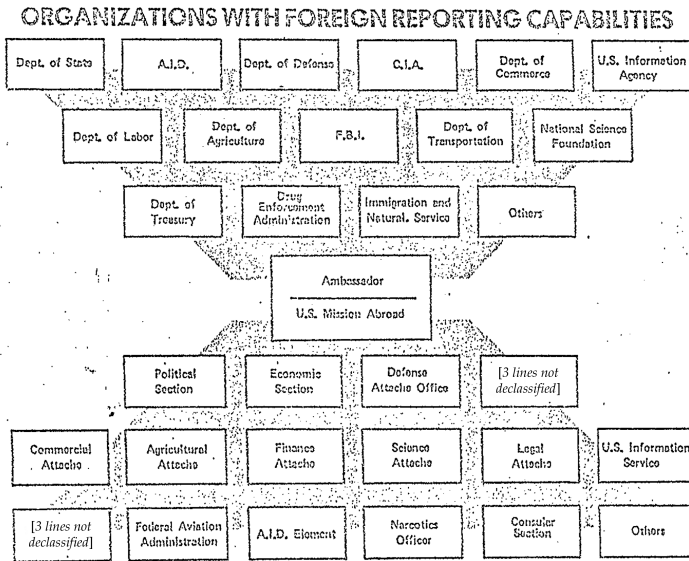
—[1 paragraph (4 lines) not declassified]

—*Military Departments and Services* each has responsibility to collect intelligence information within its specialized field of competence in support of national, departmental and operational command requirements. Army intelligence (ACSI) conducts human source collection in the Pacific area and in Europe and limited imagery collection in Europe and Korea while the Army Security Agency (ASA) collects signals intelligence. [5 lines not declassified] Navy intelligence engages in human source collection and conducts special reconnaissance activities for imagery, signals and other technical intelligence.

—The *Department of State* does not engage in intelligence collection as such, but Foreign Service reporting on subjects of interest are made available to intelligence production components. The Bureau of Intelligence and Research (INR) serves as a coordinating point for intelligence and requirements for FSO reporting.

—The *Department of Treasury* is responsible for overt collection abroad of financial and monetary information in ten major countries

FIGURE 3



where Treasury Attaches are posted and participate with State in overt collection of general foreign economic information.

—The *FBI* gathers information in pursuit of its counterintelligence and security responsibilities and, provides intelligence agencies positive foreign intelligence information it obtains from its investigative operations.

—The *Energy Research and Development Administration* overtly collects energy research and development information through technical exchange programs and ERDA representatives abroad, and formulates requirements for State's Scientific Attaches.

—*Other departments and agencies* (such as Commerce and Agriculture) though not a part of the Intelligence Community and not subject to the guidance of its information requirements, nevertheless provides much valuable information to production elements. The range of organizations with foreign reporting capabilities, Figure 3, goes far beyond the formal "intelligence community."

b. *The providers of specialized intelligence services.*

—CIA has primary responsibility for the conduct of counterintelligence abroad, liaison with foreign clandestine services, and conduct of the Defector Program. It also assumes responsibility for most covert action operations, on occasion with assistance of DoD and State.

—The FBI is responsible for foreign counterintelligence and counterespionage within the U.S., has jurisdiction over defectors within the U.S. and, to a lesser extent, has law enforcement responsibilities in the national security field.

—DIA reviews and maintains cognizance over all plans, policies and procedures for noncryptologic intelligence functions of DoD.

—The Army, Air Force and Navy each have counterintelligence responsibilities relating to their individual services.

—The Secretary of Defense is responsible for timely transmission of “critical intelligence,” as defined by the DCI, from the field to higher authorities.

—NSA acts as the central communications security authority for the USG and conducts research and development to meet the needs of the government for signals intelligence and communications security.

c. *The producers of “finished” intelligence*

—CIA, under the supervision of the DCI, produces (current, basic and estimative) national intelligence including foreign political, economic, scientific, technical, military, sociological and geographic intelligence, designed to meet the needs of the President, the NSC, and other elements of the USG. The production elements of other intelligence agencies contribute to and are consulted or coordinate, as appropriate, in their areas of responsibility.

—*Bureau of Intelligence and Research* produces departmental analytical intelligence (current and estimative) in direct support of the State Department’s conduct of foreign affairs and conducts an external research program. As time permits, inputs are prepared for national analytical products.

—DIA produces departmental intelligence for the Secretary of Defense, the Joint Chiefs of Staff, the military services and field commanders and, as appropriate, non-Defense agencies. This includes current, estimative and research products on military and military-related topics, including scientific, technical and economic subjects. Inputs are prepared for national analytical products.

—The *Military Services, Departments and Commands* issue a large volume of intelligence publications in support of their particular missions. This material does not circulate widely in the national community, but the analysis performed by the various service research centers (e.g. the Air Force’s Foreign Technology Division) is often used in national-level publication.

—The *Treasury Department* intelligence unit produces as appropriate products designed for specific departmental responsibilities.

—*ERDA’s* intelligence unit produces reports primarily for internal use and provides appropriate inputs for national intelligence products.

The National Security Council is charged by the National Security Act of 1947 and E.O. 11905 overall guidance and direction to the development and formulation of all national intelligence activities. Historically this has been accomplished by (a) direct written and/or oral communications between the DCI and the President (b) the issuance of National Security Council Intelligence Directives which define the basic duties, responsibilities and division of labor between the departments and agencies (these chartering documents were to be updated within 90 days of the issuance of E.O. 11905 in February 1976, a process which was not completed by the Ford Administration and has been held in abeyance pending the outcome of PRM/NSC-11) and (c) through NSC Committees.

Lacking a single central authority short of the President and given the multiplicity and diversity of interest involved, a collegial or committee approach has been taken on the major aspects of community management.

Power, authority and responsibility are shared among groups of interested parties as indicated in Figure 4. Actual line control is, however, exercised within departmental chains of command and can override community collegial decisions.

[Figure 4 (1 page) not declassified]

—The NSC's *Policy Review Committee for Intelligence* (PRC/I), chaired by the DCI, is mandated review resource needs, controls budget preparation and resource allocation, and establishes policy priorities for collection and production as well as for the management of the National Foreign Intelligence Program. The DCI's Intelligence Community Staff provides staff support.

—The NSC's *Special Coordination Committee for Intelligence* (SCC/I), chaired by the Assistant to the President for National Security Affairs, reviews and makes recommendations to the President on covert action programs and sensitive intelligence collection operations.

—The *National Foreign Intelligence Board*, (NFIB), chaired by the DCI and including the heads of the major intelligence agencies, acts as a general advisory body to the DCI on priorities, requirements, and national intelligence production.

—*DCI Interagency Committees* exist for the development and prioritization of requirements for signals intelligence, imagery and human source collection.

—The DCI, through his Intelligence Community Staff, provides general planning and policy guidance, including requirements for future capabilities to produce, process or collect and the individual departments and agencies devise more detailed specific planning documents for implementation.

A. *Modification of E.O. 11905*

One approach is to accept the present structure of the Intelligence Community and the management arrangements set out in E.O. 11905 making only those changes that will improve the ability of the community to coordinate its activities and reflect the procedural problems of the last year (see separate Attorney General Subcommittee Report) without a major shift in responsibilities. The current operation of line control, resource management, production entities, requirements formulation, and planning guidance would remain largely unchanged. E. O. 11905—as modified—would then become the basis for the Administration's legislation proposals. This course is reasonable if one believes:

- Present arrangements provide about the right balance between central and distributed authority in the Community;

- The present collegial process of resource management at the Community level offers an acceptable means of maintaining the responsiveness of the Community to several major consumers at the national and departmental levels, while achieving reasonable efficiency in the allocation of intelligence resources;

- The performance of the Community under the present management system can improve substantially as its procedures become more familiar and its participants more experienced.

If the status quo is, in the main, acceptable, there is merit, nevertheless, in amending E.O. 11905 in several aspects relating to Community management.

- It should be made clearer just what the PRC(I) is responsible for in developing management policy, controlling and reviewing budget preparation and resource allocations, and establishing policy priorities for collection and production; the DCI's roles similarly require more specificity relating to his responsibilities for policy, requirements, and priorities relating to national intelligence collection and production, under the guidance of the NSC, and with the advice of NFIB or such supporting mechanisms as may be created.

- One year's experience under E.O. 11905 indicates that the order's specific provisions for reaching program and budget decisions require clarification. Otherwise, unproductive tension over procedures and authority, particularly between OSD and the IC Staff, is inevitable.

There are two basic alternatives. The first would in practical terms augment the authority of the PRC(I), the DCI, and the IC Staff (Option 1). The second would protect the ultimate authority of departments with resources in the NFIP, particularly the authority of the Secretary of Defense (Option 2).

Option 1: Enhance PRC(I) and DCI Resource Management Authority By Removing Ambiguities

This option would modify the status quo (EO 11905) by (a) strengthening the DCI-White House-DoD-State collegial resource allocation system (PRC/I) with additional limitations on the flexibility and prerogatives of individual departments/agencies and (b) establishing either the DCI alone (Option 1A) *or* the PRC(I) collegially (Option 1B) in a position of primacy in establishing management policies for all national intelligence activities and setting policy priorities for collection and production. It would:

—Make clear that the PRC(I) reviews, approves, and amends the NFIP, as a whole and at a level of detail it deems appropriate; it submits the program and budget through OMB to the President.

—Make clear that PRC(I)-approved NFIP program and budget decisions are “fenced” against alteration by program managers and their departmental or agency superiors. Departmental efforts to alter the impact of PRC(I) decisions on their programs are expected to be rare and made only through explicit appeal first to the PRC(I), then the NSC, and finally, as a last resort, to the President.

—Give the IC Staff, on behalf of the PRC(I), specific responsibility for and authority to monitor the implementation of PRC(I) decisions.

—Clearly authorize the PRC(I) and the IC Staff to deal directly and candidly with national intelligence program managers in departments and agencies, regardless of location, on program and budget matters, to gather data, conduct studies, examine resource options, etc.

—Oblige the PRC(I) to conduct as soon as possible a thorough review of all intelligence and intelligence-related activities of the government to establish, with some prospect of stability, the scope and contents of the NFIP.

—Give the DCI primacy in the production of all national intelligence, including unambiguous authority to task the various departmental analysis centers to contribute to his national production efforts.

—Empower *either* the DCI (Option 1-A) or the PRC(I) (Option 1-B) to set all policy priorities for the collection and production of National intelligence and for the management policies for the NFIP.

—Provide authority to prioritize collection requirements and task collection systems by mechanisms which ensure responsiveness to his direction, and create advisory groups, such as the existing National Foreign Intelligence Board structure, to help him discharge his assigned functions.

While leaving the PRC(I) process fully collegial in character, these kinds of changes to E.O. 11905 would add considerably to its authority in resource allocation and enhance the leading role of the DCI and his Intelligence Community Staff. The scope for disagreement about processes/procedures that in the past detracted from substantive

review would be constricted and the principals would be more inclined to concentrate on cross-departmental issues. In the areas of national intelligence production activities, the DCI would rule supreme.

By the same token, such measures would more clearly compromise the present statutory responsibility of departments to manage their own programs and budgets. Within Defense, they would make more difficult a complete cross-Defense rationalization of national, departmental, and tactical programs. None of these measures would in themselves ease the difficult task of finding analytic methods for relating long-term intelligence needs to programs and budgets on a thoroughly cross-program or intelligence-wide basis. Efforts in this direction would be possible and encouraged. But the ease and practicality of dealing directly with the details of sensor-oriented programs under this regime could well continue to distract attention from more comprehensive analysis of the NFIP.

Option 2: Enhance Departmental Authority under Collegial Review

This option would modify the status quo (E.O. 11905) by strengthening individual departmental authority in resource allocation through change to the present DCI-White House-DoD-State collegial allocation system (PRC/I). The PRC(I) authority to establish policy priorities for collection and production as well as for management of the NFIP would be terminated. More specifically, this option would:

—Make clear that PRC(I) decisions are *not* “fenced” against alteration by departmental or agency authority. This option would also clearly affix responsibility, not for all intelligence, but for the bulk of it currently in the Department of Defense, in OSD. It would, in effect, give OSD the power to ensure that all items of resource interests were addressed. It would have the responsibility and the associated authority to translate DCI requirements and guidance into concrete financial terms.

—Stipulate that department heads may determine the means and extent of access by the DCI and his staff to departmental programs with respect to resource issues. This would not preclude the direct access permitted in Option 1, at departmental discretion, but would recognize departmental authority to control it.

—Give to department heads greater flexibility to determine what program elements are to be included in the NFIP and thus subject to thorough PRC(I) review, with the DCI able to appeal such decisions to the NSC or the President.

—The PRC(I) would provide for final program and budget review to check departmental staff excesses and to ensure that resources were aligned with DCI requirements. It would be the responsibility of the DCI, as Chairman of the PRC(I), to appeal disputes to the NSC and

the President. The IC Staff would have the task of ensuring that Defense, CIA, and non-DoD component budgets were in line with requirements and relatable to DoD's resources.

This regime need not in principle lead to substantially different kinds of interactions than those of the first option, since the process would remain collegial and depend, in both cases, on the cooperation and common purposes of the participants.

It is not immediately obvious that the two options would lead to different resource decisions. It is clear, however, that in the second case the Secretary of Defense, managing the substantial majority of NFIP assets, would find it easier to serve Defense's intelligence interests and to assess all DoD intelligence resources across national, departmental, and tactical areas within Defense, although CIA's capabilities are not necessarily related. The DoD would have a heavier obligation itself to reconcile its views and interests with those of the entire Community. This second option would increase emphasis on the DCI's need for better and more precisely defined requirements in resource relevant terms that would not provide for wide-open OSD control.

Hopefully, the PRC(I) mechanism might then be encouraged to concentrate its attention on larger and longer-term resource issues spanning the whole NFIP. Through expert staffing and judicious appeals to the NSC, the DCI could still have considerable influence on departmental program and budget decisions.

Under the second option, however, it is quite possible that the PRC(I) process would dwindle to an essentially toothless advisory role to the departments. On the other hand, the first option has the advantage that all major national intelligence components are reviewed at one point, although it does not confront tactical-national interrelationships. By being in closer proximity to consumers and producers of national intelligence, the first has a better chance of success of initiating the necessary interaction between consumer needs for national intelligence resource demands, relating these to requirements, and assuring that cross-program trade-offs among national capabilities are made explicit.

B. Restructuring Options

The following options scrap the DCI-White House-DoD-State collegial (PRC(I)) system entirely. They represent basic structural changes to the Intelligence Community by changing degrees of line, resource, management, and tasking authorities. This course is appropriate if one assumes:

—Greater centralization of authority and responsibility over the diverse elements of the Intelligence Community is required.

—That setting forth various means for accomplishing increased centralization while retaining mandatory and responsive service to a broad range of consumers is needed.

—The present authority of the DCI is *inadequate* for the responsibilities assigned.

—The DCI's current control of CIA and of the national tasking mechanism and chairmanship of the collegial resource allocation structure are judged to fail to provide the necessary responsiveness from the Intelligence Community to his direction.

There is a strong consensus that the potential resource savings to be achieved by creating a single comprehensive National intelligence analysis center serving all consumers is more than offset by the inherent danger that differing judgments and perspectives would be suppressed and denied to the users of intelligence. For that reason none of the suggested options include centralization or other significant intrusion on the continued existence of viable competitive centers of analysis.

Option 3: Provide DCI Modified Authority Now Given to PRC(I) for Resource Allocation

This option would give the DCI alone much of the authority now exercised by the PRC(I), would provide for strong DCI leadership in National requirements, collection and production, as in Option 1, but would permit reprogramming flexibility to the departments by not fencing budgets, similar to Option 2. No other structural changes are involved. This option would be considered if one believes that the DCI should focus on the production of National intelligence, requirements, close supervision of CIA, and only macro aspects of resource management, permitting more freedom within departments to adjust internal priorities. Specifically:

—DCI authorities in national intelligence collection and production would be as in Option 1.

—Resource allocation authority would be modified to delete the PRC(I).

—Assigns the DCI authority to select elements to be included in the NFIP (subject to departmental appeal to NSC) and to review, amend or veto expenditures which he did not consider appropriate or responsive to national intelligence requirements.

—The resulting NFIP would *not* be fenced, and departments could make trade-offs against departmental non-intelligence programs, subject to DCI appeal to the NSC and the President.

The success or failure of this option in improving on existing mechanisms would depend to some degree on the quality and expertness of the DCI's supporting staff and the extent of cooperation provided by the departments. It would restore to the DCI undiluted resource

allocation authority over the CIA. As in Option 2, the Secretary of Defense would be responsible to assess trade-offs between national, departmental, and tactical areas, with a heavy obligation to rise above Defense interests, with DCI concentration on larger and longer term cross program issues. This diminution of power, however, as in Option 2, could easily put the DCI in an advisory role.

Option 4: Full DCI Authority Over Resource Allocation to National Intelligence Entities

This Option provides substantial additional authority to the DCI over Option 3 by providing for his direct resource management control of the entire NFIP. No other changes to the current structure are included. Variations to this Option would remove the DCI's responsibility for the day-to-day detailed management of elements of CIA, establishing a separate new Director of CIA under the general line control of the DCI, who derives his direct support from the IC Staff and NIOs (Option 4A), or establishes DCIA line control under NSC, SECSTATE or SECDEF (Options 4B, C, D) or disband CIA and add CIA's analytical element (DDI) to the DCI's immediate organization, reassigning collection (DD/S&T, FBIS, DDO) and other remaining CIA elements to other departments (Option 4E).

If one believes that the principal problems of the community are related to absence of a single focus for resource management, but that other aspects of production and collection are adequate, choosing basic option 4 provides for:

—Substantially enhanced authority by giving the DCI direct program and budget authority over all elements of the National Foreign Intelligence Program as identified by the NSC.

—The NFIP would be so restructured to eliminate those elements primarily involved in departmental and tactical intelligence, whose program/budgets would still be subject to DCI review. If department heads disagreed with DCI resource allocation decisions they could appeal to NSC/President.

—Day-to-day operations of the intelligence elements would continue as presently aligned.

—Substitution of DCI authority for the existing collegial mechanism to answer Congressional concern about the absence of a single focus for resource allocation.

This option should cause no immediate impact on responsiveness of intelligence elements to their parent departments and would permit early enhancement of the DCI authority without awaiting legislation. While there is no guarantee that the DCI would provide the necessary resources to retain the responsiveness needed by the Secretaries of Defense and State, they could exert influence, if needed, through their NSC role. Further, it intrudes on established statutory Departmental

lines of authority and responsibility, which impacts on current Departments' relationships with Congress. New statutory legislation would be needed to eliminate the resultant ambiguity. There could be a tendency to draw a greater degree of the DCI's attention toward the resource allocation function, at some cost to the detailed supervision of CIA and his direct involvement in substantive intelligence matters and role as senior intelligence advisor to the NSC and President. There is a view that addition of this resource allocation authority alone would not be sufficient to establish a routine which makes all elements of the Intelligence Community satisfactorily responsive to the DCI, and that line authority over at least some of the elements is also necessary.

If one also is concerned over the DCI/CIA relationships, the variations to the basic Option 4 (4A–E) would respond to the arguments of those who see the DCI's line control of CIA as a source of favoritism and a conflict of interest in his role as leader of the Community. These variations, while cited under Option 4, could be applied to any option for which this concern is prevalent. Supervision of the CIA and its Director would be vested in the NSC, SECSTATE or SECDEF.

Under Options 4A–D the DCI would continue to exercise his major roles as national producer, Community leader, and principal advisor largely through direct access to the President. But the DCI's ability to translate this access into effective community National intelligence production could be weaker than at present because:

—A small national estimates staff would not give the DCI the kind of support in analysis and production now supplied by CIA's DDI. (This problem might be alleviated by assuring the DCI the power to task CIA, DIA, and INR directly in production areas.)

The variation to disband CIA (4E) would result in transfer of the analytical element (DDI) to the DCI's immediate family to enhance the direct analytical support lost in the previous variations. Additionally:

—CIA's national technical collection programs in DD/S&T and NPIC would be transferred to DoD, FBIS would be transferred to the State Department.

—The Clandestine Service of DDO would be subordinated to the NSC, State, or Defense.

This option would create a much stronger senior national intelligence authority in the area of production than would previous variations. It would also resolve the "conflict of interest" problem that argues for separation of the DCI from CIA in the collection area and would satisfy the desire of some to see a clear institutional separation of national intelligence analysis and production from collection, particularly clandestine human collection. Very importantly, option 4E would facilitate the interchange between national intelligence producers and the resource allocation process.

The attributes, both favorable and unfavorable of this option, would be:

—A strong senior national intelligence authority with ability to concentrate on analysis and production, and sufficient influence over collection activities and programs to meet major production needs.

—A national analytic competence under the DCI that is not institutionally tied to collection could attract more competent and qualified analysts and could improve its ties to academic, business, and foreign sources of information and expertise.

—Integrating CIA's national technical collection programs with like elements in the DoD would allow for more efficient management of these programs within a single department. Use of reconnaissance satellites for military support would be eased. But some would argue that the sensitivity of these crucial programs to interests outside DoD would necessarily decline under this option.

—Choosing how to subordinate the Clandestine Service is a serious problem under this option. Subordination under the NSC and the President would replicate the arrangements seen in many advanced countries, but it would raise doubts about the ability of this arm to avoid improper demands in some future period. [7 lines not declassified]

—DoD control of the Clandestine Service would facilitate balancing its role with that of major technical collection programs, but it could degrade its primary focus on political reporting. In some eyes, DoD subordination could raise the specter of a potential combined military and secret service threat to US political institutions.

Option 5: Enhanced DCI Resource Allocation Authority Plus Line Authority Over National Collection Programs

In addition to broad program and budget control established in Option 4, the DCI would assume line authority (day-to-day operational control) over the National Security Agency (NSA) [1 line not declassified] with SECDEF providing requisite support from DoD assets at DCI request. Variations of this option would separate the DCI from CIA as in Options 4A–E, with relatively similar impact (Options 5A–E).

If a very strong DCI is desirable, this option would develop the requisite loyalties to the DCI which would ensure that the national collectors concentrate on DCI problems, and it permits holding the DCI accountable to ensure the Community is properly responsive to all users.

The pros and cons of this option are that:

—Responsiveness to the DCI is virtually guaranteed.

—There is singular accountability through a rigorous balancing of responsibilities and authorities, however this could conflict with the need for effective mechanism for interagency coordination and cooperation.

—There is potential for savings through DCI total responsibility, resource and line, over National systems.

—Problem areas introduced by this option include how the unity of the existing U.S. SIGINT system could be maintained [*1 line not declassified*] and how sufficient responsiveness can be assured in crisis and war to the command responsibilities of the Secretary of Defense and the field commanders.

—National collection assets are essential to the conduct of military operations, and their effectiveness in combat support is almost directly proportional to the extent they are integrated into the military command and control system at all echelons; and

—The national assets themselves are critically dependent on Defense-operated support activities, and efficient integration of intelligence collection with support activities can best be accomplished within Defense.

—It is debatable whether the DCI needs line authority over submarines, airplanes, space launch and satellite control facilities in order to produce quality intelligence for the President and the National Security Council. Some argue that it makes more sense to have both the intelligence collection facilities and their support facilities operated by SECDEF as a “service of common concern,” just as the DCI operates the clandestine services or provides National intelligence.

Option 6: Complete Restructure Intelligence Community (except Departmental analysis and other Departments’ Intelligence activities) under line authority of a DFI

This option would be favored by those who not only support Option 5 for its singularity of responsibility, but also feel that greater emphasis should be placed on management by functional lines. While there are many variants of this approach, two are described to portray the concept.

Under Option 6A, assisted by three Deputies (for National Intelligence Production, Resource Allocation, and Collection), the Director of Foreign Intelligence (DFI):

—Tasks, allocates resources and operates an Intelligence Analysis and Production Agency (NIPA) composed of present NIOs and CIA/DDI; a Clandestine Services Collection/Operations Agency (CIA) composed of present CIA/DDO and supporting elements of DD/S&T; a unified SIGINT Collection Agency (present NSA); an Intelligence Space Support Systems Agency (ISSS) (composed of present [*less than 1 line not declassified*] and supporting elements of DD/S&T); and provision would be made to integrate the [*less than 1 line not declassified*]

—Retains resource allocation and tasking authority over DoD intelligence elements identified as part of the National Foreign Intelligence Program, and reviews other intelligence elements.

—DFI is responsive to SECDEF needs for timely support from all his elements in crisis and war.

This option places greater emphasis on management by functional lines, stressing continued diversity in analysis by maintaining separate centers while concentrating on reducing redundancy in collection regimes. The ability of the staff supporting the DCI would be critical in ensuring that this greatly centralized structure was properly responsive to the needs of the Departments.

If one concludes that a DCI with this degree of centralized authority should become subject to accountability to a "Board of Directors" the following variant could be applied. The DCI presents his management, program, and budget to the NSC Special Coordination Committee with issues as is done today by individual program managers to the PRC(I), but at a more "macro" level, with the SCC reviewing, guiding and approving. This variant is a possibility, of course, for any restructuring option. In any case, there is the potential for Congressional and media concerns about the absence of checks and balances without such a variant.

For Option 6B, in addition to those elements assigned in Option 6A, those elements remaining in DoD which substantially contribute to National Intelligence collection would be integrated into DFI agencies. NIPA would still consist of NIOs and CIA/DDI, and provide a national intelligence data base accessible to all consumers. Army and Air Force HUMINT activity would be integrated with CIA. SECDEF would manage the Defense Attache System IAW DFI directives.

This option maximizes efficient use of resources with heavy emphasis on management along functional lines and absence of duplication. But one man's duplication is another's insurance. The SCC variant applies equally to this option.

Option 7: Separate substantive national intelligence and resource allocation functions, assigning former to DCI and latter to SECDEF

This option retains present institutional structure and subordination, vests the responsibility for setting requirements and priorities, and production of National Intelligence with the DCI, and holds the SECDEF responsible for resource management of the NFIP, with review by the NSC Special Coordination Committee. This option would be appealing to those who see the need for "creative tension," to focus sharp definition and thorough examination of programmatic issues. Specifically, this option will provide for:

—Secretary of Defense review and integration of all NFIP program elements into a consolidated program in response to requirements and priorities as set by the DCI.

—Retention of the present Community organizational structure.

—The DCI as the head of CIA, the producer of national intelligence, and the President's principal advisor on national foreign intelligence.

—DCI Community leadership roles in the areas of production and collection requirements and priorities development.

—Secretary of Defense management of the process of allocating resources among NFIP elements as a “service of common concern” for the NSC and the DCI. It would be his responsibility to fit the non-defense intelligence elements of the NFIP into a rational whole, 80 percent of which is now in Defense; he would therefore review the intelligence programs of CIA, INR, ERDA, Treasury, and FBI and integrate them with his own in terms of resource trade-offs (alternatively, the latter four could be removed from the NFIP).

This option would alter little in the affairs of today’s Intelligence Community except the programming and budgeting of resources. In this area it could create or allow for varied management situations.

Insofar as the DCI issued precise requirements and priority guidance to the Secretary of Defense as NFIP “program manager” or coordinator, the DCI would have considerable influence over the entire resulting program. The Secretary of Defense would then be essentially free to reconcile the guidance of the DCI on national needs with the needs of DoD and tactical commanders that affect most intelligence programs.

It would be the responsibility of the Secretary of Defense to conduct thorough analysis on how best to balance resources among national and other DoD intelligence efforts, to build, and to defend the resulting program. The DCI would concentrate on the needs of production and the demands of clandestine operations. The DCI would maintain sufficient staff support to assure some knowledgeability as to major programmatic choices. The Secretary of Defense would present the program and budget to the SCC as described in the variant to Option 5 for review and approval.

The situation described above could provide for fairly tight and orderly management of national intelligence resources. It is, however, not devoid of potential for tension between the DCI and DoD; among men of good will, this could be “creative tension” conducive to sharp definition and thorough examination of programmatic issues.

This option could lead to another situation, however. In order to minimize strife, the DCI and the Secretary of Defense might respectively take a fairly relaxed view of the programs not directly subordinate to them. The DCI might tend to accept DoD-run programs with a minimum of scrutiny so long as they seemed to meet his needs. The Secretary of Defense might choose to accept the CIA and other programs with only perfunctory review. This would return the matter of Community resource management essentially to the conditions of the mid-1960s. Much would therefore depend on the rigor which the Secretary of Defense applied to program review across the board and the care with which the SCC and DCI monitored and critiqued the DoD role.

Option 8: Centralize all NFIP activity under SECDEF

This option provides the DCI with essentially all of the powers of Option 5, but under the SECDEF. If one views intelligence as a service of common concern which could be adequately provided by the Secretary of Defense, then this option could be considered. In this option:

—DCI serves as DEPSECDEF/Intel with direct access to the President and other members of the NSC, operating all elements of the NFIP under direct President-SECDEF-DSD/DCI line and resource authority.

—CIA could continue to exist as a separate agency reporting to DSD/DCI as would DIA, NSA, etc.

—Some restructuring of existing agencies along functional lines could occur.

This option does not retain the degree of production federalism stressed in previous options, and would undoubtedly raise fears in the media and Congress that the military had “taken over” the national intelligence structure. This could be somewhat offset by shifting some of the existing CIA/DDI analytical capability to State (INR) and concentrating on two competing analytical centers.

IV. Other Solutions

Organizational changes may resolve some of the problems associated with the management and operation of the Intelligence Community but there are other important problems that will be virtually unaffected by structural change. Irrespective of the decisions on Intelligence Community reorganization, the perennial problems identified below require sustained and creative attention by intelligence managers acting in response to NSC general directives and their progress should be reflected in periodic reports to the President.

A. Producer/Consumer Relationships

More effective measures must be devised to ensure that analytical intelligence products meet the requirements and priorities of intelligence consumers at all levels. Consumers as well as producers of intelligence bear this responsibility. A mechanism to ensure explicit and disciplined positive input and review from consumers on a periodic basis should be established. Consumers with special problems must have effective ways of relating to the Intelligence Community. For instance, organizations such as ACDA, with its increasingly important and unique requirements for verification of agreements, and the Drug Enforcement Administration, with responsibilities for intelligence related to illicit traffic of drugs, should have more effective ways to communicate with the Intelligence Community.

B. Analytical Versatility

A stronger and more versatile national intelligence analytic capability is necessary to fill the serious gaps in anticipatory analysis and

to produce improved longer term estimates. High quality national intelligence inputs into the Presidential Review Process should be emphasized. Management initiatives, including innovative personnel practices and plans, advances through research in forecasting and methodology, quality control and improved product evaluation, are all required.

C. Communications and Reporting

While planners and analysts face a shortfall of facts and timely receipt of all relevant information, policymakers are swamped with a plethora of intelligence reports. Measures should be taken to:

—Assure that departmental barriers to the free flow of relevant data are removed, including compartmented, “NODIS” and “SPECAT” information.

—Insure efficient and timely interchange of information amongst producers, consumers, and data bases. This mechanism must provide for interchange of all relevant information collected by *non*-intelligence agencies to aid in the analytical process.

—Eliminate unnecessary production duplication.

D. Collection Tasking

The inability of the requirements process to orchestrate intelligence collection in a timely and responsive manner across the basic collection disciplines must be resolved. An effective mechanism which synergistically applies all relevant collection resources to the intelligence targeting problems should be created.

E. Crisis and War

A mechanism must be developed and implemented to assure that national intelligence collection management can effectively transition from peace through crisis to war. The long debate about this problem should end and action begin. The NSC should review and approve one of the following basic approaches:

1. In wartime, the Secretary of Defense should manage the collection requirements systems for all assets that can support military operations.

2. The DCI should manage those systems as a service to the military command hierarchy, taking his requirements from the latter.

3. Management of some critical assets should be transferred to Defense, depending on the system and the conflict scenario.

As noted in the DCI’s Part II report on PRM/NSC-11, while any of these approaches could work, it is unlikely that any of them would work well until we establish in greater detail what national intelligence

collection management really means in a wartime context and build working mechanisms appropriate to that understanding.

F. Relating Requirements to Resources

—*Collection*: The Intelligence Community must develop and implement a “calculus” that more explicitly ties together the basic system-independent intelligence requirements, (e.g. KIQs, DCI Perspectives) to the more detailed system-oriented collection requirements and associated costs in a manner that permits more rational trade-offs among intelligence collection approaches on the basis of incremental value.

—*Cross Program Issues*: There is also a need to establish cross-cutting review mechanisms to assess the marginal gain of resource variations between and amongst collection, processing and production disciplines. This is necessary to answer such basic questions such as: “Is the macro balance appropriate among the three?; Is there proper resource emphasis on political or economic vs. military questions?”; “How can we improve intelligence reporting on Africa?”

—*Performance Measurement/Evaluation*: Significant gaps in our ability to assess the utility of various resource allocation strategies exist because collection and production have no “grade card” which associates performance or projected performance against basic consumer needs. Effective means must be developed which facilitate objective measurement relating to the resource management process. These same, or similar means must be applied to measure and influence the effectiveness of tasking of resources.

G. Defense Intelligence Management

Prior to the Presidential Directive of 1971⁹ and the subsequent consolidation of Defense intelligence, no one was clearly in charge of the Defense intelligence effort; key elements neither cooperated effectively or were under suitable lines of authority to permit efficient trade-offs and long-term planning on a Defense-wide basis. Regardless of structural options considered, effective mechanisms must be established within the Defense Intelligence Community to assure effective and efficient integration into the national intelligence community.

H. National/Tactical

The failure of the CFI to come to grips with the charge to define what is and is not to be included in the NFIP can no longer be accepted. A thorough-going review with specific recommendations to the NSC,

⁹ See footnote 4, Document 35.

and to be implemented in the FY-79 budget submission for the NFIP, should be conducted.

I. Relationship between NFIP and Intelligence-Related Activities of the Departments and Agencies

In order to minimize duplication and maximize mutual support, substantive mechanisms should be established to assure a more systematic relationship between national intelligence programs and so-called intelligence-related activities.

J. Public Trust and Confidence and Value of Confidential Service

Resolving the issues secrecy raises in our open society requires a fresh analysis of what aspects of intelligence actually require protection, review of the concepts involved and careful examination of the kind of legislation needed. Oversight institutions must be institutionalized.

K. Covert Action

The present institutions for review of and procedures for control of covert action programs should be maintained, and perhaps put into statute. More attention should be given to developing a doctrine for covert action which reflects both the experiences of the past and the realities of the present.

L. Counterintelligence

It was noted in Section II that there is no national policy and no policy-level forum for foreign counterintelligence. Moreover, there is no comprehensive understanding of counterintelligence issues at the policy level. Counterintelligence is acknowledged as a major intelligence discipline, but even in intelligence circles it is only rarely discussed. Annex A to this report recommends the assignment of responsibility for development, coordination and oversight of national counterintelligence policy to the NSC's Special Coordination Committee (SCC/CI) chaired by the Assistant to the President for National Security Affairs.

Annex A¹⁰*Recommendation on Foreign Counterintelligence*

It was noted in Section II that there is no national policy and no policy-level forum for foreign counterintelligence. Moreover, there is no comprehensive understanding of counterintelligence issues at the policy level. Counterintelligence is acknowledged as a major intelligence discipline, but even in intelligence circles it is only rarely discussed.

Senior officials have to deal with counterintelligence flaps—spies that have been caught, double agents that have disappeared—but, except for sporadic directives, such as the President’s recent instruction to the FBI to focus on anti-Castro terrorist groups,¹¹ counterintelligence priorities and the allocation of resources have been left to the individual agencies. There has been no policy-level forum in which to weigh the level of effort against the seriousness of the threat, to examine the implications of “friendly” intelligence service activities in the U.S., or to resolve conflicting policy considerations which allow identified Soviet and other hostile intelligence officers to enter and travel in the U.S. For the U.S. to effectively deal with foreign espionage, sabotage, covert action and terrorism requires an informed body of senior officials which will examine and come to understand the activity generically, and thus be in a position to develop national foreign counterintelligence policy objectives, oversee their implementation and assess their effectiveness.

Establishment of a Special Coordination Committee (Counterintelligence)

It is recommended that the NSC Special Coordination Committee assume responsibility for development and coordination of national counterintelligence policy. The SCC(CI) would be responsible for:

- formulation and review of foreign counterintelligence policy and objectives, oversight of their implementation and examination of their effectiveness;
- coordination of the interface between counterintelligence and foreign and domestic policy issues;
- exercise of national-level oversight for sensitive counterintelligence activities;

The Committee should be supported by a small, dedicated element of the NSC staff.

¹⁰ Secret.

¹¹ Not found.

Definition and Jurisdiction

As a first order of business the SCC(CI) should seek agreement on a definition of counterintelligence and on the activities which will fall under its responsibility. Some outstanding questions are:

- Does counterintelligence include terrorism?
- Should communications security and foreign-directed signals intelligence operations come under the counterintelligence umbrella?
- Deception is a neglected, but potentially valuable counterintelligence technique. While there are some low-level deception operations, its effective use as a national instrument requires policy-level consideration. Should the formulation of deception policy and the oversight of deception operations be a responsibility of the SCC(CI)?
- Standards and practices with respect to personnel, document and physical security vary as between agencies and departments. Lapses in these procedures have resulted in the compromise of highly classified information. While the Intelligence Community prefers to deal with “security” programs separately, they are aimed at protecting the U.S. from hostile intelligence activities, and there is rationale for placing them, in some manner, under the jurisdiction of the SCC(CI).

Membership of the Committee

The membership of the SCC(CI) should include the FBI, CIA, Department of Defense, Department of Justice, Department of State and the Assistant to the President for National Security Affairs. The FBI, CIA and Department of Defense because they are action agencies for counterintelligence; the Department of Justice because in the U.S. there is an organic relationship between law enforcement and counterintelligence and because the experience of the former OAG and the SCC(I) demonstrates the advisability of intelligence committees having a legal representative present; the Department of State because of the required coordination on counterintelligence overseas (NSCID-5, paragraph 6) and the necessity for coordination on certain cases in the U.S.

Chairmanship of the Committee

Presidential Directive No. 2 established the Assistant to the President for National Security Affairs as Chairman of the SCC.¹²

Because they are not sufficiently independent, and have operational responsibilities, both the DCI (because he is also the Director of CIA) and the Director of the FBI are ruled out as potential chairmen in any event. The Senate Intelligence Committee and the IC Staff have in the past recommended the Attorney General as chairman for any inter-

¹² See Document 7.

agency committee on counterintelligence. In favor of this option is the respect accorded the Attorney General by both the intelligence community and those who fear possible abuses. Attorney General chairmanship in the eyes of the public would assure that counterintelligence activities and policy would be lawful and proper. On the other hand, the Attorney General's supervisory responsibility for the FBI (the Government's primary counterintelligence agency) is somewhat analogous to the DCI's responsibility for the CIA. As the chief law enforcement officer of the Government, the Attorney General's oversight role with respect to intelligence activities and FBI guidelines could appear to be compromised if he were to assume the chairmanship of a policy committee dedicated to efficient and effective counterintelligence. Finally, there is no existing natural independent staff support available to him in the role of chairman.

Chairmanship by the Assistant to the President for National Security Affairs would substantially fulfill the criteria of prestige and independence. While this position has no line authority, the close relationship to the President and the unique role of the NSC would enable the Assistant to command the requisite authority when necessary. Chairmanship by the Assistant would naturally suggest staff support for the SCC(CI) from the NSC staff, and would assure that the staff was independent of individual agencies. On the other hand, because of the Assistant's wide-ranging responsibility for national security, his chairmanship might not bring with it the same public reassurance as would the chairmanship of the Attorney General.

Chairmanship by an independent DCI with community-wide responsibilities would seem logical and he would have both the expertise and staff support required. It would mean, however, that for the first time the DCI would be given a certain measure of responsibility for domestic secret intelligence activity and this would require legislation. Such legislation at this time would be difficult and would inevitably give rise to public apprehension.

42. Memorandum From Director of Central Intelligence Turner to the President's Assistant for National Security Affairs (Brzezinski)¹

Washington, June 1, 1977

SUBJECT

PRM/NSC-11, Task 2 Report

1. Submitted herewith is the subject report as directed by the President. I believe it provides an instructive overview of the functions, powers, and problems of the Director of Central Intelligence (DCI), particularly in his role as leader of the Intelligence Community.

2. On the basis of my past experience and all I have learned since becoming DCI, I have formed some strong views on what is needed in the way of improvements to Community structure and to DCI authority to make the Community more effective and efficient, and to assure that its activities are demonstrably proper. I have expressed such views in this report.

3. Not surprisingly, there are those who differ sharply with some of my views. Representatives of the Department of Defense, in particular, take exception to some of them in the attached report. Secretary Brown and I have had an extensive and constructive exchange on these matters. I believe the time has come to submit them to the test of review and debate in the Special Coordinating Committee.

Stansfield Turner²

Attachment

Report Prepared by the Ad Hoc Interagency Subcommittee on the Role of the Director of Central Intelligence³

Washington, undated

The Roles of the DCI and U.S. Intelligence: An Organizational Analysis

[Omitted here is a table of contents.]

¹ Source: Central Intelligence Agency, Office of the Director of Central Intelligence, Job 97M00248R: Policy Files, Office Level and Above, Box 1, Folder 14: PRM 11—Intelligence Structure and Mission (Folder 3). Secret; Handle Via Talent-Keyhole Control System Only.

² Printed from a copy bearing a stamp that indicates that Turner signed the original.

³ Secret; Handle Via Talent-Keyhole Control System Only.

FOREWORD

In PRM/NSC–11, the President directed a comprehensive review of the missions and structure of United States intelligence entities with a view to identifying needed changes. As part of this review, the Director of Central Intelligence (DCI) was directed to chair an inter-agency subcommittee of the Special Coordination Committee (SCC) of the National Security Council (NSC) to analyze his own role, responsibilities, and authorities.

This subcommittee was comprised of representatives of the DCI (Central Intelligence Agency, National Intelligence Officers, and Intelligence Community Staff), the Defense Department (Office of the Secretary of Defense and the Joint Chiefs of Staff), the Department of State (Bureau of Intelligence and Research), and the NSC Staff.

Specifically, the PRM/NSC–11, Task 2, called for a report that reviews “the responsibilities and powers of the DCI in his role as Foreign Intelligence Advisor to the President, central authority for the production of national intelligence and manager of the national foreign intelligence program and budget. This examination should include an analysis of the mechanisms for:

- planning, evaluating, and improving the Intelligence Community performance;
- identifying intelligence requirements and tasking all sources;
- processing, analyzing, producing and distributing intelligence for anticipated activities, warning, crisis support, current and estimative intelligence and net assessments;
- evaluating intelligence production performance.”

Because this report is devoted, as tasked, to the roles of the DCI, who is but one of several senior authorities responsible for the activities of the Intelligence Community, it cannot completely treat the roles of other such authorities. Representatives of the Department of Defense (DOD) believe this is particularly the case regarding the roles of the Secretary of Defense, who manages nearly 80 percent of the financial resources of the National Foreign Intelligence Program, who is executive agent for several major intelligence programs of great importance to national as well as to DOD’s intelligence concerns, and whose principal functions require intimate involvement in national intelligence affairs.

DOD wishes, further, to state the following: It should finally be noted that the text was changed in many respects at the direction of the DCI after the last Subcommittee meeting.⁴ In DOD’s view, these changes serve to make this report principally a vehicle for the expres-

⁴ Not further identified.

sion of the DCI's views on the changes he believes are appropriate in the Intelligence Community structure. DOD also believes that the Executive Summary does not represent a balanced presentation of the main text.

*EXECUTIVE SUMMARY*⁵

Intelligence is a diversity of collection and production organizations serving a variety of customers with varying needs from the President down to military commanders and diplomats in the field.

—The Central Intelligence Agency (CIA) and the position of the Director of Central Intelligence (DCI) were created to afford a degree of unity amid this organizational diversity.

—The roles of the DCI and of the other officials with whom he interacts in this federated community of organizations evolved, and the size and diversity of US intelligence have grown over thirty years.

—The Department of Defense (DOD) retains a very large role in US national intelligence affairs, with management custody of some 80 percent of the National Foreign Intelligence Program (NFIP) budget, including major national technical collection programs; and DOD has major specialized intelligence needs in the areas of force and weapons development and tactical operations.

In recent years, largely as a result of the Community's size and diversity, questions have arisen about the adequacy of the organization and management of the Intelligence Community and of the role which the DCI plays within it. The key structural questions are:

—Whether the responsibilities of the DCI are clear and sound, particularly as they relate to intelligence entities within DOD.

—Whether the authorities and powers of the DCI are commensurate with his responsibilities.

Of the DCI's many roles, the most important are:

—Principal advisor to the President and the National Security Council on foreign intelligence matters;

—Producer of national intelligence;

—Leader of the Intelligence Community;

—Head of the CIA.

⁵ DOD does not concur in this Executive Summary. Note especially Page iv (FOREWORD) and Pages 58, 60, and 69. [Footnote is in the original. See footnotes 14 and 16 below and the last paragraph of the report.]

The first of these roles has important implications for Community structure.

—To the extent that there is a perceived need for someone to organize and manage the intelligence affairs of the US Government as a whole, there is a tendency to look to the DCI.

—In one view, held by the DOD, this tendency can lead to an unwise deepening of the DCI's involvement in the management of other agencies' intelligence affairs, and an unhealthy dilution of the DCI's primary substantive role.

—The DCI believes, however, that this tendency is both natural and legitimate. The resulting expansion of DCI responsibility can be appropriately handled through delegation of duties to subordinates.

The DCI's substantive role as producer of national intelligence originates with the duty given the CIA in the National Security Act of 1947 to "correlate and evaluate intelligence relating to the national security."

—Although there are weaknesses in this area, the DCI has significant power to remedy or alleviate problems; improvements are frequently more a matter of judgment and management attention than of authority.

—However, the DCI has little power over the departmental contributors on which the analysis and production of national intelligence so heavily relies.

The DCI's resource management responsibilities in the Intelligence Community have two time dimensions: the use of existing collection and processing resources to meet current and near-term intelligence needs; and the development of new resources to meet future intelligence needs.

—Centralized mechanisms for the guidance of major *current* collection activities exist at the national level, under the DCI, in the case of technical collection assets. DCI powers are strong and prescriptive in the area of imagery; somewhat less strong in the case of SIGINT. Many argue that difficulties here arise not so much from lack of DCI authority or from failings of Community structure, although the fragmented structure of the Community has helped to instill in each collection discipline a disposition to want to manage its own affairs with only general guidance. Frequently, difficulties are in defining problems and designing workable improvement mechanisms—for example, managing collection tasking during the transition from peace to war and assuring reliable cooperation between the Community and overt human source collectors outside of intelligence (e.g., in the Foreign Service).

—A greater challenge for US intelligence management is to develop the best overall mix of *future* capabilities needed to perform effectively

at reasonable cost. A fundamental problem is one that is common to other functional programs in government: the absence of a set of measures for assessing the value of outputs and the relative contribution of inputs in terms that find general acceptance and lead to confident decisions.

In his role as head of the CIA, the DCI has strong management powers, but the augmentation of the DCI's role as Community leader has been perceived, in recent years, to cause increasing tension between the two roles.

—Some in the Community see the DCI as bound to favor CIA in any Community deliberation on production, requirements, or resources in which CIA has an interest, and therefore argue for some degree of DCI separation from CIA.

—Others contend that part of the problem stems from the imbalance between the DCI's broad responsibilities and his more limited decisionmaking powers in the Community arena; this forces him into a position where he must appear to neglect the CIA to be effective as a negotiator in the Community. Those of this view tend to favor enhancing DCI authority over other Community elements.

Most of the DCI's other roles are subsidiary to these four primary ones and have fewer implications for Community structure.

—To help protect the security of intelligence sources and methods, past DCIs have sought new legislation to punish damaging disclosures of sources and methods information; other initiatives—such as reinvigoration of the classification system within the Community—are also needed.

—The DCI is a participant in US foreign counter-intelligence policies and activities; there is a clear need for a national level policymaking and coordinating structure in this area.

—As an officer responsible for the propriety of US foreign intelligence activities, the DCI has an Inspector General and the normal mechanisms for discovery and investigation of impropriety within CIA. Although charged under Executive Order 11905 to ensure effective Inspectors General in other agencies, he has little power to act on this charge and is generally not equipped to assure propriety in the behavior of agencies other than CIA.

—Occasional confusion about the DCI's responsibilities as coordinator of liaison with foreign intelligence services would appear to require some clarification in pertinent regulations.

—With respect to his role as principal spokesman to the Congress on national foreign intelligence, one of the foremost problems for the future may be to find a way in which the DCI can respond to the proper demands of Congress without jeopardizing Presidential prerogatives and DCI relations with the Executive.

—Regardless of the organizational configuration of the Intelligence Community, the DCI almost certainly will be expected to continue the trend toward greater openness and to accept a continuing role as public spokesman on national foreign intelligence.

Three basic criteria, especially pertinent to the roles of the DCI, can be used in assessing the adequacy of management and authority structures within the Community: propriety, effectiveness, and efficiency.

—In the view of DOD, these criteria, as discussed in this paper, do not fully address other criteria important to the roles of the Secretary of Defense, especially the need for adequate integration and interoperability of intelligence with military command and control.

Assuring the *propriety* of intelligence activities is not solely—or, in the view of some, primarily—a matter of Community structure or authority. It is a matter of political or constitutional standards, law and regulations, oversight, and professional ethics. The DCI cannot, at present, be held directly responsible for the actions of agencies which he does not directly command.

—Although legal responsibility for the propriety of intelligence operations runs from the President down through the line managers of the several intelligence agencies, the DCI believes that the President, the Congress, and the public expect him to act as virtual guarantor of the propriety of all United States national foreign intelligence activities below the President. In the DCI's view, his authorities to satisfy these expectations are now less than adequate, except in the case of CIA.

Improving the overall *effectiveness* of national intelligence production does not rest mainly on structural change or redistribution of management authority. Improvement requires problem recognition and steady management effort at all levels and in all producing agencies. But efforts to improve intelligence production do have implications for Community structure, and changes in structure sought for other reasons could affect the quality of intelligence production. Effective service to consumers requires a diversified set of producing organizations, some of which are directly subordinate to consumer entities, all of which are able to act in concert when required. The Intelligence Community today affords such a structure.

—The DCI believes that the diversified structure of the national intelligence production Community existing today is generally sound. In his view, however, more effective national intelligence production requires enhancing the DCI's authority to:

- a. Task Community production elements outside CIA for national intelligence production;
- b. Task national collection assets that lie outside CIA but support national intelligence production;
- c. Control the program management of the major NFIP elements.

—DOD disagrees with this view. It believes, moreover, that such enhancements of DCI authority could materially degrade the responsiveness of DOD collection and production elements to DOD needs.

Achieving the most *efficient* allocation of resources is mainly a matter of managing collection and processing resources, because that is where most of the money and manpower are. The challenge is to provide the necessary coverage of target problems and adequate service to consumers, while avoiding unnecessary effort and undesirable duplication.

—With regard to the management of current collection requirements, priorities, and tasking, the DCI believes that, notwithstanding his central role respecting technical systems today, enhanced DCI direct tasking or line authority over major national collection entities is essential to improve their responsiveness to all consumers and to eliminate the high degree of competitive overlap that presently exists.

—DOD disagrees with this view. It maintains that such enhanced DCI authority would probably work to reduce the responsiveness to DOD needs of those major collection entities within DOD.

Historically, programming and budgeting aspects of US intelligence resource management, as well as line control, have been largely decentralized, both in the Community as a whole and in DOD, where most of the resources reside. But pressures to centralize the process of managing those resources labeled “national” have been increasing for several years, culminating last year in Executive Order 11905.

—The programming and budgeting decision system initiated by Executive Order 11905 is essentially collegial (in the PRC[I])⁶ and rests on the cooperative interaction of the DCI, departmental authorities, their staffs, and intelligence program managers. To a large extent, it places the initiative in the hands of program managers and outside critics. As a by-product, it places some strain on the dual roles of the DCI as a Community leader and as head of CIA. It also, as a practical matter, requires that departmental authority over departmental intelligence elements in the NFIP be compromised; the Executive Order does not eliminate the statutory responsibilities of the department Secretaries over their intelligence activities.

—Refinement of the programming and budget process created by that order is one way of enhancing the integrity of national intelligence resource management in the future; it has the significant virtue of an evolutionary approach that builds on existing organizations and accumulated experience. Better definition of goals and rules is desirable

⁶ Brackets are in the original.

to make the process of persuasion inherent in the collegial approach more constructive.

In deciding whether significantly to change this regime, several issues are relevant, such as:

- How much emphasis should be placed on efficiency as compared with other goals;
- What intelligence activities should be involved;
- How much and what kind of centralized authority is desirable?

The last question involves at least four conceptually distinguishable management activities: definition of requirements and priorities, and issuance of guidance; reviewing and vetoing Community programs; controlling programming and budget decisions; and exercise of line management. Each activity could, in theory, be centralized or decentralized, could be unilateral or collegial, could be mandatory or advisory. The relevant options and responses are addressed in other parts of the PRM/NSC–11 response.

The DCI believes, however, that present arrangements give him responsibilities in intelligence resource management that are beyond his management authority to fulfill. Although formal responsibility for the contents of the NFIP rests with a collegial body, the PRC (I), as Chairman and as DCI he is expected by the President and the Congress to develop and take responsibility for an NFIP that is rigorously efficient and displays a close relationship between resource inputs and intelligence product outputs. In the DCI's view, achieving the goals of efficient national intelligence resource management requires his having stronger central authority over national intelligence programming and budgeting decisions, and, in the case of key national programs, line authority as well.

DOD disagrees with this view. It maintains that the degree of centralization under the DCI implied above would be unwise and would severely prejudice the ability of major collection programs in DOD to meet important Defense needs in peace, crisis, or wartime.

I. Introduction

Intelligence can be thought of as a service industry in government, a diversity of organizations serving a variety of customers with varying needs. At the origins of post-war US intelligence, Congress and the President responded to a strongly perceived need to create some degree of overall unity amid this departmental diversity. The Central Intelligence Agency (CIA) and the position of the DCI were created to afford a degree of unity—as well as some independence from the policy process—with respect to information and judgment on intelligence questions of national importance. In the intervening years, the size and diversity of US intelligence have grown. (See Figure 1 and other

graphics at Annex for an indication of the size and diversity of today's Intelligence Community and its activities.)⁷ But so also have the pressures for unity amid diversity. As the nation's senior, full-time functionary for national foreign intelligence, the DCI has been the focus of these pressures. He is the President's principal advisor on foreign intelligence, and national intelligence of preeminently Presidential concern is produced under his authority. He has come to preside over Community mechanisms that decide how to use major technical collection capabilities on a day-to-day basis. Since the November 1971 directive of President Nixon, he has been increasingly expected by the President and the Congress to be the guiding authority with regard to programs and fiscal resources of US intelligence entities specified as national.

A direct line of authority runs from the President and his advisory body, the NSC, to the DCI and the CIA. Surrounding this line of authority, however, are a host of vital relationships with other entities of the Executive Branch which generate and receive intelligence. These other relationships do as much to shape the role of today's DCI as does his line command of CIA. For many years, CIA has itself been highly dependent on them. In recent years, they have been seen within CIA to strain the DCI's relationship with the Agency.

Of these other relationships, that with the Department of Defense (DOD) is the most significant and involved, strongly influenced by the fact that the Secretary of Defense, by virtue of his statutory responsibilities as head of the Department of Defense and member of the NSC, has his own direct line of authority from the President. Characterizing this relationship with the DOD goes a long way toward defining the role of today's DCI. It shall be treated further in following sections. Suffice it to say here that:

a. The DOD consumes the greatest volume of foreign intelligence. In scope and variety, DOD needs for intelligence approach those of the rest of the government combined. Many of its needs arising from force planning and operational action responsibilities are large and unique.

b. Much of the raw intelligence on which the performance of the DCI as an intelligence producer depends is collected and processed by intelligence elements within the DOD. The Secretary of Defense, for example, as executive agent of the Government for signals intelligence (SIGINT), manages the National Security Agency (NSA) as a service of common concern for all agencies and departments, within the basic

⁷ The Annex with Figures 1-10 is attached but not printed. Figure 1 is identical to Figure 1 in Document 41.

requirements framework established by the DCI with the advice of the National Foreign Intelligence Board (NFIB).⁸

c. Defense intelligence production entities, in addition to supporting DOD consumers, play a major role in the development of national intelligence judgments through the NFIB and the medium of national intelligence estimates. In some areas of analysis, their contributions are unique.

d. Because nearly 80 percent of the National Foreign Intelligence Program (NFIP) is located in the DOD, it is with the intelligence authorities of this department that the DCI and his Community Staff must interact most intensely to develop the consolidated NFIP and budget.

e. It is in the relationship with DOD that the interwoven complex of national, departmental, and tactical intelligence needs and capabilities arises most sharply to complicate the definition of the DCI's role.

f. In the event of war, and even in some peacetime situations, the DCI's role could conflict with that of the Secretary of Defense.

[2 lines not declassified]

Although not as complex, the DCI's relationship with the Department of State is also vital. Foreign Service reporting—a form of collection not formally identified as intelligence—makes the major contribution to political and economic intelligence and also provides information on defense policies in many parts of the world. *[1½ lines not declassified]* The Department of State in Washington and Ambassadors overseas deal with the foreign affairs aspects of all foreign intelligence programs and projects, and play key roles in coordinating overt collection in the field *[1 line not declassified]* The Department is also a heavy consumer of foreign intelligence, and its Bureau of Intelligence and Research (INR) both contributes to national intelligence judgments and produces unique political analyses.

Small in size and specialized in interest, the intelligence elements of the Treasury Department, Energy Research and Development Agency (ERDA), and Federal Bureau of Investigation (FBI) flesh out the formal intelligence relationships of the federation of agencies which has come to be called the Intelligence Community. These latter agencies and the departments they serve have increased in importance as intelligence has had to diversify into new areas of international economics, nuclear proliferation, terrorism, and international narcotics traffic.

Finally, other departments and agencies outside the Intelligence Community—the Department of Agriculture, the Department of Commerce, the Arms Control and Disarmament Agency (ACDA), the United

⁸ The Secretary of Defense is also executive agent for US communications security, advised by the US Communications Security Board. [Footnote is in the original.]

States Information Agency (USIA), and others—are collectors as well as important consumers of foreign intelligence (See Figure 2 for an overview of the Governmental components which have foreign reporting capabilities.)⁹

The purpose of this report is essentially to describe and assess the unifying roles of the DCI, along with other, in some respects conflicting, roles which he has in this Community.

II. *Basic Criteria for Organizational Judgment*

In understanding or structuring any management system, a first task is to establish the functioning spheres of responsibility and authority, and their limits—essentially how the cloth is divided. The second task is to establish how and to what extent that cloth is sewn back together in order to overcome the negative aspects of necessary divisions of responsibility and to make the parts function as a whole. This is a large challenge for US intelligence because of institutional and functional diversity and the countervailing necessity that the parts interact as a whole.

One approach that can be used to rationalize Community structure is to argue distinctions between national, departmental, and tactical intelligence. This tripartite formula arises largely from the relationship of the DCI and the DOD, and is reflected as well in the intelligence-related functions of other departments, e.g., in the reporting of Foreign Service Officers or Commercial attaches. This formula has serious weaknesses and frequently confuses more than it clarifies. Defining the terms usually obliges use of other terms left undefined. For example, it is said that national intelligence is that intelligence needed by the President, the NSC, and senior US officials to make national policy decisions. But what are national policy decisions? They are decisions those officials want and are able to make; they frequently reach deep into the affairs of departments and can dictate the tactics of military and diplomatic actions. (Further complications arise, for example, within the SIGINT Community, where it is asserted that collection assets are best distinguished along global and local—rather than national, departmental, or tactical—lines.)

The essence of the organizational problem in intelligence is that these concepts overlap extensively in meaning, at least some of the time. The needs of consumers overlap. The President is always interested in broad assessments of Soviet foreign and military policy. But in a crisis at sea, he is likely to be interested in the exact location of specific naval combatants, a seemingly tactical issue. By the same token, a field

⁹ Figure 2 is identical to Figure 3 in Document 41.

commander or foreign mission chief needs broad strategic assessments as well as tactical information. The uses to which a given intelligence fact or judgment can be put also overlap in the tripartite formula. An assessment of the hardness of Soviet missile silos, for example, can be of direct value to the operational planner of strategic strikes, to the force planner, to strategy and national policy planners, and to the arms controller; the President is likely to be interested in all these applications. The organizations and systems that collect intelligence data also overlap the categories of national, departmental, and tactical. This is particularly true with emergent space-based reconnaissance systems that may monitor arms control agreements, collect order of battle data, supply warning, and support tactical military operations.

Thus, the key organizations and systems of US intelligence can or do play extensively overlapping roles at different times. Although only imprecisely, one can distinguish among primary and secondary missions of major organizations in terms of the national, departmental, and tactical formula. But this does not resolve all cases; it leaves a middle ground for argument and a poor basis for organizational judgment.

Organization is about management, and management is about basic purposes and standards of performance. Organizational judgment must be based on a clear understanding of basic performance criteria that do or should govern US intelligence. Among such criteria, three especially pertinent to the roles of the DCI are *propriety*, *effectiveness*, and *efficiency*. (In the view of DOD, these criteria, as discussed in the succeeding pages, do not fully address other criteria important to the roles of the Secretary of Defense, especially the need for adequate integration and interoperability of intelligence with military command and control.)

Propriety demands that US intelligence be conducted in conformity with the legal and political standards of our country as interpreted by proper authority. In today's conditions, propriety may tend to conflict with effectiveness and efficiency by restricting certain means of collecting or using intelligence or forbidding the collection or use of certain kinds of intelligence. It tends to conflict with intelligence requirements for secrecy on which effectiveness and efficiency depend. Assuring the propriety of US intelligence in appropriate balance with conflicting considerations is not primarily a matter of organization, although clear lines of command and management responsibility are required for this task. Assuring propriety also requires:

- a. establishing a sound environment of law and regulations;
- b. establishing sound oversight or policing mechanisms within and outside intelligence organizations; and
- c. cultivating appropriate professional and managerial ethics within intelligence entities.

The concept of *effectiveness* in intelligence management is output or product oriented. It is, therefore, preoccupied with consumers and with how well they are being served—with who the consumers are, what they need, when they need it, and why they need it. As already indicated, US intelligence serves a great variety of consumers with a great diversity of needs. Within the Executive Branch, they can be arrayed in the following rough hierarchy:

- a. the President, the NSC, and Cabinet-level decisionmakers; those who decide the policies of the Administration on foreign, military, arms control, and foreign economic matters, and on crisis management.
- b. policy and strategy planners; option developers; force posture, major program, and budget developers; planners of negotiations; those who present the Presidential and NSC level with structured choices on broad policy issues and crisis options.
- c. central implementers of policy and operational planners in foreign, military, and foreign economic areas;
- d. field and tactical decisionmakers; policy or plan implementers, e.g., diplomats, negotiators, and military commanders.

These kinds of intelligence consumers are found, of course, in the main departments of the US national security establishment: the Executive Office of the President and the NSC Staff, State, Defense, ACDA, and, to a lesser extent, in most other departments and several regulatory agencies. One must also count Congress as a substantial consumer of intelligence, and, to a degree, the public, which receives much of its information about events overseas, at least about the Communist world, indirectly from US intelligence. Because it must store up information and analysis to meet future or unexpected needs, intelligence is itself a major consumer of intelligence end products.

Service to the policymaking entities of the Executive Branch is the measure of effectiveness in intelligence. Their needs for intelligence are without limit in principle and constantly growing in practice. They touch upon all areas of the globe and embrace most fields of human knowledge.

Effective service to intelligence consumers dictates a number of organizational principles:

- a. The service or output end of intelligence must be highly diversified and relatively specialized to meet the diverse special needs of consumers. This demands specialized intelligence production support to departments, agencies, subcomponents, commands, etc.—size, scope, and level depending on the case. The Defense Intelligence Agency (DIA), INR, the Foreign Technology Division of the Air Force, and ERDA's intelligence element are examples of the varying levels of support necessary to meet the specialized needs of departments.

- b. In addition to expert and objective analysis from departmental intelligence agencies, the President and the NSC, along with other

major consumers, need a source of intelligence that is independent of policy institutions, broadly competent, and available to support them directly, as a first priority. This principle justifies CIA's role as a producer of finished intelligence.

c. To the extent practicable and consistent with security, the system must fully share information within itself. All production entities in a given subject area should share the same data and analysis.

d. The Community must have the means to come together to render a collective judgment or disciplined disagreement on vital intelligence issues. This is essentially what national estimates and other interagency products have been intended to do.

e. The Community should be structured so that collection is as responsive as possible to producer and consumer needs.

These principles lead naturally to some redundancy among intelligence production agencies. It is the belief of intelligence professionals and critics alike, however, that some overlap of substantive activity and competition in analytic judgment among intelligence production agencies is almost always healthy, necessary, and affordable. Of course, effective intelligence support to consumers depends on a great many considerations other than organizational structure. But the structure for producing intelligence within the US Government must reflect the above principles to be effective at all.

The criterion of *efficiency* in US intelligence is concerned with resources, the processes whereby they are employed, and their impact on production. After two decades of growth during the Cold War, concern for efficiency in Community-wide resource management is a comparatively recent phenomenon, accompanying a general skepticism about national security spending and a downturn over the last half-dozen years in real outlays for intelligence. Critical scrutiny of intelligence behavior by Government and the public has intensified the concern with efficiency in the last few years. In 1971 and 1976, two Presidential initiatives relating to Community authority structure were wholly or partly directed at improving the efficiency of Community resource management.¹⁰

Efficient management of intelligence resources proceeds in two connected dimensions. Existing resources must be optimally deployed and operated to meet existing intelligence needs according to a priority scheme that managers can base predictions on but that is still flexible. At the same time and largely by the same set of managers, decisions must be made as to what magnitude and mix of resources should be

¹⁰ Reference to President Nixon's November 1971 memorandum (see footnote 4, Document 35) and President Ford's Executive Order 11905.

mobilized for the future. How these two kinds of decisions are reached in the Intelligence Community will be discussed in the next section (see p. 26).¹¹ Some attempt to state first principles can help one to understand and judge present arrangements.

Intelligence resource management is largely a matter of managing collection and processing resources, because that is where most of the money and manpower are. Many collection assets are developed to gain broad access (e.g., a broad area imaging system) or potential access (e.g., an agent with a promising future or a regional clandestine capability). Broad access systems require extensive selection and processing for useful data, not all of which can be successfully processed. Potential access capabilities may or may not yield as anticipated. Moreover, intelligence is a form of conflict. Those managing intelligence resources are in reality doing battle with others in the world whose main aim in life is to frustrate the formers' efforts. These conditions challenge the quest for efficiency and should induce a certain modesty in one's goals.

In terms of structure, efficient management of current resources against current needs means giving control to the party with the incentive to seek and the capability to approximate the best allocation. To the extent intelligence collection and processing resources are expensive and scarce, relative to perceived needs, there is a tendency to centralize control. But other factors limit such centralization. Control may need to be contingent on changing conditions in the case of capabilities with varied application. The question thus arises of shifting control of certain national collection assets from the DCI in peace to military authorities in war. Some collection capabilities, such as tactical reconnaissance organic to combat forces, are justified solely for the contingency of war support to those forces and must be controlled and subordinated accordingly. Some degree of decentralization is reasonable in intelligence processing (e.g., photo interpretation, signals analysis, document translation) to achieve focus and promptness in the service of analytic users.

Assigning responsibility for programming future intelligence resources for efficient satisfaction of future needs is essentially a matter of deciding what should be traded off against what, to maximize what value. What should a given program element compete against in order to justify itself? And for what goals? Desirable multipurpose capabilities may have to compete simultaneously in several trade-off and value markets.

¹¹ In Section III.C, not printed.

For example, a major overhead reconnaissance system that supplies data to support national intelligence production and can also provide tactical intelligence support to military commanders ought to be weighed against other national intelligence assets, against other means of tactical intelligence support, and even against additional military forces. Whatever single or collegial authority manages national intelligence resources must be capable of making or assimilating sound judgments on such trade-offs.

This logic would insist that the DCI and the main departmental custodian of intelligence assets, DOD, should be running different, if somewhat overlapping, resource trade-off markets. The DCI should be expected, in the main, to trade off intelligence resources against other intelligence resources; the DOD, on the other hand, should generally be expected to trade off intelligence resources against military forces and support programs. Others hold, however, that the DOD is, in fact, a diversified market place in which multipurpose intelligence assets can be realistically assessed both in terms of comparative intelligence value *and* value to operating forces.

It should also be noted that the care and incentives applied to the trade-off of interests may vary with the size of the intelligence package relative to the money market in which it competes. The DCI market place is 100 percent intelligence; the DOD market place is less than 5 percent intelligence (see Figure 3). This, of course, does not preclude someone at an appropriate level in DOD from paying 100 percent attention to intelligence resources.

Any system for allocating intelligence resources must balance contending claims from many users of intermediate and final intelligence products with a central authority capable of resolving disputes in a rational manner. It must also balance rigorous assessment of costly initiatives with enough flexibility or permissiveness to permit initiatives to be pursued in the face of uncertainty.

[Omitted here is Section III: The Roles of the DCI.]

IV. *Assessment*

Section II of this report advanced three basic criteria for assessing the adequacy of intelligence management and authority structures:

- a. Propriety of intelligence activities with respect to legal and political standards.
- b. Effectiveness in the provision of needed intelligence to all Government users.
- c. Efficiency in the use and mobilization of intelligence resources, particularly the expensive collection and processing resources.

This section attempts to summarize and assess the problems of the Community in meeting these criteria, to determine how DCI responsi-

bilities respecting them compare to his powers and Community structure, and to identify causes of problems that may not involve Community structure and authority. Specific options for changing Community structure and other innovations are treated in other portions of the response to PRM/NSC-11.

A. Propriety

The intelligence agencies of the US Government operate in conformity with the law of the land, the stipulations of Executive Order 11905, special restrictions laid down by the Attorney General in 1976, and other internal regulations and restrictions pertaining to propriety. Mechanisms for assuring proper behavior on the part of intelligence agencies are in place and operative. (Further discussion of this issue will be found in the report of the Attorney General's Subcommittee dealing with PRM/NSC-11, Task 1.)¹²

But the situation is far from satisfactory. Many segments of US society external to the Intelligence Community entertain doubts as to the propriety of intelligence activities and the general trustworthiness of intelligence agencies. Internal to intelligence, many professionals suffer in some degree from an atmosphere deficient in confidence, trust, and respect for their chosen vocation. Managers and operators must, moreover, contend with uncertainties and conflicts that the new "ground rules" relating to propriety have presented to intelligence.

The ability of the DCI and other intelligence authorities to protect the security of intelligence sources and methods is severely limited by the lack of appropriate laws defining and protecting official secrecy in general. But such laws will certainly not be forthcoming unless the laws and regulations assuring the propriety of intelligence activities generate widespread confidence.

Alone, the DCI has little power to shape this larger environment. Much depends on the leadership of the President and other key officials of the Executive Branch, and on the reactions of the Congress, the press, and the public at large. The DCI has it within his power, however, to take constructive initiatives that could contribute to an environment in which the propriety of intelligence activities is assured, believed, and consistent with effective intelligence operations. He can take measures to rationalize and make more defensible the security and classification policies applied within intelligence. He can lead in the development and promulgation of professional standards relating to propriety applicable to the Community as a whole. With line command of CIA, he can be held accountable for its activities.

¹² See footnote 3, Document 41.

Assuring the propriety of intelligence activities is not primarily a matter of Community structure. It is mainly a matter of law and regulations, oversight, and professional ethics. But the DCI cannot fairly be held directly responsible for actions of agencies other than those he directly commands.

Although legal responsibility for the propriety of intelligence operations runs from the President down through the line managers of the several intelligence agencies, the DCI believes that the President, the Congress, and the public expect him to act as virtual guarantor of the propriety of all United States' national foreign intelligence activities below the President. In the DCI's view, his authorities to satisfy these expectations are now less than adequate, except in the case of CIA.

B. Effectiveness

Assessment of effectiveness in meeting the intelligence needs of all Government users applies basically to production of intelligence in the broad sense, that is, the production of intelligence reports and analyses, briefings, contributions to policy studies, and other forms of information support. This criterion also embraces warning and crisis support. (Assessment of wartime support to military decisionmakers is treated in the next subsection.)

Unfortunately, however, there are no absolute or simple means to measure such effectiveness. Policymakers dealing with an uncertain world cannot offer any comprehensive or fixed standard of intelligence "sufficiency." Their needs for information and judgment are limited only by their capacity to absorb. Consumer surveys indicate that US intelligence organizations do fairly well at supplying current news and quick information support. In other areas, customers complain of deficiencies. Those who manage and evaluate US intelligence performance are obliged, therefore, to hear complaints, assess problem areas, and seek to improve where improvement seems feasible and important.

This brief treatment cannot explore all the problem areas identified by recent assessments of Community effectiveness in intelligence production, e.g., the recent NSC Semiannual Review.¹³ A summary list of major criticisms and self-criticisms of intelligence production activity is instructive, however:

a. Intelligence organizations at all levels do not understand consumer needs well and have poor tools for improving their understanding. Consumers, by the same token, only poorly appreciate the capabilities and limitations of intelligence. Producers and consumers are more isolated from each other than they should or need be.

¹³ See footnote 6, Document 41.

b. Mid- and long-range analysis and estimating is weak, unsophisticated, and generally under-emphasized. Major national estimates are frequently too unfocused, not directly pertinent to policy, and insufficiently sharp in judgment. Producers are not adept at integrating political, military, economic, and technical perspectives on problems that demand such integration.

c. Intelligence conduct and support of net assessment efforts are inadequate, although the main deficiencies in net assessment are not primarily due to deficiencies in intelligence.

d. Users who want fairly voluminous and detailed treatment of problems find many intelligence products dominated by summary judgments without supporting evidence, explicit reasoning, and uncertainty estimates. Users who want summary judgments find many products too voluminous with little judgment in them.

e. The Community is short of expert analytical personnel in some new areas of intelligence interest, e.g., political and economic aspects of nuclear proliferation. It also suffers from shortages of trained specialists in traditional areas, e.g., expert Russian linguists and area specialists.

f. ADP and other information support services are falling behind the explosion of information. To some degree, compartmentation impedes production. Analysts do not operate in an environment that assures they have all data available to the US Government pertinent to their problem.

g. Warning and crisis support responsibilities and arrangements for responses to them are insufficiently netted together to constitute a reliable and efficient system. Warning and crisis analysis is sometimes inadequate.

h. All production organizations are beset by fire-fighting demands that inhibit quality analysis on new problems. Much time is spent repackaging old material for new users and changed situations.

i. Too little attention is paid to seemingly mundane, but vital and difficult "bread and butter" analysis, e.g., maintaining and scrutinizing order-of-battle files, studying detailed aspects of the Soviet economy.

j. All analytic organizations are spread too thin. The situation is clearly critical in DIA, where vital national and departmental needs are inadequately met because DIA has too many masters, too broad and unstructured a mission, and too little management flexibility to assemble the quantity and quality of people needed for its job.

k. As a producing organization, CIA is insufficiently attentive to the needs of DOD in general.

l. Even the best analysts in any agency suffer from parochial views and failures in judgment.

There is no "right" judgment as to which complaints ought to be on this list or as to the degree of their validity. The important points are that:

a. these complaints are sincerely voiced and valid to some degree, and

b. they impinge on the entire environment of intelligence analysis and production.

Tackling these problems and improving the overall effectiveness of intelligence production, including the kind for which the DCI is

uniquely responsible, does not rest mainly upon structural change or redistribution of management authority. Improvement requires problem recognition and steady management effort at all levels, in all producing agencies. As noted in the previous section, the basic structure of the intelligence production community is appropriate to the provision of effective support to policymakers. It permits departmental and non-departmental production; it permits the sharing of data and judgments; it permits interagency agreement or disagreement as required.

Efforts to improve intelligence production do, however, have some implications for Community structure, and changes in Community structure sought for other reasons could affect the quality of intelligence production. The following points bear on this issue:

a. The basic structure of the Intelligence Community must afford a close interaction between analytical activity and collection activity. The efficiency of both activities depends on it; present Community structure permits it; and the DCI can encourage it. Alternative structures might or might not be as conducive.

b. The Intelligence Community should have better means for executing its warning and crisis support responsibilities matched to the needs of those who must act on warning and deal with crises.

c. Some institutional framework or process outside intelligence is required to permit effective intelligence support of national net assessment activities.

d. Unless mooted by restructuring decisions, it would be desirable to resolve the apparent tension between the national intelligence responsibilities of the DCI's NIO mechanism and those of his DDI within CIA.

e. To the extent that the DCI's performance as a national intelligence producer depends upon the performance of departmental production entities, the DCI has a direct interest in the resource and management factors that shape their performance, as do their departmental superiors.

f. Over the years it has been frequently asserted that a significant increase in total Community resources given to analysis and production, at modest cost to collection and processing, could yield visible benefits in the quality of analytic products. While possibly valid, such assertions are probably unprovable. Such shifts probably would require stronger central authority over Community resources to achieve. In general, however, the keys to improving product quality are more in management attention, methodological innovation, and better producer-consumer dialogue than in gross resource or organizational shifts.

The DCI believes that the diversified structure of the national intelligence production Community as it exists today is generally sound. In his view, however, more effective national intelligence production requires enhancing the DCI's authority to:

a. Task Community production elements outside CIA for purposes of national intelligence production;

- b. Task national collection assets that lie outside CIA and supply vital data for national production;
- c. Control the program management of the major NFIP elements.

DOD disagrees with this view. Departmentally based collection and production elements are already fully responsive to DCI needs; no significant example of unresponsiveness to DCI needs has been adduced to support the need for change to his tasking authority. Moreover, DCI control of Defense intelligence programs could materially degrade their responsiveness to DOD needs, especially in wartime.¹⁴

C. Efficiency

Achieving the most cost-effective allocation of intelligence resources is mainly a matter of managing the most costly resources—those for collection and processing. Management proceeds in two time dimensions: the use of existing assets to meet current and near-term needs; and the development of capabilities for the future. In both dimensions the challenge is to provide necessary coverage of target problems and adequate service to consumers, while avoiding unnecessary effort and undesirable duplication.

1. Current Collection, Requirements, Priorities, and Tasking

Formal, centralized mechanisms for the guidance of major *technical* collection operations exist at the national level, under the DCI. These mechanisms—at the center of which are the DCI's committees, COMIREX for imagery satellites and the SIGINT Committee for satellite and conventional SIGINT operations—are structured largely to fit the systems they guide. Their basic task is to assure that the needs of information users are optimally met by the capabilities of existing collection entities. Problems and frictions arise in the course of their business and concern about the responsiveness of these systems persists. These are manageable in the current structure of the Community; they could be eased by some and exacerbated by other structural changes. These collection guidance mechanisms are the middlemen of the intelligence process. Their function is not always understood by analysts or users, collectors, or outside critics. One needed improvement is to make the process better understood.

Human source collection lacks a formal centralized system of requirement and priority definition. The large and varied array of largely overt human source collectors who reside *outside* intelligence entities and provide a major portion of US foreign reporting properly resist inclusion in such a system. But some reliable means, even if voluntary, of tying them into the intelligence process must be achieved

¹⁴ See last paragraph on Page 69. [Footnote is in the original. Reference to the last paragraph of the report.]

if clandestine resources are to be used no more than necessary. The DCI and his subordinates can argue for improvements on this front, but must depend on cooperation outside intelligence for real progress.

The Community lacks a centralized standing mechanism for orchestrating current collection requirements on an all-source basis. Such competence does exist in the collection management, analytical, and operational elements of the Community. Moreover, once one moves beyond the general guidance contained in such instruments as Key Intelligence Questions and DCID 1/2,¹⁵ current requirements management must be done largely in terms of the specific collection disciplines against specific problems. This does not necessarily lead to undesirable duplication because, while many assets may be targeted against the same problem, they yield different kinds of data on it and thereby produce the all-source picture needed by national intelligence.

It would still be desirable, however, to develop a somewhat more explicit communications network among the major entities of current collection management to give assurance that effective all-source allocation is taking place. Such a network could also provide the basis for developing current or near-term collection strategies against new collection problems. This entity should not be an additional layer of requirements management between analysts and collectors, but rather a horizontal connective tissue that would allow the DCI, NFIB, NIOs, and, where appropriate, consumers to know and influence easily what the total collection community is doing on a given problem.

It can be argued that difficulties here arise not so much from lack of DCI authority or from failings of Community structure, although the fragmented structure of the Community has helped to instill in each collection discipline a disposition to want to manage its own affairs with only general guidance. The main difficulties are defining problems and designing workable improvement mechanisms.

In the DCI's view, however, enhanced DCI direct tasking or line authority over major national collection entities is essential to improve their responsiveness to all consumers and to eliminate the high degree of competitive overlap that generally exists. DOD, on the other hand, notes that the DCI already has direct tasking authority over the major national collection entities. Moreover, DOD believes there is no "high degree of competitive overlap" in this area. Finally, DOD does not understand how the DCI's proposals will improve the responsiveness to DOD needs.¹⁶

¹⁵ DCI Directive 1/2, "Current U.S. Foreign Intelligence Requirements, Categories, and Priorities," January 1, 1977.

¹⁶ See last paragraph on Page 69. [Footnote is in the original.]

The Peace-War Problem: One problem of current collection management that has not been adequately addressed is that of transition from a peacetime, to a military crisis, and to a wartime posture in which major national collection systems, particularly overhead imagery and the total national SIGINT capability, must support military decision-making from the President down to the field commander. This problem has become more prominent as reconnaissance satellites have become more able to supply the intelligence needs of military commanders. It strongly influences debate over Community structure. One school of thought argues that the DCI should exercise control in peace, crisis, and war for reasons of central efficiency and rational resource allocation. Another argues that the Department of Defense must exercise control to provide reliable support to the command hierarchy.

As long as intelligence collection systems not organic to combat forces can provide such support, satisfactory definition and resolution of this problem will not arise from *a priori* principles. Careful and detailed study, planning, and exercising are required. A major difficulty is that we have not had much practical experience with the newly available array of collection assets in a major military crisis or large-scale conflict involving US military forces. The Vietnam War and the October 1973 Mid-East war offer some practical experience for study, however. For example, during the Vietnam War, all collection assets that were deemed useful to the theater commander were either directly tasked by him or were responsive to him, including SIGINT, SR-71s, U-2s, etc. Some general observations could help structure the problem and perhaps avoid errors:

a. Whoever runs or controls the national intelligence collection posture of the US in time of deep military crisis or war will have to use it not only to serve the needs of military decisionmaking, but also those of top-level political decisionmaking and the conduct of diplomacy. Military needs will likely dominate, but not to the exclusion of other needs.

b. For support of both military and non-military users of intelligence, the problem of collection management in war will be the same as in peace: marshalling many different collection systems to serve many different users. The major difference will be the volume and time-urgency of demands placed on these systems. Moreover, whoever (person or organization) has to run these systems in war needs to have had experience in tasking, line-operating, and resource-managing them in peace.

c. The primacy of military demands for intelligence support is not likely to be challenged in wartime by any collection management system. The basic problem is to assure that collection management systems geared for non-military needs in peacetime can shift rapidly

to the needs of military support. Difficulties for any managing authority will arise from conflicts among different levels and kinds of military needs, and also from competing civilian demands. Establishing reasoned priorities will require system-specialized methods since specific systems can play very different roles in different military scenarios.

It may be possible to select among several distinguishable philosophies for managing this problem centrally:

a. In military crisis or wartime, the Secretary of Defense should manage, as a service of common concern, an integrated collection tasking system for all assets that can support military operations.

b. The DCI should manage the integrated collection tasking system as a service of common concern taking requirements as necessary from the military command hierarchy.

c. Management of *some* critical collection platforms or capabilities should be transferred entirely to Defense, depending on the system and the conflict scenario.

Any of these approaches could work, but it is unlikely that any of them would work well until we know in greater detail what intelligence collection management really means in a wartime context and build working mechanisms appropriate to that understanding.

2. Assembling Resources for the Future: Programming, Budgeting, and Other Management Powers

A foremost challenge of US intelligence management is to develop the best overall mix of capabilities needed to perform effectively at reasonable cost. This challenge is met in the year-to-year process of funding the major intelligence programs of the Community. How and how well this is done is central to the issues of Community structure, the powers of the DCI, and the powers of other senior intelligence resource managers, especially the Secretary of Defense.

It should be understood, however, that efficient resource management is more than a matter of structure and authority. The most fundamental problem of intelligence resource management is one that is common to other functional programs in government: there is no management science or comprehensive and orderly set of measures which may be applied to allocation of intelligence resources. We do not have a rigorous method for assessing the value of intelligence outputs and the relative contribution of inputs in terms that find general agreement and lead to confident decisions. This problem emerges from the very nature of the intelligence business:

a. There are no agreed objective measures of output value, since the *limits* of the needs of intelligence consumers cannot be readily defined, and there are no ways to quantify marginal satisfaction.

b. Except in discrete technical areas, the relative contribution of the many elements of the intelligence process cannot be quantified.

These contributions are made through highly disaggregated and usually subjective processes within the heads of analysts and evaluators.

c. There is no explicit and comprehensive way to measure the value of, or loss implicit in, unsuccessful effort, i.e., experiments that fail, collection efforts that yield less than desired, analytic labors that do not produce. By its nature, intelligence necessitates much effort that proves unsuccessful.

These shortcomings of value measurement do not preclude reasoned judgment on what intelligence resources to assemble and how to use them. Such judgments are made all the time. In some aspects of intelligence management, they rest on quantifiable or explicit analysis, albeit with incomplete information. But more often they require successive aggregations of choices based on subjective judgment, experience, intuition, institutional preference, and a large measure of arbitrary decision.

Given the prominence of subjective judgment in this decisionmaking process, it naturally leads to concern about organization and authority structure. For, lacking a science of intelligence resource management that all parties practice in harmony, organizational structure is the most frequently used approach to establish the incentives and interests that more or less integrate all the disaggregated decisions that constitute resource management from top to bottom. Those responsible for such decisions at the top or center want great authority to structure incentives, give guidance and instruction, and review or correct lower echelon decisions. Those lower in the system typically want maximum independence. Those on the periphery or outside, but dependent on the system, want influence over the parts that interest them. This produces the familiar tension between centralizing and decentralizing forces.

Historically, US intelligence resource management has been largely decentralized, both in the Community as a whole and in the Department of Defense where most resources have resided. But pressures to centralize the process of managing those resources labeled national have been increasing for several years. Going beyond mere instruction, in 1976, Executive Order 11905 initiated a relatively centralized process, but one still based on a federated institutional structure and collegial decisionmaking below the President.

The record established in one year of operation under Executive Order 11905 is mixed. A consolidated NFIP and budget were produced. Through unprecedentedly extensive interactions among the members of the CFI, their staffs, and the NFIP program elements, issues were defined, studied, and in some cases resolved, in others deferred. Such issues were initially identified by the program managers, the Intelligence Community Staff (functioning as the CFI staff), OMB, and Con-

gress. Valuable experience was gained working with this process. A major step forward was taken in forcing programmatic decisions into a process wherein it is possible to justify program inputs in terms of intelligence value across the Community.

But this record was achieved only through a difficult struggle over procedure and substance. Key players, notably in the ICS and the Department of Defense, were at odds over the basic goals, as well as the rules, of this process. Executive Order 11905 strengthened the incentives of the DCI's ICS to give critical scrutiny to, and to influence the specific contents of, intelligence programs. At the same time, it enhanced DOD's incentive, growing for some years, to place one central authority, DDI/ASD(I), astride all DOD intelligence equities. These authorities inevitably came into conflict as the former attempted to deal directly with program managers on program details and the latter resisted such attempts.

Although issues examined and decisions made were dealt with in terms of cross-program implications where they could be identified, the 1976 experience did not include a major new effort to accomplish cross-program trade-offs of the most basic sort. The process did not and probably could not come to grips with major shifts of funds among programs and across the elements of the intelligence process, i.e., collection, processing, and production. The CFI did not attempt to redefine the proper contents and scope of the NFIP—notably, which Defense intelligence program elements should be included and which excluded—according to a systematic examination of each element. It elected merely to accept the NFIP as it found it and to begin making resource decisions from there.

Although opinions differ as to how this record should be read, it is clear that the system worked to a considerable degree and has potential for improvement as more able and experienced staffing of the process is achieved. It is also clear, however, that this system will occasion continued tension and struggle among the participants, especially the ICS and the DOD, unless the goals and rules of the process are better defined.

Certainly, refinement of the programming and budgeting process created in Executive Order 11905 is one option for enhancing the integrity of national intelligence resource management in the future. It has the significant virtue of an evolutionary approach that builds on existing organizations and accumulated experience.

As it presently stands, however, the system obliges the DCI, as Chairman of the PRC(I), to proceed on most matters by persuasion and negotiation. This means that, to a great extent, initiative in the

process lies with program elements and with outside critics.¹⁷ As a by-product, this structure places significant strain on the DCI in discharging his dual roles as head of CIA and as Community leader. At the same time, this system presents those department Secretaries having intelligence responsibilities, particularly the Secretary of Defense, with an awkward compromise of their statutory duty to manage and fund the programs under them.

Although formal responsibility for development of a rational and integrated NFIP rested in the PRC(I) as a collegial body, expectations have been generated that present to the DCI resource management tasks that extend beyond his pure management authority to fulfill.

Deciding on options for Community structure that will satisfy the criterion of efficient resource management requires that certain key issues be addressed:

a. How much emphasis should be placed on resource management efficiency in structuring US intelligence?

Many would assert management efficiency to be an obviously essential goal. But it is not obvious that satisfactory intelligence performance can be achieved at lower than present costs through better allocation of resources. One could argue that declining resources have already put intelligence overall in an inefficiently austere condition, where needed initiatives and improvements are too hard to justify and, hence, are not taken. But the fact that we cannot reasonably show whether particular intelligence efforts are essentially "efficient" should not deter pursuit of a resource allocation regime that emphasizes efficiency. Failure to display a workable system that strives for efficiency and shows results is likely to produce unwise, arbitrary decrements. Moreover, there are numerous specific areas where a rigorous regime can be expected to identify needless duplication and possible savings.

b. What is the promise of better analytical methods, or management science, for improving the efficiency of intelligence resource management?

It is doubtful that better analysis on resource issues can fully substitute for management authority in achieving more efficient intelligence allocations. Improvements can be reasonably expected from better, more consistent data on intelligence activities at all levels, from staffing the resource allocation processes of intelligence more expertly, and from applying more rigorous methods. But in the end, the results will depend considerably on the incentives of the players to cooperate; this depends in turn partly on the authority structure in which they operate. The Department of Defense, on the other hand, believes that only

¹⁷ DOD believes this statement to be untrue, since the system established by E.O. 11905 was designed to and has given the initiative to the DCI. [Footnote is in the original.]

better analysis on resource issues can significantly assist management authority in achieving more efficient intelligence allocations, regardless of how that authority is structured.

c. *What is the appropriate scope of the intelligence activities of the US Government that ought to be brought under a centralized intelligence management system?*

In part, this question is: What activities should be included in the NFIP? But because intelligence is a shaded continuum of activities, some of which probably cannot be managed as intelligence *per se*, it is probably necessary to distinguish several kinds of intelligence for resource management purposes, and to accept some arbitrary dividing lines. Different management regimes should probably apply to each. For example, in one view, CIA, NSA, [*less than 1 line not declassified*] programs clearly represent a set of assets that are primarily national in nature. Consequently, in this view, they ought to be justified in relationship to each other and managed as national assets by a senior national intelligence authority. But their value in tactical support roles argues that they also be judged against other means of supplying such support and against additional military forces, a clear responsibility of the Defense Department. Other elements, such as departmental analytical organizations and many entities within the GDIP, could be justified primarily in departmental terms, but subject to review, criticism, and stimulation from the national, or DCI, arena because of their value or the extent of their contribution to the national effort. Given the rather coarse measures available, distinguishing departmental from national needs does not offer a confident means for delineating authority and responsibility. Whatever is of departmental interest is also of national interest. Yet a third set of intelligence resources would seem essentially tactical in character, e.g., assets organic to military combat units. Here the main interest of the national intelligence manager has always been and should be to gain the benefit of their existence in ways consistent with their mission but to assume no responsibility for their management.

d. *How much centralizing authority is required for efficient resource management in the national intelligence structure?*

Four kinds or levels of authority can readily be distinguished, each level capturing the previous one, except where explicitly compromised by the rules of the chosen management process:

- 1) defining future intelligence requirements and priorities; issuing broad guidance for planning and programming;
- 2) reviewing and vetoing Community programs and budgets;
- 3) controlling program and budget decisions;
- 4) exercising line management, including operational control and personnel authority.

Given future uncertainties and long lead times, the DCI's power to define requirements and priorities that apply to future intelligence capabilities is only a partial means of controlling resource allocations. Vetoes can stop but not initiate actions. Direct influence over programs and budgets is required to effect such control, either by unitary or by collegial decisionmaking methods. But even then some would argue that the uncertainties and inevitable disputes that must attend intelligence resource allocations for the future demand, in some cases, the authority necessary to direct subordinate organizations and to make their members willing supporters of the goals of the center. The DCI believes this to be the case. The DOD would argue that such strong central management authority over intelligence resources is not necessary and would be undesirable in that it would excessively concentrate authority and result in programs inadequately responsive to crucial consumers.

e. Should responsibility for intelligence resource management be combined with or separated from responsibility for national intelligence production?

Separation of resource management and intelligence production responsibilities might make it easier for the production manager to justify his resources and to concentrate on improving analytic performance. On the other hand, close interaction of these responsibilities is required if large expenditures on intelligence collection and processing are to be rationalized in terms of their ultimate contribution to intelligence output. If efficient allocation of intelligence resources means anything, it must mean an orderly relationship between inputs and outputs. The greater the separation of analysis and collection management responsibility, the more difficult it would be to assure such a relationship.

f. If there is to be a national intelligence manager, with special emphasis on and responsibility for resource management, who should he be and whom should he report to? Over what elements should he have line authority, collegial influence, or some advisory responsibility?

This, of course, is the bottom-line issue. It ranges beyond the instructed scope of this report. The relevant options and arguments will be addressed in other responses to PRM/NSC-11.

The DCI believes, however, that present arrangements give him responsibilities in intelligence resource management that are beyond his management authority to fulfill. Although formal responsibility for the contents of the NFIP rests with a collegial body, the PRC(I), as Chairman and as DCI he is expected by the President and the Congress to develop and take responsibility for an NFIP that is rigorously efficient and displays a close relationship between resource inputs and intelligence product outputs. In the DCI's view, achieving the goals of efficient national intelligence resource management requires his having

stronger central authority over national intelligence programming and budgeting decisions, and, in the case of key national programs, line authority as well.

DOD disagrees fundamentally with this DCI view and the comparable DCI views expressed on pages 58 and 60.¹⁸ In each case these views were added at DCI direction after the last Subcommittee meeting. In DOD's opinion, these views confuse issues of tasking, resource control, and line authority; they attempt to justify added DCI responsibility on the purported ground that the DCI is expected to take such responsibility, an approach which begs the questions; and they fail to address other basic issues such as the compatibility of DCI's envisioned role with effective wartime operations, adequate attention to the DCI's primary responsibility to ensure reliable intelligence judgments, etc.

¹⁸ See footnotes 14 and 16 above.

43. Memorandum From the Assistant Secretary of Defense for International Security Affairs (McGiffert) to Secretary of Defense Brown¹

Washington, June 1, 1977

SUBJECT

PRM-11

Re PRM-11 talking points for the President, our objective should be to convince the President to go slow.² Our general strategy should be to take the high ground and in the process extract ourselves from (a) the biased approach of PRM-11, which is framed in question-begging terms of the DCI's authority, and (b) the current dialogue which, in its emphasis on resource management/line authority/tasking, has tended to elevate form over substance. We need to focus on the differ-

¹ Source: Washington National Records Center, RG 330, OSD Files: FRC 330-81-0761, NSC-PRM-11 Secretary Talking Paper 6/15. Secret.

² Brown met with President Carter in the Oval Office from 4:05 until 5:05 p.m. on June 2. Mondale, Brzezinski, and Jack Watson, Secretary to the Cabinet, also attended the meeting. (Carter Library, Presidential Materials, President's Daily Diary) No minutes of this meeting were found..

ence between command and community, with the latter better reflecting the real-life diversity of users and capabilities.

One point not (I think) appropriate for inclusion in the written talking points is the specter of an intelligence czar with a separate chain of command and tentacles throughout the government. Shades of J. Edgar Hoover! Another point, perhaps only implicit in the attachment, is that, after being the President's principal substantive intelligence adviser, the DCI's next most important responsibility should (arguably) be to prevent abuses in CIA—rather than assuming large and distracting management functions.

The talking points are attached.

David E. McGiffert³

Attachment

Talking Points Prepared in the Department of Defense⁴

Washington, undated

TALKING PAPER FOR

(SecDef's Meeting with the President, 2 June 1997)

SUBJECT

PRM-11

A. The most critical needs to be served by the intelligence community are:

(1) Production of sound intelligence judgments for senior policy makers. This suggests the desirability of organizational diversity in order to keep everyone honest and give room for constructive dissent.

(2) Provision of needed information (current intelligence) and analysis to a variety of types and levels of users—from top policy makers to tactical commanders in the field. This suggests arrangements which link user's needs with tasking and disseminating mechanisms.

(3) Assurance of smooth transition from peace to crisis to war. This suggests that those organizations which will have the responsibility in crisis and wartime ought, as well, to have substantial peacetime involvement in tasking, line operations, and resource management.

³ Printed from a copy that bears this typed signature.

⁴ Secret.

(4) Prevention of abuse. This suggests oversight mechanisms as well as checks afforded by plurality in organization.

(5) Efficient management of high dollar collection assets. This suggests a centralized approach to planning, programming, and budgeting of collection programs.

(6) A balance between the funds devoted to intelligence and the funds devoted to other programs. This suggests arrangements to promote cost/benefit trade-offs between intelligence and non-intelligence programs as occurs where intelligence budgeting is not centralized.

B. These objectives inherently conflict to some degree. (One of the frustrations of the current PRM-11 exercise is the assumption—sometimes implicit, sometimes wishful—by many that they do not conflict.) For example, to centralize everything in the DCI may prejudice transition from peace to crisis to war or disrupt the needs of military intelligence even in peacetime. To centralize everything in DoD may overemphasize the needs of tactical commanders at the expense of national users. Therefore the first question must be which, if any, of these (at least six) objectives should have priority.

C. In my judgment, the two overriding goals must be: *in war and peace*, (1) the production of reliable judgments for the President, and (2) the timely provision of intelligence to the other various levels of users. I would put (4) higher in the list except that I think it can be handled in a way that does not conflict with the two I have listed.

D. To the extent these central goals are not being achieved, the problem is not structural. The DCI has adequate authority already to task pertinent collection assets and set collection priorities. The centralization which you (the President) are being pressed to endorse has to do with resource management. It might produce more cost-effective management of collection resources—although this is by no means clear given the current mechanisms for eliminating redundancy and making trade-offs. But in the process such centralization is likely to make achievement of the overriding goals—reliable judgments and timely provision of intelligence to all users—more difficult.

(1) Centralization tends to erode the diversity of analysis which keeps judgments honest. No President can afford to have this happen. Without the TRW contract advice to CIA as well as the Aerospace Corp advice to the AF, the controversy over Soviet warhead weights would have been suppressed. Without similar diversity, so would that over BACKFIRE range, and Soviet ICBM accuracy, and the fraction of Soviet GNP devoted to military expenditures. In some of these, CIA was correct; in others, it was incorrect; in still others, the correct answer is not yet known but, without diversity, the right answer is much less likely to emerge until a painfully later time.

(2) The more management responsibilities any DCI has, the less he can concentrate on his preeminently important function of providing sound intelligence judgments for senior policy makers. In some ways this is analogous to the (now-resolved) problem of combining the offices of the Secretary of State and Special Assistant for National Security Affairs or any other line and staff jobs.

(3) Peacetime separation of intelligence collection assets from the Department of Defense may compromise wartime operation, particularly during the critical phase of initial hostilities. Absent military-oriented career patterns and organizational arrangements, how can these organizations retain military expertise so that SecDef or the Commander-in-Chief can fulfill their wartime obligations? More generally, under the Constitution and the National Security Act, the President and SecDef are rightly held responsible for many operational matters in peace and war. These decisions involve many other factors, but their execution depends critically on intelligence collection, production, analysis, and judgments. How can this be reconciled with control in DCI whose role is quite different? A reasonable analogy is the difference in effectiveness between SACEUR, who has no command role in peacetime, and the US CINCs who do.

(4) Centralization would unrealistically complicate the provision of resources supporting collection. DOD can more effectively run the submarines, launchers, ranges, aircraft, etc., involved—assets which, moreover, ordinarily perform non-intelligence functions as well. They fall within the military chain of command from which DCI is by law excluded even if he is a serving officer.

(5) Centralization tends to unbalance the system's servicing of user needs. The present organizational pluralism provides creative tension in this regard and does *not* interfere with the DCI's exercise of his existing authority to task DOD collection assets to fulfill his needs. Although you (the President) may hear generalized assertions that the DCI needs more tasking authority and/or line control, I have asked for but not received concrete examples of how the absence of such authority has prevented DCI (as opposed to some analyst in CIA) from getting the data he has wanted.

(6) Finally, centralization in the DCI would not solve the question of abuse. Indeed, it has been in CIA where the most damaging abuses have occurred. None of those scandals would have been avoided by giving DCI control over DOD and other intelligence assets.

E. Even if the centralization being pressed on you was not likely to make achievement of primary goals more difficult, there would be no compelling case for change. The collegial arrangement established only last year by EO 11905 gave the DCI more influence over DOD intelligence resource allocation. Its corollary disadvantage from DOD's

point of view was to tend to immunize the intelligence portion of the DOD budget from inspection in relation to other defense functions. This disadvantage aside, the system seems to have worked fairly well and is, in any event, too new to have had a fair trial.

F. Recommendations

(1) We ought to give the system created by EO 11905 a more complete trial, with perhaps greater flexibility for budget trade-offs between defense intelligence and non-intelligence functions.

(2) If significant change nevertheless seems necessary, perhaps the most sensible immediate step would be to give the DCI veto power over intelligence portions of DOD, State, and other agency budgets.

44. Memorandum From the Comptroller of the Central Intelligence Agency (Taylor) to Director of Central Intelligence Turner¹

Washington, June 3, 1977

SUBJECT

Section 3 of PRM/NSC 11

1. You asked yesterday for an analysis of the options presented for discussion in Part III of the PRM 11. We understand that you found the paper confusing and an unsatisfactory basis for a discussion with the President on the issues raised.² After carefully studying the paper, we certainly agree that the treatment of the options is confusing and that the paper itself could stand considerable improvement. From a tactical standpoint, however, this paper, as it stands, may provide you with a strong negotiating position. As you pointed out in our discussion, we may be able to use selectively parts of this paper as takeoff points to buttress your argument for line control options. When we finally unravelled the intertwined options and tracked through the analytical and descriptive sections, we realized that the paper contains persuasive, if disjointed, logic for centralization and puts forth line control options (5 and 6) that can be used as your “go for broke”

¹ Source: Central Intelligence Agency, Community Management Staff, Job 79M00095A: Official Subject Files (1975–1977), Box 4, PRM 11 Task 3 (Vol. III). Confidential.

² Reference to Document 41.

position. From our perspective, the obvious weaknesses of this paper play to our strength. For example, in discussions with the President, Secretary Brown, and Dr. Brzezinski, you can be positive about the logic for centralization and strongly support two of the options. None of the other options make much sense to us. This tactic puts Secretary Brown in the unenviable position of either pushing for an unattractive option or embarrassing Dr. Brzezinski by stating that the paper poorly presents the options and is, therefore, an inadequate basis for discussion. Neither of these approaches would seem to be very promising avenues for Secretary Brown to select. The critique of the options in the attached paper is designed to help you exploit the tactical opening presented by PRM 11.

2. There are also important tactical considerations in deciding whether your first choice is a variation of Option 5 or Option 6. Because Options 5 and 6 are alike in giving to the DCI line control over the essential elements of the NFIP, a choice between them rests largely on your choice of tactics. We can envision two scenarios. You could press for Option 6 now, arguing the need for centralization and functional realignment of the Community for all the reasons we have discussed elsewhere. We believe it would be wiser, if you choose this course, to state in broad terms the organizational objectives you will seek to carry out as you proceed with the reorganization, rather than describing a detailed organization at this time. This would maximize your flexibility and make it more difficult for others to attack on organizational details which should not be allowed to cloud the large issues. Such objectives might include:

—The desirability of an integrated estimating and production organization directly responsible to you.

—The desirability of placing collection programs under unitary management with clear responsibility for maximizing the use of collection resources to meet intelligence needs of national and military customers.

—The need to build procedural arrangements that guarantee that all activities of intelligence are conducted in a legal and ethical manner.

3. If you adopted this strategy and encountered major opposition to a functional realignment, you could fall back to Option 5 and offer to consider functional realignment at a more deliberate pace and with the full participation of those who would be affected.

4. Alternatively, you could press now for line control without functional realignment, reserving the right to consider that later. Under this approach, a reasonable fall-back position is much harder to envision. One approach would be to argue for line control over [2 lines not declassified] Your reasons for giving way on some parts of the CCP might be that over the long term you believe that effective unified

central management of CIA, NSA, and the [*less than 1 line not declassified*] are more critical to your ability to meet national intelligence needs than is control over [*less than 1 line not declassified*] and tactical COMINT collected by some CCP units. You also may want to consider giving DoD control over some clearly tactical portions of the NRP. In any event, your fall-back position, if you press first for Option 5, is less satisfactory.

5. This memorandum and the attached paper represent a quick first cut on a very complex problem with complicated organization and political issues. We would like to meet briefly with you once you have had a chance to read our paper. Our ability to provide you with useful staff assistance would be improved by a few more sessions similar to the short meeting in your office on Thursday morning.³

James H. Taylor⁴

Attachment

Paper Prepared in the Central Intelligence Agency⁵

Washington, undated

A PRELIMINARY CRITIQUE OF SECTION 3 OF PRM/NSC 11

The PRM sets forth a number of objectives and principles designed to serve as benchmarks for analyzing the desirability of various changes in the Intelligence Community. This list is important because it gives purpose to the discussion of options. Without it, we are confronted only with a struggle for power and a mindless debate about abstract changes. The list is summarized here, and we have attempted to use it as the basis for our critique of the options which follow.

Objectives and Principles

—The Community must be structured and managed so as to provide responsive intelligence support to the wide diversity of consuming organizations at many levels.

—US intelligence must be responsive in two senses. It must be relevant to the real needs of US decision makers. It must be responsive to needs that the consumer does not yet fully appreciate, not just for today's problems, but for the future as well. It must also be timely.

³ June 2. No minutes of this meeting were found.

⁴ Printed from a copy that bears this typed signature.

⁵ Confidential.

—US intelligence must be accurate, analytically penetrating, and sophisticated.

—Intelligence judgments must be candid and objective, unbiased by policy preference.

—Its activities, particularly the most expensive activities of intelligence collection and processing, must be managed in an efficient or generally cost effective manner.

—Our intelligence system must be able to share data and judgment within itself, and, on major issues, to collaborate in disciplined agreement or disagreement.

—US intelligence must be capable of supporting the conduct of war with the minimum of disruptive transition.

—US intelligence must be organized to minimize any potential of subverting constitutional principles and basic individual rights. Its activities must be demonstrably consistent with US legal and basic political standards.

Weighing the eight basic options presented in the PRM against these objectives and principles, we believe only Options 4, 5, and 6 merit serious discussion. You will find a detailed analysis of these three options and the variations on them in the narrative presented below. Our analysis of Options 1, 2, 3, 7, and 8 is limited to the following comments:

—Option 1 represents an attempt to improve marginally the status quo by making somewhat more specific the rules under which the DCI influences resource allocation decisions within the PRC or on his own. Unfortunately, few specifics are presented which would explain how precisely this would be done or how the DCI might use the prerogatives apparently provided to meet his responsibilities. The basic problem is that language changes in an Executive Order cannot modify existing statutory lines of authority. While most of the proposed changes in the Executive Order are sensible, we doubt they would have any significant impact on your real ability to achieve the objectives and principles set forth above.

—Option 2 calls for a further decentralization of the Intelligence Community by increasing the current ability of department heads to ignore selectively DCI (PRC I) priorities. It is clearly a step backward to the pre-1973 era.

—Option 3 is beyond our comprehension. We do not understand what is contemplated here.⁶ The option would appear to scrap all of

⁶ An unidentified hand wrote in the margin adjacent to the first two sentences of this section, “give DCI PRC functions.”

the efforts undertaken since 1973 to build some centralized control over the Intelligence Community and take us back to the basic relationship which obtained between DoD and CIA in the 1960s. Alternatively, if legislation to implement this option is contemplated, the option appears to be designed to give the DCI budgetary authority over the Intelligence Community as in Option 4, but apparently leaving departments free to reprogram funds into or out of intelligence programs as desirable.

—Option 7 represents the DCI as the “titular” head of the Intelligence Community. It removes his line control over CIA, including intelligence production components, and gives all resource management authority to the Secretary of Defense. The DCI is left with the responsibility for setting requirements and priorities and production of national intelligence. Essentially the DCI becomes an intelligence staff aide to the Secretary of Defense.⁷

—Option 8, which places the DCI in a subordinate line position to the Secretary of Defense but in charge of the four national intelligence elements of the NFIP with all the powers outlined in Option 5, is at least organizationally workable because one manager would control the majority of Intelligence Community assets. This option has only one major flaw, but we believe it is fatal. Even an exceptionally strong DCI would not be able to keep the Intelligence Community from increasingly coming under the influence of DoD requirements and Departmental policy influence. We doubt that intelligence judgments and estimates could remain free of departmental policy influence regardless of the best intentions of all involved.

Options 4, 5, and 6 deserve more detailed analysis. As noted in the PRM, these options scrap the present DCI-White House-DoD-State collegial PRC (I) system entirely. They represent basic structural changes to the Intelligence Community by changing degrees of line, resource, management, and tasking authorities. As noted in the PRM, “This course is appropriate if one assumes:”

“—Greater centralization of authority and responsibility over the diverse elements of the Intelligence Community is required.”

“—That setting forth various means for accomplishing increased centralization while retaining mandatory and responsive service to a broad range of consumers is needed.”

“—The present authority of the DCI is *inadequate* for the responsibilities assigned.”

⁷ An unidentified hand wrote in the margin adjacent to this sentence, “Bull!”

“—The DCI’s current control of CIA and of the national tasking mechanism and chairmanship of the collegial resource allocation structure are judged to fail to provide the necessary responsiveness from the Intelligence Community to his direction.”

“There is a . . . consensus that the potential resource savings to be achieved by creating a single comprehensive national intelligence analysis center serving all consumers is more than offset by the inherent danger that differing judgments and perspectives would be suppressed and denied to the users of intelligence. For that reason none of the suggested options include centralization or other significant intrusion on the continued existence of viable competitive centers of analysis.” (Comment: We understand “viable competitive centers of analysis” to be synonymous with departmental intelligence units such as State and DIA.)

Option 4

Option 4 provides “full” DCI authority over resource allocation to national intelligence entities. He is specifically given the authority to select the elements to be included in the NFIP (subject to departmental appeal to the NSC) and to review, amend or veto expenditures he finds inappropriate or unresponsive to his needs. He is given authority to set all collection and production priorities and to task collection systems (though because he lacks line control, he cannot ensure compliance with his requests). He no longer shares resource allocation authority with the PRC, and the NFIP budget which he recommends is “fenced,” that is, other program managers cannot add to or reduce funds made available to the NFIP without DCI approval.

The PRM is rather vague on how precisely these powers are to be conveyed to the DCI, though it seems to conclude that new legislation would be required.

The “full” DCI authority over resource allocation called for in Option 4 is not specified in sufficient detail to clarify precisely what the DCI’s authorities would be or how exactly he would exercise them. The intent, however, appears to be to give him the authority to supervise an effective budget process, to ask for and receive necessary information from the various Community components and to prepare an integrated request to OMB and the President. Much less clear is the DCI’s responsibility to defend the budget before Congress, and even less clear or perhaps nonexistent is his responsibility to ensure effective and legal execution of the budget once appropriations have been approved by Congress.

Our experience with the budgetary influence the DCI is able to exert over the Intelligence Community through the mechanism of the PRC suggests that the purse string can be used effectively generally

to influence or to coordinate national programs over a two- or three-year period of time. By themselves, however, budgetary powers are not sufficient to carry out all the basic responsibilities. The budgetary process can be used more effectively negatively than it can positively. With this power the DCI can exercise a slow veto over programs he wishes to terminate but it is difficult to exercise bold initiatives or to explore new and imaginative programs solely through the control of funds in a long budget cycle.

Option 4 is unclear as to whether funds for programs recommended by the DCI would be appropriated to him for further allocation to the various members of the Community, or whether his role essentially ends after the review of the program leading up to Presidential [decision. There] is precedence for such an arrangement. The so-called poverty program established in the Office of Economic Opportunity (OEO) in the early 1960s in fact was designed to function in this manner. The basic concept was that funds would be appropriated to the Director of OEO but that the responsibility for actually conducting programs would generally be delegated to other existing departments of the Government. The Director OEO would shape the budget in accordance with his priorities, defend it before Congress, but leave the day-to-day management of, for example, manpower training programs, to someone else, in this case the Secretary of Labor. By the late 1960s when OEO's appropriation was about \$2 billion, about \$1 billion was appropriated to the Director of OEO but transferred thereafter by him to the Secretary of Labor for the conduct of manpower programs. The idea had appeal but in fact was largely judged a failure. The Secretary of Labor had vastly more influence over the budget which legally was to be prepared by the Director OEO than one would have thought, given the original concept established in law. We doubt that were the DCI to have a similar responsibility with respect to NSA, [*less than 1 line not declassified*] today the situation would be much different. Because the Secretary of Labor directly operated the manpower programs and had much experience with them, because he had good Congressional contacts, because both OMB and the White House turned to the Secretary of Labor instead of the Director OEO for advice, OEO often found itself rubber stamping what the Secretary of Labor had already agreed to do with others. In fact OEO was never able to get the Labor Department to concentrate on the activities it thought were important in the manpower program area. Doubtless there have been other analogous approaches to this problem in previous times although we are not aware of any of significant size. In this particular case, after a fair amount of backbiting between OEO and the Department of Labor and a growing recognition by everyone that little was gained by appropriating the money to OEO, a decision was eventually made to appropriate

the funds for these programs directly to the Department of Labor. No one knew the difference.

Options 4A through 4E are responsive to basic arguments that a serious conflict of interest is created if the DCI is endowed with authority over Community resources as specified above but simultaneously maintains line authority over CIA.

Option 4A would attempt to ease this conflict of interest by creating a new Director/CIA who would however report to the DCI. Although this would have some cosmetic effect, it is unclear how exactly this resolves the conflict of interest, since the arrangement is little different in substance from that which exists today.

Options 4B, 4C, and 4D would have the Director/CIA report to the NSC, the Secretary of State, or the Secretary of Defense, respectively, instead of the DCI. In creating a Director/CIA who would report to the DCI on budgetary issues and to the NSC on other questions, the DCI's ability to command an effective production process is greatly weakened. The Director of CIA, like the [1 line not declassified] Director, NSA, would report to one boss for policy and operational matters and to a second boss on resource issues. Options 4C and 4D suffer from these same defects and in addition, produce a situation in which the policy or operational needs of the Department of State or Defense could fundamentally alter the objectivity of the intelligence products prepared by the Director/CIA who would report to the Secretary of State or Defense. In short, we find Options 4B, 4C, and 4D totally unworkable.

Option 4E would disband CIA, adding CIA's analytical element (DDI) to the DCI's immediate organization and spinning off other CIA functions to other departments (unspecified, but probably Defense and/or State). This option at least has the virtue of giving the DCI a capability to carry out his most fundamental production responsibilities but would further weaken his already tenuous ability to direct collection systems in support of his substantive production needs, although it is true that his expanded role with respect to the budget would offset this loss to some degree. However, it seems inevitable that the CIA components transferred to other Departments would eventually be recast to meet the intelligence needs of those organizations, rather than those of the DCI, and the DCI's budgetary authorities would not appear adequate to prevent this from occurring.

Option 5

Option 5 would give to the DCI line authority (which includes full and unambiguous resource authority) over four national intelligence programs—CIA, NSA, [less than 1 line not declassified] The option apparently contemplates that the four national intelligence programs would

retain their present organizational integrity. Because a DCI who managed these four entities, however, would relatively quickly discover ways to improve the organizational structure resulting from this consolidation, we believe it is only a question of time before Option 5 would be reconfigured to look something like Option 6 discussed below. Giving the DCI line control over these four entities would:

—Guarantee central, unitary control over the principal elements of the national intelligence community, which means that one individual would be responsible for the effective performance of most of the community and would have effective authority to ensure the overall quality of the effort.

—Make one individual responsible for the legality and propriety of most national intelligence activities.

—Create the potential for resource savings through DCI total responsibility, resource and line, over national systems.

As noted in the PRM, problem areas introduced by this option include:

—How the unity of the existing US SIGINT system could be maintained (assuming that the Service Cryptologic agencies which collect cryptologic information and feed it to NSA for processing remain in Defense).

—How sufficient responsiveness could be assured in crisis and war to the command responsibilities of the Secretary of Defense and the field commanders, given the fact that national collection assets are essential to the conduct of military operations, and their effectiveness in combat support is proportional to the extent they are integrated into the military command and control system at all echelons; and

—How the national assets themselves, which are critically dependent on Defense-operated support activities, could be effectively related to those support activities within Defense.

Option 5A would establish a Director/CIA who would be responsive in a line command sense to the DCI, as would the Director, NSA, and the heads of [*less than 1 line not declassified*] This seems sensible, indeed obvious, if further consolidation and realignment along functional lines as specified in Option 6 is *not* contemplated. Because we believe, however, that some realignment of these functions would be desirable—if not now, certainly in the future—this step would seem an unwise and unnecessary limitation on the DCI's authority to design an adequate overall organizational structure for the future, particularly since doing it would require changing present statute.

Options 5B, 5C, and 5D, which would apparently give line control over CIA to the NSC, the Secretary of State or the Secretary of Defense, respectively, while leaving the DCI in command of [*less than 1 line*

not declassified] NSA programs. These variations seem conceptually inconsistent with the thrust of the basic Option 5. They would deny the DCI direct control over the existing CIA production capability in the DDI, and force him to develop a duplicative production organization in order to carry out his most fundamental responsibility—advising the President on foreign developments of interest. As in Options 4C and 4D, it seems likely that CIA's present focus on national problems would be subsumed to departmental concerns if the Agency were transferred to either State or Defense. We find these options utterly without merit from any reasonable point of view.

Option 5E would disband CIA, moving the analytical components (the DDI) to the DCI's immediate organization, and moving other CIA elements to other unspecified organizations. If these "other" unspecified organizations are under the DCI's line control, Option 5E is really Option 6. If they are not, the same problems outlined for Options 5B through 5D apply. We see no point to this option at all; indeed, as written, it does not make logical sense.

Option 6

Option 6 is identical to Option 5 in that it would give the DCI (renamed the DFI) line control over the four national programs but differs from Option 5 in emphasizing management along functional lines.

Option 6A would provide for a DFI, assisted by three Deputies (for National Intelligence Production, Resource Allocation, and Collection), who would in the words of the PRM:

"—Task, allocate resources, and operate an Intelligence Analysis and Production Agency (NIPA) composed of present NIOs and CIA/DDI; a Clandestine Services Collection/Operations Agency (CIA) composed of present CIA/DDO and supporting elements of DDS&T; a unified SIGINT Collection Agency (present NSA); an Intelligence Space Support Systems Agency (ISSS) (composed [*2½ lines not declassified*])"

"—Retain resource allocation and tasking authority over DoD intelligence elements identified as part of the NFIP and review other intelligence elements." (Comment: This point is oddly phrased. If the DFI has line control over the [*less than 1 line not declassified*] NSA programs, they become *his* intelligence elements, not DoD's, though they would probably continue to be physically housed in Defense, at least for now.)

"—Be responsive to Secretary of Defense needs for timely support from all his elements in crisis and war." (Comment: How?)

This option places greater emphasis on management by functional lines, stressing continued diversity in analysis by maintaining separate centers while concentrating on reducing redundancy in collection programs. The PRM notes that the ability of the staff supporting the DCI

would be critical in ensuring that this greatly centralized structure was properly responsive to the needs of the departments.

Option 6B is identical except that additional DoD elements beyond NSA, [*less than 1 line not declassified*] would be selectively integrated under DFI control. "In addition to those elements assigned in Option 6A, those elements remaining in DoD which substantially contribute to National Intelligence collection would be integrated into DFI agencies. NIPA would still consist of NIOs and CIA/DDI, and provide a national intelligence data base accessible to all consumers. Army and Air Force HUMINT activity would be integrated with CIA. Secretary of Defense would manage the Defense Attache System IAW DFI directives."

45. Telegram From the Department of State to All Diplomatic and Consular Posts¹

Washington, June 7, 1977, 2206Z

131292. Inform Consuls. For Ambassador from the Secretary. Subject: Substantive Reporting.

1. In previous years, and particularly the last five months, I have been an active end-user of Foreign Service substantive reporting. I am more than ever convinced of the key role which reports from our posts abroad play in the conduct of American foreign policy. The President and I as well as your colleagues in the Department look to you for an accurate picture of developments abroad relevant to US interests, a balanced assessment of their significance, and thoughtful policy recommendations.

2. In fast-breaking situations, we need authoritative, objective reports on significant events and we must have your messages promptly. We also need, however, your analysis of the implications of these situations for US interests. Your predictions of the possible course of events, and your suggestions as to steps we might take. We want to have the full benefit of your views, before we choose specific courses of action.

¹ Source: National Archives, RG 59, Records of the Deputy Under Secretary for Management, 1978–1979, Chron September 11–12, 1978. Unclassified. Drafted by Leo J. Reddy (S/S-S) and James Ruchti (M/MO); cleared by Peter Tarnoff (S/S); approved in draft by Moose (M), Yost (S/S), and Joan Clark (M/MO); approved by Vance.

3. Whenever events indicate significant local or regional trends which could affect US relations with your area, I would like your personal assessment of these broader trends. Such assessments should take into account the interrelationship of political, security, and economic factors and the impact upon multilateral areas, including fields such as raw materials, energy, population and technology. I welcome your suggestions on appropriate US responses to such broad developments. An occasional analytical report of this kind can be more useful than a series of unconnected, non-analytical spot reports. Quality is preferable to quantity.

4. We are making a major effort in Washington to bring differing opinions into sharper relief, so as to give the President and other decision-makers a full range of options. Accordingly, it is most helpful to have your views, including dissenting opinion within your Mission, stated clearly and candidly.

5. I hope you will devote your personal attention to maintaining high standards of reporting. At the same time, I fully recognize that information must flow in both directions if you are to have the background you need to provide useful reporting and analysis. Therefore, I am asking the Department to keep the posts abreast of pertinent developments in Washington. I expect the appropriate bureaus and offices to provide you with timely guidance and background on issues of special interest to the Department and the other agencies concerned. I also want the bureaus to give you their reaction and that of other agencies to your reporting.

6. I fully recognize the limits to your resources. We are making an effort to reduce requests for reports both from within and outside the Department. You should let the Department know without delay of any requests from Washington that you find duplicative or marginal. At the same time, I urge you to distribute your telegrams and airgrams only to those posts that have a real need to know what you are reporting.

7. I would like to see the Department and the field engaged in a continuous substantive dialogue. Such an interaction will allow me and my associates in the Department to take full advantage of the reporting and analytical resources that exist in the field and to weigh the information being received from different perspectives.

Vance

46. **Briefing Memorandum From the Director of the Bureau of Intelligence and Research (Saunders) to the Deputy Secretary of State (Christopher)**¹

Washington, June 13, 1977

The Secretary's Views on Intelligence Community Structure

The Secretary met Saturday² morning with Phil Habib, Herb Hansell, me and our staffs to discuss PRM/11 on intelligence community structure and mission, which comes before the SCC on Wednesday.³ He said he would discuss the question with you on Monday,⁴ but I thought this record of the meeting might also be useful to you in preparing for the SCC. We are scheduled to meet with you Wednesday afternoon.

We began by telling the Secretary we thought the SCC would concentrate on Intelligence Community organization rather than on the legislative proposals, and our meeting with him concentrated on that area. We suggest to you, too, that you begin with that subject. The cover memo in your book⁵ provides a guide to the key papers.

Basing his view on his experience in the Defense Department, the Secretary believes that the DCI should have maximum authority over foreign intelligence matters consistent with the Secretary of State's own foreign affairs responsibilities. Specifically:

—The division of the national (as distinct from departmental or tactical) intelligence agencies between CIA and Defense is not right; it makes for lack of clarity in setting priorities, in tasking, and has resulted in wasteful duplication—"we collect twenty times as much as we can do anything with."

—A collegial mechanism should agree on priorities, but the rest of the process should be left to the DCI.

—The DCI should not task the Foreign Service.

—There is no question that the Department needs its own INR for close analytical links with the bureaus, but he would be willing to

¹ Source: Department of State, INR/IL Historical Files, Box 4, Intelligence Community Reorganization, 1977 #2. Secret; Nodis. Drafted by Saunders and Emerson M. Brown (INR). Copies were sent to Habib and Hansell.

² June 11.

³ June 15. See Document 47.

⁴ June 20.

⁵ Not found.

coordinate its budget with the DCI (the amount is so little he sees no real problem).

To Herb Hansell's question on Defense/DCI differences about the PRM/11 options, the Secretary reiterated his view that all national intelligence should be under the DCI. He had thought so when he was in Defense, and he thought so now. In Defense it had been thought that the creation of the Defense Intelligence Agency would reduce duplication and increase efficiency, but this had not worked out. Certainly the DCI should have budget control over the Community, and he said he would "not be unhappy" with DCI line control over NRO (satellite collection) and NSA (signals intelligence)—though "perhaps NSA was a little different" from NRO. The peace/war problem could be handled as Stan Turner suggests—if war comes the DCI would hand his gavel over to the Secretary of Defense.

To my question about how new collection systems proposals would be handled and analysis provided to the President, the Secretary said there should be collegial setting of priorities, and he didn't seem particularly to care who chaired the group that did this; disagreements would go to the President. The Secretary said he thought the DCI should have Cabinet rank.

The problem, the Secretary said, is in deciding what the users really need; this is not now being done. I said this is part of the problem of quality of product; the analysts now feel they are left out in the cold, with no clear idea of what top officials want from them. If the President and his top advisers could set directions and degrees of interest, it would help in bridging the gap between their needs and the analytical effort. The Secretary said the President and his top advisers and the DCI should decide the real priorities.

When I noted the problem in reflecting these views in organizational arrangements and Herb Hansell asked whether he had any organizational model in mind, the Secretary responded that the DCI should have charge of all national intelligence, with deputies for evaluation, production, science and technology, collection, etc. Tactical intelligence would be left to the military services.

On covert action, the Secretary said his theory was that a staff both to plan and carry out such action was the wrong idea, because it would be on the lookout for new projects. Instead, proposals for covert action should by their nature be *ad hoc*, with something like the present CIA clandestine services to carry out approved operations.

To Herb Hansell's question whether he had discussed his views with Secretary Brown, the Secretary said he had talked them over with the President and Stan Turner—whom he had advised to get the issues out in the open, rather than trying to paper them over—but his meetings

with Brown had been taken up with other subjects. He would make a point of raising the matter soon with Brown.

Herb Hansell noted that with the DCI and Defense taking opposing views, the Secretary's role may be key, and Phil Habib asked how the Secretary wanted you to handle the meeting.

The Secretary said he would discuss his views with you on Monday. He thought it should be a holding game at Wednesday's meeting, generally reflecting the lines taken in this discussion but not pressing for decisions. He said he would be meeting further with Secretary Brown and Stan Turner about the question.

As to the urgency of the structure and charter legislation questions, the Secretary said Senator Inouye at lunch yesterday had said the Senate Select Committee on Intelligence did not intend to get into organizational matters for another year.⁶ Senator Inouye wants to talk with the President about them, but the Committee would not address them until next year. Asked whether this was also the Vice President's reading, the Secretary said he would inform the Vice President of his talk with Inouye. The Secretary also said Senator Inouye had said the Foreign Intelligence Bill on electronic surveillance⁷ would move along in the Congress without difficulty.

Turning to the other two items on Wednesday's SCC agenda regarding the Intelligence Community the Secretary:

—agreed that draft legislation to curb abuses should move forward; and

—agreed that a foreign counterintelligence committee should be formed.

⁶ Senator Inouye chaired the SSCI.

⁷ See Document 36. A June 1 PRM/NSC-11 Interagency Subcommittee Report to the Special Coordination Committee on "Lack of Authority for Electronic Surveillance Abroad and Physical Searches within and without the United States," also discusses this issue. (Central Intelligence Agency, Office of the Deputy Director for Intelligence, Job 82M00587R: Policy Files, Box 7, Folder 12: PRM/NSC-11)

47. Summary of Conclusions of a Special Coordination Committee Meeting¹

Washington, June 15, 1977, 4:30–6:30 p.m.

SUBJECT

PRM/NSC-11—Intelligence Structure and Mission

PARTICIPANTS

The Vice President

A. Denis Clift

Fritz Schwarz

State

Warren Christopher

Harold Saunders

Herbert Hansell

Defense

Secretary Brown

Charles W. Duncan

David E. McGiffert

Deanne Seimer

Lt. General William Y. Smith

CIA

Admiral Stansfield Turner

James Taylor

OMB

James McIntyre

Edward R. Jayne

Justice

Attorney General Bell

Frederick Baron

John Harmon

NSC

Zbigniew Brzezinski

David Aaron

Samuel M. Hoskinson

Robert A. Rosenberg

SUMMARY OF CONCLUSIONS

The first meeting of the full SCC on PRM/NSC-11, Intelligence Structure and Mission focused on the Part III Study, and in particular, on Section III of the report "Structural Options."²

Both Harold Brown and the Attorney General's Subcommittee (Part I) had recommended an early start in our inter-relationship with the Congress, *first* with those pieces of charter legislation concerned with safeguards against abuse. The SCC consensus was that the Administration's own thinking was most advanced in this area and this was a proper course of action. The Vice President added that his own discussions with Senator Inouye were along the same lines; that his committee is most concerned with first addressing safeguard legislation.

¹ Source: Central Intelligence Agency, National Intelligence Council, Job 91M00696R: Subject Policy Files, Box 2, Folder 1: PRM-11. Secret. The meeting took place in the White House Situation Room.

² See Document 41.

The SCC then approved the establishment of a senior working-level Coordinating Committee chaired by David Aaron to bring to the point of decision the work done on non-structural problems such as:

- The overseas counterpart of the domestic foreign intelligence electronic surveillance bill
- Foreign intelligence physical search legislation
- Restrictions on covert action and clandestine collection
- Oversight mechanisms
- Counterintelligence activities.

There was substantial deliberation over the eight structural options, focused on resource management, line authority, consumer requirements, tasking, production and accountability.

The debate resulted in a consensus that there are really somewhere between two to four realistic options to pursue in a follow-on meeting.

—Harold Brown favors an option that essentially modifies E.O. 11905 by enhancing PRC(I) and DCI resource management authority by removing ambiguities.

—Stan Turner supports a complete restructure of the intelligence community (except departmental analysis) under line, resource management and tasking authority of a “Director of Foreign Intelligence.”

—Warren Christopher agreed with Stan Turner’s approach generally except that he proposed establishment of a “Board of Directors” to which Stan Turner reports for review, guidance, and approval.

—The consideration of a “Consumers Union,” chaired by the National Security Advisor, that would establish intelligence collection and production requirements and priorities was proposed. This would provide a means to assure that consumers, rather than the intelligence community, set the needs from [*for*] intelligence.

It was agreed that these options should be further developed for consideration by the SCC during the week of 20 June prior to presentation to the President.

It was also agreed to develop a third option which, in addition to incorporating some of the above features, would be based upon concern for improving the quality of intelligence—in particular, political intelligence—as well as one which would focus on strict control of the clandestine service.³

³ Brzezinski initialed below this final paragraph.

48. Memorandum From the President's Assistant for National Security Affairs (Brzezinski) to President Carter¹

Washington, June 17, 1977

SUBJECT

NSC Weekly Report #17

1. *Opinions**Intelligence Reorganization*

Our SCC meeting this week on intelligence² narrowed the range of choice on structural options and reached agreement that we should proceed with legislation to protect American rights, even as we refine our thinking on the overall structure on the intelligence community. As you may know, Senator Inouye believes that the time is not ripe for legislation on the overall structure of intelligence community, and that this would only detract from the more urgent task of legislating reforms in the area of safeguarding against abuse. We set up a high-level working group, chaired by David Aaron to get the legislative drafting process underway.

On the structure of the intelligence community, we identified five key issues—which drive the choice of options:

- The degree of centralization of authority over intelligence agencies' budgets to ensure against duplication and waste;
- Line authority;
- The most effective way for consumers to be involved in tasking and requirements;
- The need for improved quality of intelligence—particularly political intelligence;
- The best way to ensure accountability—particularly over clandestine intelligence activities.

As a result of this discussion, three options emerged. The first, supported generally by Defense, would provide clarification and strengthening of the DCI budget making authority within the present collegial framework. It would also create a high-level "users" committee to direct tasking of the intelligence community, instead of the pres-

¹ Source: Carter Library, National Security Council, Institutional Files, 1977–1981, Box 28, NSC Weekly Report, 2–6/77. Top Secret; Sensitive. Brzezinski did not initial the memorandum. A note at the top of the memorandum reads: "LDX'd to Pres at Camp David 6–18 AM."

² See Document 47.

ent system in which the intelligence community tasks itself. In other respects the structure of the intelligence community would remain essentially the same.

A second alternative, favored by Admiral Turner, would be to create a “czar” over the intelligence community who would have complete budget authority, full line authority over NRO and NSA and CIA, along with tasking and requirements setting authority. There was general agreement that under either option centralization would not extend to consolidating the analytical centers in the departments (INR in State and DIA).

A third option emerged out of concern for issues in addition to budget and line authority—that is, the quality of intelligence and the need for accountability. This option would incorporate the idea of more centralized budget authority, preferred by Admiral Turner, and the tasking and requirements setting by the consumers, supported by Harold Brown. However, it would have more radical structural implications in terms of consolidating the major technical intelligence programs, giving intelligence analysis higher priority and establishing tighter control over the clandestine service. All technical collection would be consolidated in one agency with line authority running to the Secretary of Defense. Clandestine human intelligence collection would become the exclusive activity of a foreign intelligence agency. (This would give this crucial source higher priority than it now has in CIA, where it is combined with intelligence analysis and major technical programs.) This agency would report either through the Secretary of State or the NSC to you, thus increasing accountability by eliminating several layers in the present system. A third agency would be created to provide both intelligence analysis/estimates, and have control over budgets. It would be headed by the Director of Central Intelligence, who, as the principal analyst, would be in the best position to assess the value of the raw intelligence product of the collection agencies and more effectively allocate resources among their programs. In this option, the organization and the purpose would be more directly wedded; resource inputs would be related to intelligence outputs under the DCI, major technical programs could be streamlined under the Secretary of Defense yet remain close to their consumers in the military.

We will meet again late next week to continue our discussion.³

[Omitted here is information unrelated to intelligence reorganization.]

³ Presumably a reference to the June 28 SCC meeting. The Summary of Conclusions of that meeting are in the Carter Library, National Security Council, Institutional Files, 1977–1981, Box 86, SCC019 Intelligence 6/28/77.

49. **Memorandum From the Director of Net Assessment,
Department of Defense (Marshall) to Secretary of
Defense Brown¹**

Washington, June 20, 1977

SUBJECT

DOD vs. DCI Control and Management of Intelligence Assets

I do not know the truth of the reports in the newspapers of your and Stan Turner's differences about shifting of NSA, NRO and other assets to DCI management and control.² If this is a major issue, I want to bring to your attention a line of argument for management and control remaining with Defense.

A couple of years ago Jim Schlesinger and I became concerned that many of our intelligence collection activities and major processing operations were optimized for peace time operations and there appeared to be little preparation for continued effective operations should war occur. Schlesinger became so concerned he asked NSA to begin a study of continued operations in the European theater should a war occur.³ I do not know the outcome of that study except that the first reports suggested the problems were very difficult. In any case, intelligence organizations appeared to give insufficient attention to surviving and functioning. I suggest that if these organizations are transferred out of Defense the likelihood of their doing so might be decreased still further. Substantial management attention to this kind of a problem seems more likely if Defense management continues.

This may be an additional argument that you might find useful.

A.W. Marshall⁴

¹ Source: Washington National Records Center, RG 330, OSD Files: FRC 330-80-0017, Box 42, 350.09 (June) 1977. Secret. "Sec Def has seen" is stamped in the upper right-hand corner. "OBE" is written in an unidentified hand, and Brown wrote, "6/20 Andy, Thanks. HB."

² See, for example, Lee Lescaze, "Pentagon vs. CIA: Control of Intelligence Community Sparks Major Institutional Battle," *Washington Post*, June 10, 1977, p. A1, and Hedrick Smith, "Intelligence Officials Are Split by Plan to Create Overall Chief," *New York Times*, June 12, 1977, p. 1.

³ Not further identified. Brown noted in the margin, "Dave McG, John Kester—Let's get the study Jim S. argued for. That info may be very useful for backing up our contention on peace/war transition. HB."

⁴ Marshall signed "Andy" above this typed signature.

50. Paper Prepared in the Department of Defense¹

Washington, undated

STRUCTURE OF THE INTELLIGENCE COMMUNITY AS
PROPOSED BY THE DEPARTMENT OF DEFENSE

The principal problem with the present intelligence effort is that it is not adequately responsive to users, whether they are national, departmental or tactical. The central issue in assessing the options available to solve this problem is whether a community orientation should, with appropriate modifications, continue to characterize the approach to intelligence, or whether there should be, *de facto*, a separate department of intelligence. In the view of the Secretary of Defense and the Joint Chiefs of Staff, the pluralism of the community approach reflects the reality of diversity among users' needs as well as a prudent means of controlling excesses, whether they be budgetary or ethical. More specifically, a community approach

- reflects, and thus is likely to be more responsive to, the wide range of consumers—whose needs sometimes overlap and sometimes differ greatly—from the President to tactical military commanders;
- encourages independent analytic centers—and collects responsively to their needs;
- ensures readiness for war; and
- provides checks against abuse.

This paper proposes a series of organizational changes, collectively described as “Option A,” that will improve the existing intelligence capability. These changes maintain a “community” approach but improve the mechanisms through which the community operates. The benefits of the community approach are so substantial that the proponents of a single intelligence command approach should bear the burden of demonstrating that perceived deficiencies in the present system are real, recurring, and so great that the changes proposed for the present system cannot succeed.

Option A includes nine significant changes to the current system:

- *Restructuring of system for setting priorities*: Responsibility for setting intelligence requirements and priorities would be separated from management policy, operating policy and budget decision-making by setting up a new committee of consumers. It would include the Vice

¹ Source: Central Intelligence Agency, Office of the Director of Central Intelligence, Job 97M00248R: Policy Files, Office Level and Above, Box 2, Folder 16: Intelligence Structure and Mission (Folder 5). Secret. A handwritten note in the upper right-hand corner reads, “Rec’d 7/7/77.”

President, the Assistant to the President for National Security Affairs, the Secretary of State, the Secretary of Defense, and other user departments who would be represented on a rotating basis. This priorities committee would be supported by the NSC staff.

- *New tasking procedure:* Responsibility for tasking collection facilities during peacetime would be explicitly delegated to the DCI. He would seek the advice of committees of consumer and producer representatives. Tasking decisions could be appealed by consumers to the priorities committee, there to be finally decided.

- In crisis or war, power to task collection facilities would be delegated to the Secretary of Defense.

- *Expanded access to data:* Access to the data produced by each collection facility would be specifically authorized for each production facility.

- IC staff members designated by the DCI would have explicit authority for direct access to program managers, with information copies of requests to a designated point within the department concerned.

- *Revised budget procedures:* Responsibility for preparing budget requests for each of the intelligence entities would rest with the department or agency with line authority over the entity. Those budget requests would be submitted to, reviewed and amended by the PRC(I), chaired by the DCI and supported by the IC staff. Appeals would be directed to the NSC. The PRC(I) would submit a consolidated intelligence budget to the President.

- The budget approved by the PRC(I) would be “fenced” from departmental or DCI changes. Reprogramming decisions requiring Congressional action would be made by the PRC(I) and below that level by the departments.

- The IC staff would have explicit authority to verify program and budget implementation by the departments.

- *Improved safeguards against abuse:* The DCI would be divested of current responsibilities for ensuring strong inspector generals community-wide. In order to avoid conflict of interest, these responsibilities would be transferred to the IOB.

Option A can be measured against a series of eight objectives common to all intelligence activities.

1. Diversified and high quality service.
2. Readiness for crisis or war.
3. Adaptability to shifts in emphasis and technological change.
4. Safeguards against abuse.

5. Efficient management of high-dollar assets.
6. Balance between funds devoted to intelligence and funds devoted to other programs.
7. Pooling information and collaborating in judgment.
8. Independent source of judgment.

There is general agreement on these eight objectives within the existing intelligence community. There is less agreement on the extent to which these goals can be achieved through organizational change. The discussion that follows considers the utility of organizational change generally and of Option A specifically.

1. *Diversified service.* High quality intelligence must be made available to the President and to a wide spectrum of users that reaches horizontally across a dozen Executive departments and vertically through four or more levels of line authority within those departments; and beyond that to an extensive military constituency ranging from the Joint Chiefs of Staff down through more than 6,000 military command units. The principal problem with the current system is that the intelligence produced is not sufficiently responsive to the needs of these users. Solving this problem requires that the system collect the data necessary to meet user needs; that it have adequate information processing capability and sufficient able analysts to produce the type of intelligence (broad or specific, long or short range) that users need; and that it be structured to allow competing views to come to policy-makers' attention. Option A structures the system to be responsive to consumer needs to the extent this can be done by organizational change.

(a) *Setting priorities.* Requirements are specified to make the intelligence community responsive to consumer needs by identifying topics of consumer concern and setting priorities among those topics. Under the present system, requirements are often set by producers of intelligence, acting through the DCI or the PRC(I), rather than by consumers. Option A proposes that requirements be established by a committee of consumers composed of the Vice President, the Assistant to the President for National Security Affairs, the Secretary of State, the Secretary of Defense, and one of the other consumer departments who would be represented, as designated by NSC, on a rotating basis. This would assure direct consumer input in a forum set aside exclusively to deal with the problem of responsiveness. Option A would also provide support for the priorities committee from the NSC staff. This would be a change from the current system under which the setting of priorities is managed by the IC staff in its role as providing support for the DCI.

(b) *Collecting Information.* Effective user input into the establishment of general priorities solves only half the problem of how to make the intelligence effort more responsive to consumers. There must also be

effective user input into the method by which those general priorities get translated into day-to-day collection activities. Under the current system the DCI has tasking authority over the collection facilities. Each of the community's major intelligence elements is represented on the DCI's Committee on Imagery Exploitation (COMIREX), Signals Intelligence Committee, and Human Resources Committee. Consumer representation allows the committees to make informed recommendations about the relative need for data from the many targets which can provide information. If the committees are unable to reach decisions through consensus, the DCI decides. Under the current system the DCI also has the prerogative of making collection tasking decisions himself, without committee participation.

Collection tasking currently faces four problems: lack of a mechanism to appeal tasking decisions that are considered by consumers to be unresponsive to important consumer needs; inadequate coordination between the DCI imagery, signals, and human collection committees; difficulty in having some of the human collectors respond to committee tasking; and absence of Secretary of Defense tasking authority in time of crisis or war. Option A proposes that the DCI retain authority over collection tasking and that it be made explicit; that the present committee structure be modified, as the DCI deems appropriate, to allow for better "all-source" coordinated collection; that consumers have a mechanism to appeal tasking decisions; and that the Secretary of Defense be given wartime and military crisis collection tasking authority.

The problem of obtaining effective consumer input into the collection tasking process is readily resolved within the current system. Option A provides an appeal mechanism so that, where necessary, consumers can redefine tasking directions to be more closely responsive to their needs. Appeals would be to the priorities committee on which only consumers sit. This mechanism would, in operation, allow the priorities committee to consider requirements priorities down to the level of specificity necessary to make the system responsive to their needs. In an emergency, the chairman of the priorities committee and the DCI could act alone.

The problem of inadequate coordination between the collection committees can be solved within the current system since the committees are jointly served by the DCI's IC staff, a member of which chairs each of the committees. This problem should be susceptible of solution either by some consolidation or by the DCI appointing a "Director for Collection" or both. Under Option A, the DCI's authority over such reorganization would be made explicit so no misunderstanding could occur.

It is more difficult to solve the perceived problem of improving the response to consumer requirements of the human collectors. The

majority of such collectors are foreign service officers and other governmental officials who are not formally members of the intelligence community even though they provide large amounts of information for the community's use. Attempting to exercise greater intelligence community authority over these officials probably would be counter-productive to the broader governmental task because closer association with intelligence work would cause them to be viewed with suspicion or caution by their normal sources. Even without greater intelligence community authority, however, the great volume of information that these human sources already produce can be better utilized through better management of the existing flow of information with computer capability or other systems and better coordination of these resources. Under Option A, these information management and coordination functions would be lodged with the DCI.

The absence of tasking authority for the Secretary of Defense in times of military crisis or war may have been the result of an oversight when the current Executive Order was drafted. Explicit authority for the Secretary of Defense to task collection facilities directly during crisis or wartime, and the conduct of peacetime exercises to practice such tasking, is necessary to provide for smooth transition from peacetime conditions. Under Option A the decision with respect to "passing the gavel" on tasking responsibilities would be provided for by amending E.O. 11905 to give this authority to the Secretary of Defense. In the event of crisis or war the system would be in place and there would be no need for procedural decisions to be made at a time when substantive decisions are critical.

(c) *Obtaining high quality analysis.* Human analytical talent is one of the most important factors in producing sound intelligence judgments that are directly responsive to user needs. High quality analysts make their greatest contribution when the support systems—such as capable linguists and high capacity computers—are adequate. The managerial and personnel aspects of this problem predominate and they do not respond to organizational change. Indeed, major structural changes may cause personnel losses by disrupting established working conditions, downgrading perceived importance of contributions to the intelligence effort, untying established loyalties and changing other non-monetary benefits of the current system. The technological aspects of this problem do not respond to organizational change either. Very sophisticated computers and computer programming are necessary to further enhance collection assets and that is a managerial and personnel, not an organizational, problem. Option A accordingly proposes to maintain the present system of line control over analysts and their support systems.

(d) *Providing for competing views.* Only by maintaining independent, competing analytic centers will policy-makers have available to them

the best possible intelligence. Option A proposes to continue the existing independent departmental analytic centers—DDI (CIA), DIA (Defense) and INR (State)—and the present system of having both coordinated production of national intelligence through the DCI and independent departmental production of intelligence on matters of national significance. Option A strengthens this capacity for competing views by providing explicitly that every production facility will have access to the information or data gathered by every collection facility within the community. To be effective, this must be accompanied by special efforts to remove unnecessary restrictions imposed by compartmentation.

2. *Readiness for wartime.* Option A provides an adequate structure within which to manage the transition from peace to crisis to war. It provides for the Secretary of Defense to have crisis and wartime tasking authority and maintains the current system in which the military are fully integrated into the operation of the technological collection facilities that are of primary importance to the military mission. This integration allows for optimum use of intelligence in support of military operations. Intelligence collection and analysis is a function that in crisis or war situations must be performed extraordinarily well. Military participation in peacetime is central to readiness for crisis or war.

Field commanders now operate the intelligence collection, processing and production systems every day, and they learn to use intelligence efficiently, as an integral part of their command operations. In wartime or in crisis, the system can operate in the same fashion as it does in peacetime. There is no period of confusion or delay as military personnel take on formerly civilian functions or as the emphasis of the system shifts from partial to primary involvement in solving military problems. Line control of intelligence collection, processing and production facilities by DoD means that military officers have a substantial incentive to become specialists in intelligence work. They have career patterns available to them that promise substantial advancement for excellence in intelligence work. Moreover, the extensive use of military personnel provides flexibility as to assignment in hardship, afloat or overseas posts on short notice that would be more difficult to achieve with a civilian work force.

The current allocation of substantial line authority over major collection agencies to the Secretary of Defense is critical to readiness for war. It enables each of the technological intelligence collection agencies to work in the closest way with non-intelligence military operations and support elements.

The signals intelligence system combines NSA and the military service cryptologic agencies to establish a single organization providing the high technology and the necessary interrelationships, both technical

and managerial, that successful signals intelligence requires. The combined NSA/CSS gives the service cryptological components in the field the necessary NSA cryptological support to meet military requirements and thereby avoids the necessity of military duplication of NSA assets. Likewise, the NSA/CSS amalgamation maximizes efficient resources allocation because NSA itself receives the benefit of substantial military support including the [number not declassified] military personnel assigned directly to NSA and [number not declassified] additional military people engaged in various aspects of the SIGINT collection process on a worldwide basis.

The [less than 1 line not declassified] takes full advantage of the established procedures and support capabilities for acquiring and operating satellite reconnaissance vehicles. The office provides strong, national leadership in the development, management, control and operation of [1½ lines not declassified] The [less than 1 line not declassified] direct manpower support requirements total [number not declassified] of whom [number not declassified] are members of the Department of Defense and approximately [number not declassified] are uniformed military personnel. In addition to those military personnel directly assigned to the [less than 1 line not declassified], another [less than 1 line not declassified] members provide essential indirect support including meteorological data, airlift, provision of launch vehicles, and program office personnel.

[1 paragraph (7 lines) not declassified]

These programs function well. Military resources serve both national and tactical needs; national intelligence needs arising outside the Department of Defense are met. [4 lines not declassified]

3. *Adaptability to shifts in emphasis and technological change.* Adaptability to shifts in emphasis is a matter of responsiveness to consumer needs, and is discussed above (pp. 4–6). Adaptability to technological change is a more complex problem.

Our national technical intelligence systems are markedly superior to those of the Soviet Union, and provide us with a vital strategic counter to the relative intelligence disadvantage we face because of the Soviets' closed society. This superiority has resulted from the effective and imaginative exploitation of our superior technical base [9 lines not declassified]

[2 paragraphs (27 lines) not declassified]

Option A recognizes the critical nature of this transfer and organizes to enhance it. A national intelligence organization not integrated with the military would build an organizational fence around intelligence which would convert a difficult problem to a near impossible one. As noted above, NATO has no prospect in the foreseeable future

of matching the Warsaw Pact in numbers of tanks and guns. It must instead use technology, particularly in intelligence, as an effective force multiplier. This technology is changing rapidly and to explore it properly requires an organization which integrates intelligence with weapons systems, and with military command and control, not one which isolates it from them.

4. *Safeguards against abuse.* Preventing abuse and promoting public confidence in the intelligence community are crucial objectives of any community restructuring attempt. Option A is designed to be responsive to both these considerations.

In the first place, important checks and balances are inherent in a relatively decentralized system. To find abuse is difficult enough; to uncover it in a centralized bureaucracy is even more difficult. Public trust in the intelligence system also responds in some measure to the organization of the system. A monolithic system is likely to cause more public concern than is a decentralized system, such as that suggested by Option A, where information on abuses can rise through several alternate channels.

Second, the DCI has no present responsibility to control abuse throughout the community, although under E.O. 11905 he is supposed to ensure strong departmental inspectors general. Assumption by the DCI of community-wide responsibility to control abuse would create a conflict of interest since DCI is a collector of intelligence through the Clandestine Service on which investigations of abuse have centered. To eliminate the conflict of interest this duality of roles creates, Option A suggests divesting the DCI of even his present limited role with respect to abuse in agencies other than CIA. Responsibility for ensuring strong departmental inspectors general should be lodged in the Intelligence Oversight Board to whom they now report.

5. *Efficient management of high dollar assets.* The efficient management of high dollar assets involves two distinct components: (a) optimally utilizing the intelligence community's present resources to achieve its goals; and (b) purchasing future assets in such a way that the community will be able to provide an optimal output in the future.

(a) *Efficient use of current resources.* There are three aspects of efficiency with respect to current resources that should be considered: responsiveness to users, integration between the intelligence community and military personnel and support systems, and elimination of duplication of effort. Option A will provide for efficient operation in each of these areas. First, as discussed above at pp. 4-6, the option

will enhance the system's responsiveness to users. Second, [3 lines not declassified] As the Church Committee noted,²

“despite the magnitude of the tasks and the complexity of the relationships, most of the important collection activities conducted by the Defense Department (the reconnaissance and SIGINT systems) are managed relatively efficiently and are generally responsive to the needs of the military services as well as to the policymakers on the national level” (Vol. 1, p. 462)

Finally, Option A minimizes unnecessary duplication. To be sure, under Option A there can be duplication of effort on the production (as distinct from the collection) side as when, for example, [less than 1 line not declassified] and CIA both produce analyses of Soviet force structure. This duplication, however, is precisely what produces the diversity of views within the intelligence community upon which, it is agreed, sound intelligence judgements rest. As such, this sort of duplication adds to, rather than detracts from, the effective provision of intelligence. Moreover, on the production side the system is using relatively low-cost assets (primarily analysts). It is on the collection side where the system is using very high-cost assets (satellites, aircraft, submarines, computers and electronic signals equipment) that duplication of effort could be a significant problem but, as the Church Committee noted with respect to the technological collection activities, there is no inefficient duplication of effort under the current organizational structure.

(b) *Efficient acquisition of future assets.* Under E.O. 11905, the PRC(I) now produces a consolidated national foreign intelligence budget by reviewing and amending the component budgets presented to it by the departments and the CIA. Option A continues this centralized budget-making mechanism with three substantive modifications that would improve the efficiency of this system.

First, the IC staff would have explicit authority for direct access to program managers to obtain program and budget data provided that a central coordinating point within the department was kept informed. This would end any concern about access to program information.

Second, the PRC(I) would make all intelligence budgetary reprogramming decisions which require Congressional action, while the departments would make the smaller reprogramming decisions which fall into the Congressionally exempted category. Such an arrangement would ensure that the PRC(I) determines when and how to approach Congress on reprogramming decisions of relative significance, but would avoid unnecessary bureaucratic layering and give the depart-

² See footnote 5, Document 41.

ments appropriate flexibility on reprogramming decisions of relatively minor consequence.

Third, the IC staff would have explicit authority to verify resource allocation to ensure that budgetary decisions were carried out in the manner intended.

The resource allocation mechanism proposed by DOD—maintenance of the PRC(I) with the modifications suggested—will serve the goal of maximizing efficient acquisition of resources for the future. The mechanism is new, however, and it should therefore be recognized that the difficulties the PRC(I) encountered last year were to a significant extent the sort of procedural problems that any new organization will face. These are being progressively solved in practice, and Option A proposes formal changes to the structure that complete that process. The other significant difficulty created by the PRC(I)'s performance last year was its failure to consider cross-program trade-offs. This was largely the result of time constraints. More time and greater familiarity with the budgetary process should allow the PRC(I) to make cross-program decisions. Indeed, a primary benefit of the centralization of the budgetary process in the PRC(I) is that it allows for efficient development of the budget by providing a mechanism for the very kind of cross-program trade-offs that the PRC(I) did not have time to make last year.

Efficient management is also served by that aspect of the PRC(I) mechanism that provides for the departments (and the CIA) to originate the various components of the national intelligence budget. This allows the departments to respond to their specialized intelligence needs, to assess initially the relative importance of intelligence and non-intelligence resources, and to ensure that newly acquired intelligence assets will be compatible with the existing intelligence and non-intelligence assets with which they must be used. A budget originated outside the departments would be unlikely to perform these important functions.

The PRC(I) performs another important function in the efficient acquisition of future assets. Efficient management of intelligence community budget decisions is substantially handicapped because no calculus is available to measure the real impact of different resource decisions. Instead, subjective judgments by the decision-makers play an enormous role. As the Church Committee stated:

“Lacking a sound methodology by which to relate outputs to inputs, management by the intelligence community must remain as subjective as the product in which it deals. . . .

Thus, “the [resource allocation]³ issue can only be evaluated subjectively, taking into account those few factual statements that are at hand

³ Brackets are in the original.

and the judgments of the intelligence experts (recognizing, of course, the institutional biases the judgments may reflect)." (Vol. 1, pp. 340, 339).

Reorganization cannot create the conceptual methods to measure utility and the impact of various alternative strategies. These needs respond to innovative personnel rather than to changes in organization. In such circumstances, the collegial PRC(I), which allows for interplay of subjective judgments among the various departmental representatives, is far more likely to arrive at an appropriate resource judgment than a wholly centralized mechanism having its own institutional orientation and lacking the necessity of responding to the (perhaps more valid) orientations of the departments.

6. *Balance Between Funds Devoted to Intelligence and Funds Devoted to Other Programs.* Under Option A, the departments initiate the intelligence budget and are required, in doing so, to take into account the constraints placed upon that budget by their need for other, non-intelligence assets. Additional intelligence/non-intelligence trade-offs can take place under the Option A in the PRC(I) where most of the principals have an obligation with respect to non-intelligence programs, and at the OMB and Presidential levels. Maintaining the present PRC(I) budgetary system will ensure continued attention to achieving an appropriate balance between funds devoted to intelligence and funds devoted to other programs.

7. *Pooling Information and Collaborating in Judgment.* Option A provides for collaboration in judgment of the several analytic centers and the pooling of data to this end. Currently, the three chief production centers, DDI, [*less than 1 line not declassified*] and INR, respond to requests from the DCI. In the development of National Intelligence Estimates, [*less than 1 line not declassified*] INR the political information, and DDI the economic information. Option A proposes the continuation of the independent analytic centers and the present system of collaborative judgment.

Option A also improves the pooling of data between analytic centers. While data has traditionally been pooled, problems of access have developed from time to time and have been exacerbated by overly compartmentalized classification systems. Option A proposes that there be an explicit authorization for the analytic centers each to have access to the data collected by the various collection systems and a working group established with authority to eliminate any excessive compartmentation.

8. *Independent Source of Judgment.* Providing an independent source of judgment to senior policy-makers requires that three distinct principles be adhered to. First, the community must have an analytic center that can operate free from departmental bias (although it is well to

recognize that any institution ultimately takes on its own biases). Second, the chief spokesman with respect to intelligence matters must have sufficient time to devote to the process of developing intelligence judgments. Third, the organizational structure of the community must allow for competing views on matters of national import to come to the policy-makers' attention.

Option A meets each of these requirements. The DCI would be retained as the President's chief advisor on major intelligence questions, with the CIA under his line authority to provide him analytic support. The DCI's principal responsibility would be producing intelligence judgments. No additional line management responsibilities would be added to dilute this responsibility. The independent departmental centers would be retained, free to produce intelligence of national significance on matters they deem appropriate.

CONCLUSION

Option A adds new elements to meet demonstrated needs not now served by the current system, retains the elements of the current system that work well, and clarifies the elements of the current system as to which there have been ambiguities in the past. It uses collegial mechanisms where they provide substantial benefits, centralized control in the DCI where the efficiency to be gained by that approach outweighs adverse impacts, and decentralized line management where requirements can best be served by that approach. In particular, it protects military readiness and combat capability, now and in the future. This option is a realistic remedy for those specific deficiencies in the current system that are responsive to organization change.

51. Memorandum From the President's Assistant for National Security Affairs (Brzezinski) to President Carter¹

Washington, July 9, 1977

SUBJECT

Reorganization of the Intelligence Community

The SCC has completed its deliberations concerning reorganization of the Intelligence Community. A detailed summary of these discussions is at Tab A.²

The Issues

Considerable progress was made on several important issues. However, a fundamental difference of opinion remains over the basic issue of line control of predominantly national intelligence activities. The issues on which there is general agreement (but some differences in detail) are as follows:

—*Requirements.* There is a general agreement that major consumers should play a dominant role in establishing requirements for national intelligence and prioritize them through some sort of high level committee mechanism.

—*Tasking Authority.* There is general agreement that the function of translating consumer requirements into detailed intelligence collection objectives and the assignment of these to intelligence collection organizations (i.e., tasking) should be controlled by the DCI during peacetime.

—*Resource Management.* There is general agreement that all national intelligence programs should be developed and budgeted within the context of a consolidated National Foreign Intelligence Program (NFIP) and that the DCI should play the leading role in this process.

—*Production.* There is general agreement that national intelligence analytical production should remain the primary responsibility of the DCI but that independent departmental analytic centers should continue to exist. All agree that the DCI should remain the principal substantive intelligence advisor to the NSC and the President.³

—*Accountability.* There is unanimous agreement that accountability is important to ensure protection against abuses. However, different views exist as to whether accountability is best achieved by centraliza-

¹ Source: Carter Library, National Security Council, Institutional Files, Box 33, PRM-11, 2 of 2, [1]. Secret. Sent for action.

² Not attached.

³ Carter wrote "OK" in the margin beside this and the three preceding paragraphs.

tion of balanced authority and responsibility in a direct chain of command *or* through a degree of decentralization.

The principal issue concerns line authority, particularly over the military and technically oriented organizations and programs in the Department of Defense.

—*Stan Turner* does not believe he can carry out his Intelligence Community leadership and operational responsibilities without full line control powers to match them. He believes that the historical record of 30 years indicates that any adjustments in the status quo will not suffice and that only full centralization of balanced responsibility and authority will result in the national intelligence effort you desire.

—*Harold Brown* believes that the present decentralized intelligence system is responsive to both the critical needs of the military and the national level requirements of the DCI. In his view, centralization would diminish readiness for war, reduce responsiveness to consumers and decrease protection against abuse and budget escalations. He believes that present weaknesses in the system can be rectified largely by strengthening the DCI's role in the management of community resources.

—A third view represented by *OMB* would centralize critical intelligence management functions under the DCI while leaving other responsibilities such as personnel actions and support activities as presently assigned.

—*Cy Vance* favors giving the DCI full line control over all predominantly national intelligence activities based on his own past experiences in the Department of Defense.

The Options

Stan Turner, Harold Brown and OMB have each developed detailed options for your consideration.

—*Brown's option* (Tab B)⁴ modifies the status quo by (a) strengthening the DCI's and PRC (I) role in managing all national intelligence resources, (b) providing for a high-level consumers committee within the NSC system to establish intelligence requirements, and (c) explicitly delegating to the DCI all responsibility for tasking collection facilities during peacetime (subject to appeal to a consumers committee) and to the Secretary of Defense during crisis or war. No changes would be made in the basic organizational structure of the Intelligence Community or in its normal daily mode operation.

⁴ Not attached, but see Document 50.

—OMB's *option* (Tab C)⁵ centralizes critical intelligence management functions under the DCI while leaving other functions normally associated with line management decentralized. This option diversifies the authorities inherent in the secretaries of most governmental departments as follows:

- The DCI would have full responsibility for all aspects of the resource management of national foreign intelligence activities, the formulation of intelligence collection requirements, the specific tasking of intelligence collectors and national analytical production. Structurally, the present technical collection and processing elements of CIA would be transferred to DOD where they would be integrated with like elements. DOD clandestine human source collection activities would be consolidated with the clandestine activities of CIA in a separate agency reporting to the DCI. The remaining analytic production elements of CIA would compose a new agency under the line authority of the DCI.

- Personnel administration, support activities and audit/inspector general functions remain largely as presently assigned under departmental arrangements because they are less immediately related to intelligence needs and to serve as a check on political misuse of authorities by the community leader.

- The NSC would continue to provide policy guidance and, in addition, a Consumers-Producers Union would be formed under the NSC to identify and prioritize consumer analytic product requirements and provide performance evaluation.

Stan Turner's option (Tab D)⁶ strongly favors full centralization of national intelligence activities. He would place the present CIA, NSA, NRO [*less than 1 line not declassified*] under the full line management control of the Director of Central Intelligence and functionally integrate some major collection systems. Departmental analysis units would remain basically independent of DCI control. A high-level interagency consumers committee would be established to identify priority national intelligence needs, subject to your approval, and a DCI controlled joint civilian-military center would actually task collection systems.

Next Steps

The SCC has exhausted the limits of constructive debate on this subject. At this point, therefore, you have the following alternatives:

1. You could make your decision on the basis of the materials attached with this memorandum. I believe, however, that you should

⁵ Not attached.

⁶ Not attached, but see Document 42.

first provide both Harold and Stan an opportunity to make their cases directly to you in each other's presence.

2. You could conduct a private meeting with the key principals on the basis of which you would then make your decision. This would give you an opportunity to systematically probe the logic of their positions and all concerned would feel they had an ample opportunity to make their views known to you.

3. A formal NSC meeting could be convened in which each of the key issues discussed in the SCC could be more systematically examined. Under the National Security Act of 1947, the NSC is technically responsible for considering recommendations on the conduct of intelligence activities.

52. Minutes of a Meeting Among Vice President Mondale, Secretary of Defense Brown, Attorney General Bell, Director of Central Intelligence Turner, and the President's Deputy Assistant for National Security Affairs (Aaron)¹

Washington, July 13, 1977

INTELLIGENCE REORGANIZATION

Priorities and Requirements

It was agreed that a committee of the National Security Council should be established to set intelligence priorities and overall requirements. It was noted that a way would need to be found to periodically bring in secondary intelligence consumers such as Treasury, Commerce, Agriculture, ERDA and the National Science Foundation.

Budget Authority

Secretary Brown conceded that the right of decision of the national intelligence budget should belong to the DCI. In this connection, the DCI would be able to reprogram appropriations among intelligence programs. He suggested that the PRC(I) be changed from a collegial decision-making body to an advisory body to the DCI. The budgets should continue to be prepared by the intelligence agencies initially so that intelligence could be traded against other priorities and then

¹ Source: Carter Library, National Security Affairs, Brzezinski Material, Subject File, Box 30, Intelligence Reorganization, 1-7/77. Secret; Sensitive.

subsequently formed into an overall national intelligence budget under the direction of the DCI. He also asked for the right to submit reclamation to the DCI's decisions to the President.

The Vice President suggested that appropriations would go to the DCI with recommended allocations among the intelligence programs. As part of the DCI budget authority, he would have the responsibility and authority to do program evaluations and analyses.

The Secretary of Defense agreed but noted that it would be necessary to work out the details.

Director Turner said that the revamped PRC(I) should not be an NSC committee but a committee of the Director of the Central Intelligence. He emphasized the importance of being able to go behind the departmental budgets being presented to him in preparing a national intelligence budget. He expressed concern about the conflict that would exist when intelligence agencies would be asked both by the Secretary of Defense and the DCI to prepare budgets. He said he felt he needed line authority to properly implement increased budget authority.

Tasking

The Secretary of Defense said that the DCI should be the decision-maker for tasking during peacetime. He said that he had two reservations: first, he would like to have a system in which he could make a reclamation for a particular tasking decision. Secondly, he would like to be able to exercise the switch-over from peacetime DCI tasking to wartime tasking by the Secretary of Defense.

Line Authority

Admiral Turner insisted that line authority over the NRO/[*less than 1 line not declassified*] NSA, etc., was necessary in order to make the above agreed-upon improvements in budgeting and tasking effective.

Conflict of Interest

The Attorney General said that there was concern about the DCI heading one agency (CIA) while passing on the budgets of competing agencies. Rather than separating himself from line authority over the CIA, Admiral Turner said the solution was to give the DCI line authority over the other intelligence agencies as well.

53. Memorandum From the Chairman of the Joint Chiefs of Staff (Brown) to Secretary of Defense Brown¹

JCSM-297-77

Washington, July 16, 1977

SUBJECT

Intelligence Reorganization (U)

1. (C) The interagency deliberations on PRM-11 (intelligence reorganization) have brought into sharp focus differing views on the preferred organization of the US Intelligence Community. Accordingly, the Joint Chiefs of Staff believe it advisable to provide you their views on the proposed intelligence reorganization. Responsive and timely intelligence is critical to fulfillment by the Joint Chiefs of Staff of their statutory responsibilities.

2. (C) The current review of the intelligence structure and missions has been initiated from a desire to:

- a. Improve intelligence support to the consumer.
- b. Eliminate the potential for any illegal activity.
- c. Economize on resources and minimize unnecessary duplication.
- d. Improve the existing control over intelligence.

3. (C) While supporting any effort to improve the intelligence provided to consumers by national and tactical intelligence entities, the Joint Chiefs of Staff have no fundamental criticism of the collection, analysis, production, and performance of the Foreign Intelligence Community as presently structured. Improved production and performance must be a primary goal in any intelligence organization, but that goal can be achieved by improved management and command interest and therefore does not necessarily provide a justification for reorganization. Further, the need for a mechanism that permits competing estimates has been adequately shown recently—specifically in relation to the question of the Soviet military budget.²

4. (C) The case for organizational change rests primarily on the needs to prevent the improper use of intelligence assets, to improve the responsiveness to users, and to achieve economies by the elimination of unnecessary duplication. Most of the documented cases of significant abuse were attributed to the Central Intelligence Agency. Thus, the consideration of increasing the centralization of authority under the

¹ Source: Carter Library, National Security Affairs, Brzezinski Material, Subject File, Box 30, Intelligence Reorganization: 1-7/77. Secret.

² Not further identified.

Director of Central Intelligence (DCI) in a dual-hat role would be contrary to the lessons learned and counterproductive to efforts at regaining the public confidence. In fact, separating the DCI from CIA better addresses the perceived problems. With respect to responsiveness, greater responsiveness to user needs is more likely to occur through greater involvement of the user in establishing requirements. Finally, fiscal saving is always an appropriate objective; however, this must not, by itself, dictate reorganization.

5. (C) The Joint Chiefs of Staff have discussed the salient issues surrounding the organization of the Intelligence Community and the desired DCI role, including the means of enhancing his ability to execute his legislated duties. The following views of the Joint Chiefs of Staff are pertinent:

a. Responsive and comprehensive intelligence support to US operating forces is essential to US combat capabilities and should not be degraded in any way through organizational or management changes.

b. The principal task ahead is to develop greater responsiveness from national collection assets for tactical needs.

c. Multiple, independent analytical centers with access to key policymakers must be retained to insure dissenting views are not suppressed.

d. Peacetime cost effectiveness must not jeopardize intelligence capabilities required for wartime operations.

e. While economy should be a constant goal, it should be recognized that some collection/production redundancy is essential to:

(1) Assure adequate and timely coverage in support of routine as well as crisis situations.

(2) Optimize the utilization of often fragmentary information.

(3) Permit necessary independent analysis and production entities.

6. (S) Within the above context, the Joint Chiefs of Staff believe the Intelligence Community reorganization should provide a role for the DCI as follows:

a. Senior Foreign Intelligence Officer

(1) Serve as principal intelligence adviser to the President and as such have tasking authority over all national intelligence organizations of the Government.

(2) Review and evaluate all national foreign intelligence activities, and recommend to the National Security Council the allocation of all national foreign intelligence functions and resources.

(3) Produce national intelligence, as required.

(4) Establish substantive and resource management objectives for the Intelligence Community, and review the performance of the Intelligence Community toward accomplishment of these objectives.

(5) Promote the development and consolidation of intelligence services which apply to more than one agency but can be performed by a single entity.

(6) Determine the chairing and staffing of all Intelligence Community advisory boards and committees.

(7) Be responsible for the coordination of all liaison with foreign intelligence services.

b. Leader of the Intelligence Community

(1) Chair the National Foreign Intelligence Board.

(2) Have responsibility to provide guidance for and coordinate, review, and present the National Foreign Intelligence Program (NFIP) budget.

(3) Chair the Policy Review Committee (Intelligence) (PRC(I)). PRC(I) to address:

(a) NFIP trade-offs.

(b) Determination of what programs belong in NFIP or intelligence-related activities.

(4) Be the executive head of Intelligence Community Staff.

c. Protector of the security of sources and methods

(1) Provide policy in this area.

(2) Provide an oversight and compliance mechanism.

(3) Implement and supervise compartmentation and declassification program.

7. (S) The DCI should not:

a. Have any authority, supervision, or control of Inspector General activities.

b. Have any control over tactical (intelligence-related activities) programs.

c. Have line authority over CIA if the DCI has resource authority over other intelligence elements.

d. Have line authority over NSA [*less than 1 line not declassified*]

e. Have any counterintelligence responsibility within the United States.

f. Have sole authority to determine collection priorities.

8. (U) The above views on reorganization of the Intelligence Community are oriented primarily toward military aspects and are not meant to be all inclusive. Fundamental to these views is the belief that

intelligence is primarily a tool, albeit a critically important one, to successful planning and operation of US combat forces. The Joint Chiefs of Staff request that you forward these views to the President.

For the Joint Chiefs of Staff:

George S. Brown

General, USAF

Chairman, Joint Chiefs of Staff

54. Note From the President's Assistant for National Security Affairs (Brzezinski) to President Carter¹

Washington, July 20, 1977

Mr. President:

At the Vice President's request, I have prepared a revised version of the options memo,² putting forth a compromise option which was developed in consultation with Secretary Brown and Admiral Turner. Secretary Brown could live with this arrangement, although it is at the edge of his position. Admiral Turner continues to insist that he must have line authority.

The Vice President has read the memo and the proposed Presidential Directive and concurs in them.

If you plan to sign the PD, I believe it would be helpful if you also touched base with Stan and Harold to let them know personally of your decision.³

Zbigniew Brzezinski⁴

¹ Source: Carter Library, National Security Affairs, Brzezinski Material, Brzezinski Office File, Box 95, Subject Chron: Intelligence, 8/77. Confidential.

² Attached but not printed. See Document 55.

³ Brzezinski added an asterisk after this sentence and wrote at the bottom of the page, "* I will show them the proposed PD."

⁴ Brzezinski signed "Zbig" above this typed signature. Carter wrote beneath Brzezinski's signature, "Zbig—Get memo comments from Stan—bring directly to me. J.C."

55. Memorandum From the President's Assistant for National Security Affairs (Brzezinski) to President Carter¹

Washington, July 22, 1977

SUBJECT

Reorganization of the Intelligence Community

There are essentially two broad alternative approaches to organization of the Intelligence Community:

—Consolidation of all predominantly national intelligence activities into one bureaucratic structure under the full control of the DCI; or

—A “community” approach which differentiates to some degree responsibilities and authorities.

To evaluate these approaches, it is necessary to analyze their impact on the key operational functions of setting requirements, tasking authority, analytic production, resource management and line authority. On the basis of the PRM/NSC-11 studies and subsequent SCC discussions, it seems clear that any approach to organizing the Intelligence Community should:

—recognize that the major consumers of intelligence should play a dominant role in establishing requirements and prioritizing them through a high-level committee system;

—give greater power to the DCI during peacetime to translate consumer requirements into detailed intelligence collection objectives and task these to appropriate intelligence collection organizations;

—leave primary responsibility for national analytical intelligence production with the DCI, who would remain your principal substantive intelligence adviser, but provide for the continuation of departmental analytic centers;

—give the DCI a strong and leading role in the resource management of all predominantly national intelligence programs.

Both Stan Turner and Harold Brown are in general agreement with these principles, although they have some differences over the details of organizing to implement. However, as advocates of specific centralization and community options, their two approaches are most clearly distinguished on the issue of line authority, particularly over the military and technically-oriented major collection programs now within the Department of Defense.

¹ Source: Carter Library, National Security Council, Institutional Files, 1977-1981, Box 12, PD 17 [4]. Confidential. Sent for action.

—Any full centralization approach would involve the transfer of complete line authority over the major DOD collection programs to the DCI. The basic argument for doing so is the controversial assertion that this is necessary to assure proper performance of an intelligence system that is responsive to both national and unique DOD intelligence requirements. This point has not been supported with examples of failures or other case studies, and as such is subject to challenge.

—Any “community” approach by definition assumes a certain differentiation and dispersion of responsibilities and authorities. It is based on the premise that, while certain critical operational functions, like resource management and national tasking, can be performed effectively by a centralized authority, full line control over functions that have both national and departmental significance should be decentralized to assure responsiveness to both. While there has been a gradual trend toward greater centralization in recent years, this principle has in the eyes of many observers remained valid.

Agency Options

During the course of the SCC deliberations, Stan Turner, Harold Brown, and OMB each developed detailed options for your consideration. As you will recall, the major features of these options are as follows:

—*Brown’s “community” option would modify the status quo* by (a) strengthening the DCI’s and PRC(I) collegial role in managing national intelligence resources, (b) providing for a high-level consumers committee within the NSC system to establish intelligence requirements, and (c) explicitly delegating to the DCI all responsibility for tasking collection facilities during peacetime (subject to appeal to a consumers committee) and to the Secretary of Defense during crisis or war. No changes would be made in the basic organizational structure of the Intelligence Community or in its normal daily mode operation.

—*Stan Turner’s “consolidation” option would involve full centralization of national intelligence activities.* It would place the present CIA, NSA, NRO [*less than 1 line not declassified*] under the full line management control of the Director of Central Intelligence and functionally integrate some major collection systems. Departmental analysis units would remain basically independent of DCI control. A high-level interagency consumers committee would be established to identify priority national intelligence needs, subject to your approval, and a DCI controlled joint civilian-military center would actually task collection systems.

—*OMB would diversify the line management authorities inherent in the secretaries of most governmental departments by centralizing the most critical national intelligence management functions (tasking, resources and analytical production) under the DCI while leaving other*

operational and administrative functions normally associated with line authority decentralized. In addition, OMB would functionally integrate all technical and human source collection activities and national analytical production into new separate agency structures.

Compromise Option

I believe that the Turner, Brown and OMB options each has some constructive new elements that together could provide the basis for a reorganization decision along the following lines:

—Requirements would be established and prioritized by the Policy Review Committee, chaired by the DCI. All agree that the major consumers should set requirements, and putting the official charged with implementation and who has the greatest vested interest in success in the chair should assure that it gets accomplished effectively.

—The DCI would be decision-maker on tasking the various elements of the Intelligence Community to fulfill requirements and priorities. The Secretary of Defense would have a right of reclama to you through the NSC system and could, at your discretion, be given full intelligence tasking power during times of extreme crisis or war. This should be acceptable to both Stan Turner and Harold Brown, especially if some civilian-military tasking mechanism is created, such as Turner's National Intelligence Tasking Center.

—The DCI would have full authority to provide guidance on the development of the national intelligence budget, approve its content prior to submission to the President, present it to Congress, reprogram funds as necessary (though it may be difficult to get the Congress to loosen their reins on reprogramming). The National Foreign Intelligence Board would replace the PRC(I) but in an advisory role to the DCI on his budget decisions (in the same manner as it now advises him on national estimates and other activities of common community concern). This goes beyond Harold Brown's proposal which retains a collegial system but department heads still would have the right to reclama DCI budget decisions to the President. The DCI would have adequate staff and access to information to ensure that he could carry out the program audit and evaluation necessary to his budget and tasking responsibilities.

—The DCI, as the President's principal substantive intelligence adviser, would continue to have full responsibility for the production of national intelligence in appropriate consultation with departmental analytical centers.

—The essentially implemental and administrative elements of line management authority such as personnel actions, support activities, operational control of systems and military entities and audit/inspector general functions would remain as presently assigned under departmental arrangements.

The basic rationale for this approach is that it centralizes the most critical national intelligence management functions under the DCI—tasking, resources, and production—while leaving the administrative and support functions with the operational elements where they are performed adequately today. This is the same assumption on which the OMB option is based. It also builds on the concepts behind the Turner and Brown options as follows:

—It recognizes that, while there are certain major intelligence programs and tasks which should be directed at the national level, the distinction between national and tactical intelligence is increasingly artificial, and in the future intelligence systems must be responsive to the concerns of *all* users. This is a fundamental point made by the military services and the basic reason they resisted centralization.

—The link between consumers requirements, tasking and resource allocation is centered for the first time in the office of the DCI and should in theory result in more productive and cost effective collection and production activities. This was the most critical deficiency identified in the PRM/NSC-11 study and the basic argument for consolidation of authority.

—Finally, while some reorganization within CIA and the Defense intelligence agencies may be necessary, any approach which divided them up and reallocated their activities into new units could completely break the already low morale of their professional cadre, and would minimize the element of constructive competition that has stimulated creativity in the past. This is a basic point of reality overlooked in the OMB option.

RECOMMENDATION:

That you sign the Presidential Directive at Tab A² based on the above indicated compromise principles for reorganization of the Intelligence Community. Based on this we will develop a public statement for release by Jody Powell that dampens speculation about who won or lost.³

² Not found attached. The Presidential Directive is printed as Document 59.

³ For the text of the August 4 public statement, see *Public Papers: Carter, 1977*, Book II, pp. 1421–1423.

56. Letter From Secretary of Defense Brown to President Carter¹

Washington, July 22, 1977

Dear Mr. President,

As you know, I shall be in Korea and Japan for the next week. I have reviewed the draft Presidential Decision on intelligence organization. It represents a determined effort by the Vice President and by Zbig to take account of what the persons concerned require to carry out their responsibilities. Some parts of the draft decision will make my work more difficult. But I believe we in the Department of Defense can live with its provisions, subject to the exact language of the revision of Executive Order 11905, and also to Stan Turner's and my working out detailed procedures for implementation. I am prepared to work to that end.

If, however, you should be inclined toward considering other organizational arrangements, I would deem it essential to discuss the matter with you in person, as I mentioned in our telephone conversation of two weeks ago.²

Respectfully,

Harold Brown

¹ Source: Carter Library, National Security Affairs, Brzezinski Material, Brzezinski Office File, Box 95, Subject Chron, Intelligence, 8/77. No classification marking. This handwritten letter is dated "7/22" and marked "PERSONAL" at the top.

² Presumably a reference to Brown's July 12 telephone conversation with Carter from 9:49 to 9:53 a.m. (Carter Library, Presidential Materials, Carter Daily Diary) No record of this conversation was found.

57. Memorandum From Director of Central Intelligence Turner to President Carter¹

Washington, July 23, 1977

SUBJECT

PRM-11

Zbig has shown me the draft decision memorandum on PRM-11. I appreciate the monumental effort which has gone into the search for a middle ground. I also fully understand and concur with Harold's concern for protecting DOD's equity in intelligence collection management. The proposed decision does strengthen the budgeting and tasking authority I need to achieve your goals, but it basically fails to make the people who must respond to tasking and budget control ultimately responsible to the person giving the orders. I must give my estimate that it does not add much to Executive Order 11905. The historic inefficiencies, indecisiveness, difficulties in adapting to changing times and lack of accountable oversight would continue. In addition, my instincts tell me that within a decade the President's requirement for military intelligence will have reduced in comparison with economic and political, and the DCI must have the authority to shape the system to meet that need.

Still, if a bold solution is not appropriate at this moment, the question is how to construct the most effective organization while providing for some degree of divided authority over our national collection assets. I see two possible approaches.

The approach taken by the compromise efforts to date, and the foundation of the draft decision memorandum, starts from the first principle that the basic organizational relationships which exist today should be preserved. This school of thought advocates only the minimum alterations necessary to visibly widen the DCI's channels of influence over the Intelligence Community.

I prefer what is, in my view, a sounder approach which comes closer to providing the DCI the necessary authority to function effectively. It would start from the assumption that the bold plan is the more desirable long-term model; then, in deference to the concerns of Defense, it would circumscribe the amount of authority given to the DCI. There are reasonable ways to compromise from the bold plan in behalf of Defense, such as guaranteeing continuation of strong military

¹ Source: Carter Library, National Security Affairs, Brzezinski Material, Subject File, Box 30, Intelligence Reorganization, 1-7/77. Secret; [handling restrictions not declassified].

representation in all collection agencies and structural recognition of the Secretary of Defense's legitimate requirement to participate in tasking and budget formulation. Specific steps are detailed at Tab A.

Which of these two approaches you elect is a matter, it seems to me, of what kind of intelligence support you believe the country will need for the immediate future as well as for decades to come.

Stansfield Turner²

Tab A

Paper Prepared in the Central Intelligence Agency³

Washington, undated

Possible Compromises in Favor of Defense from the DCI's Proposed Solution

A. Give SECDEF joint appointment authority over Heads and Deputy Heads of NRO, NSA [*less than 1 line not declassified*] and include in the statute that the Directors of these organizations will be military officers.

B. Include provision in Executive Order that the present percentages of manning of NSA, NRO [*less than 1 line not declassified*] by military personnel will not be reduced other than by agreement of the Secretary of Defense and the DCI, and increase number of military assigned to military and non-military areas of CIA, NIO and IC Staff.

C. Ensure that SECDEF has access to all information on any aspect of all intelligence programs.

D. Require by Executive Order that some percentage of the tasking of NSA and NRO be allocated directly to the SECDEF.

E. Provide SECDEF the right of appeal to OMB of any budget decisions of DCI with the added requirement that OMB must forward to the President any such appeal that it denies.

² Turner signed "Stan" above this typed signature.

³ Secret; [*handling restrictions not declassified*].

58. Letter From President Carter to the Chairman of the Senate Select Committee on Intelligence (Inouye)¹

Washington, July 27, 1977

To Chairman Inouye

The Chairman of the Intelligence Oversight Board has reported to me on the very useful meetings which the Board had with you, Senator Goldwater, and the members of your staff following my meeting with the Board on June 8.²

I want you to know that I consider abuses in the activities of any of our intelligence agencies to be of such import that I intend to deal with such matters personally. To assist me, I will rely on the Board, which as you know reports directly to me any matter which it believes raises a serious question of legality or propriety. When reports of abuses are made to me, I will have them investigated, and when corrective action is warranted, will report to your Committee the nature of the abuse and corrective action taken.

This decision was made after careful consideration of the dialogue between Admiral Turner, Mr. Knoche, and the Senate Select Committee concerning the same subject. I share with you a deep commitment toward institutionalizing effective oversight of foreign intelligence activities. I also recognize the need to keep the Committee as informed as possible. However, for the Executive branch mechanism to operate effectively, the information it receives must obviously be treated on a privileged basis.

I believe that the steps I have outlined will serve to eliminate most quickly and effectively any abuses which may in the future occur in any of our intelligence agencies and simultaneously serve to give the Senate in a timely fashion full and accurate information on what has occurred.

Sincerely,

Jimmy Carter

¹ Source: Carter Library, National Security Council, Institutional Files, 1977–1981, Box 11, PD 17 [2]. Unclassified.

² No minutes of these meetings were found. Carter met with the members of the Intelligence Oversight Board, Lipshutz, and Brzezinski on June 8 from 1:30 to 2 p.m. (Carter Library, Presidential Materials, President's Daily Diary)

59. Presidential Directive/NSC-17¹

Washington, August 4, 1977

TO

The Secretary of State
The Secretary of Defense
The Attorney General
The Director of Central Intelligence

SUBJECT

Reorganization of the Intelligence Community (U)

I have reviewed the results of the PRM/NSC-11 studies relating to organization of the Intelligence Community and subsequent SCC deliberations and have reached the following conclusions:

1. The National Security Council will continue to act as the highest organizational entity that provides guidance and direction to the development and formulation of national intelligence activities. To this end, the Policy Review Committee, chaired by the DCI and to include the Secretary of State, Secretary of Defense, Secretary of the Treasury, the Assistant to the President for National Security Affairs and other attendees as deemed appropriate by the chairman, will meet as an intelligence requirements committee. The primary function of the PRC intelligence requirement meetings will be to define and prioritize substantive intelligence requirements and evaluate analytical product performance. The PRC will submit semiannual reports to the NSC on its activities.

2. The Director of Central Intelligence will have during peacetime full tasking responsibility and authority for translating PRC-validated national intelligence requirements into specific intelligence collection objectives and targets and assigning these to intelligence collection organizations. For these purposes a National Intelligence Tasking Center jointly manned by civilian and military personnel will be established under the direction of the DCI to task all national intelligence collection systems. The Tasking Center will also be responsible for ensuring that the resulting intelligence flow is routed immediately to relevant components and commands. In periods of crisis or during war the power to task collection facilities may be delegated to the Secretary of Defense upon the express direction of the President.

¹ Source: Carter Library, National Security Council, Institutional Files, 1977-1981, Box 1, PD/NSC 1-32 [1]. Official Use Only. Carter initialed the upper right-hand corner of the page.

3. The Director of Central Intelligence will have full and exclusive authority for approval of the National Foreign Intelligence Program (NFIP) budget prior to its presentation (through usual procedures) to the President, for its presentation to Congress, reprogramming of NFIP funds and monitoring program implementation. In response to DCI guidance, the departments and agencies of the NFIP will submit their proposed national program budgets to the DCI and assure that the DCI has all information necessary to perform his budgetary responsibilities. The National Foreign Intelligence Board will advise the DCI on all of his budgetary responsibilities in the same manner as it does on national intelligence production and other activities of common concern.

Department heads will retain the right to reclama DCI budget decisions to the President.

4. The DCI will be provided with adequate staff support to ensure his full access to relevant information and the capability to carry out program audits and evaluation.

5. The Director of Central Intelligence will continue to act as the primary adviser to the National Security Council and the President on substantive foreign intelligence and to have full responsibility for production of national intelligence in appropriate consultation with departmental analytical centers. He will retain all other powers provided to him under relevant statutes and executive orders.

6. Apart from the foregoing, authority to hire and fire personnel and to give day-to-day direction to implement assigned tasks will remain with the heads of the relevant Departments and Agencies. All other organizational and operational arrangements and responsibilities assigned under existing statutes and executive orders shall remain in full effect. Personnel administration, management and support activities, operational implementation of DCI tasking, and audit/inspector general functions will remain as presently assigned under departmental arrangements.

The Director of Central Intelligence and the Secretary of Defense shall draft an Executive Order to implement the above decisions for review by the NSC Special Coordination Committee and my approval.² This will provide the basis for consultation with Congress on the development of appropriate charter legislation.

Jimmy Carter

² See Document 76.

60. Presidential Directive/NSC-19¹

Washington, August 25, 1977

TO

The Vice President
The Secretary of State
The Secretary of Defense

ALSO

The Attorney General
The Director of Central Intelligence
The Chairman, Joint Chiefs of Staff

SUBJECT

Electronic Surveillance Abroad and Physical Searches for Foreign Intelligence Purposes (C)

I have reviewed the issues raised in the report of the Attorney General's PRM/NSC-11 Subcommittee to the SCC with respect to warrantless electronic surveillance directed against United States persons abroad, and warrantless physical searches (a) of certain premises or property within the United States and (b) of the premises or property of United States persons abroad.² It is my understanding that:

—These searches and surveillances would be conducted solely for foreign intelligence and counterintelligence purposes, including intelligence on international terrorism.

—It is the Attorney General's view that the President has the constitutional authority to (a) approve warrantless electronic surveillance directed against Americans abroad who are agents of foreign powers and (b) approve reasonable warrantless physical searches directed against foreign powers or their agents in the United States and against Americans abroad who are agents of a foreign power. Since, however, no court has ever recognized this authority, the Attorney General's opinion is subject to judicial challenge.

It is clear to me that reasonable physical searches and electronic surveillances for intelligence purposes necessary to the security and well-being of our nation should be authorized. The invocation of inherent Presidential powers to authorize such searches and surveillances, however, would subject such searches and surveillances to doubt and

¹ Source: Carter Library, National Security Council, Institutional Files, 1977-1981, Box 1, PD/NSC 1-32 [1]. Secret.

² See footnote 3, Document 41.

question not only by those who are concerned about the proper role of our intelligence agencies but also by those who must carry out the searches often at grave risk to themselves. Therefore, it is my firm belief that this Government's clandestine intelligence activities—and especially those which impact on the rights of Americans—should to the maximum extent possible be legitimized and affirmed by the Congress. Such affirmation is essential not only to reassure the public that our intelligence activities are conducted in a legal and proper manner but also as a policy statement that these activities are necessary and desirable for the security and well-being of the American people. Therefore, I direct that the Department of Justice, in coordination with the Departments of Defense and State, and the Central Intelligence Agency, draft for SCC review and my approval proposed legislation with respect to electronic surveillance abroad and physical searches both in the United States and abroad.

I remain concerned, however, that if compelling situations arise prior to such time as this legislation might be enacted, it may be necessary to the security and well-being of this nation to engage in physical searches in the United States and physical searches and electronic surveillance abroad directed against United States persons. Therefore, pending the enactment of legislation in this area, I delegate the power to the Attorney General and his successors in office, to approve, without prior judicial warrant, electronic surveillance directed against United States persons abroad.

This power and authority shall be exercised pursuant to the following standards and procedures:

(1) A warrantless, non-consensual electronic surveillance directed against a United States person abroad will, except in emergency situations, only be authorized upon the personal approval of the Attorney General (or Acting Attorney General), upon the request of the head of the Department or Agency desiring the electronic surveillance.

(2) Approval will not be granted unless the Attorney General (or Acting Attorney General) has satisfied himself that:

(a) the requested electronic surveillance is necessary to obtain significant foreign intelligence or counterintelligence information;

(b) the United States person who is the target of the electronic surveillance is an agent of a foreign power; and

(c) the minimum physical intrusion necessary to obtain the information sought will be used.

(3) Where necessary, the request and authorization may be oral, but shall be followed by written confirmation as soon as possible.

(4) No electronic surveillance directed against a United States person shall continue for over 90 days without the written authorization of the Attorney General (or Acting Attorney General).

(5) In addition, I authorize the Attorney General to adopt procedures governing the conduct of electronic surveillance abroad, whether or not directed against a United States person, to ensure its legality and propriety, which procedures shall provide for authorization in emergency situations and for the minimization of the acquisition, retention, and dissemination of information concerning United States persons which is not necessary for legitimate Government purposes.

I have already in my February 3, 1977 memorandum authorized and delegated the power to the Attorney General to approve the minimum necessary trespass or intrusion to implant an electronic surveillance device in the United States.³ I hereby delegate the power to the Attorney General to adopt procedures concerning, and to approve, certain warrantless physical searches of (a) the real or personal property of foreign powers in the United States, and (b) the personal property of persons in the United States or United States persons abroad who are agents of foreign powers. These physical searches shall be limited to (a) a search of personal property which is in the custody of the United States or its agents, or (b) a search of the premises of a foreign power by an agent of the United States who is lawfully on the premises, which extends beyond those specific areas to which the agent is entitled to have access.

This power and authority shall be exercised pursuant to the following standards or procedures:

(1) A physical search of the property or premises of a foreign power in the United States will only be authorized pursuant to procedures adopted by the Attorney General to insure its reasonableness, which procedures shall not authorize any breaking or nonconsensual entering of any real property.

(2)(a) A physical search of the personal property of persons in the United States or a United States person abroad will, except in emergency situations, only be authorized upon the personal approval of the Attorney General (or Acting Attorney General), upon the request of the head of the Bureau or Agency desiring the search.

(b) Approval to conduct such a search will not be granted unless the Attorney General (or Acting Attorney General) has determined that:

(i) the requested search is necessary to obtain significant foreign intelligence or counterintelligence information;

(ii) the person whose property is to be searched is an agent of a foreign power;

³ Carter's February 3 memorandum to the Attorney General is in the Carter Library, National Security Council, Institutional Files, 1977-1981, Box 15, PD-19.

(iii) the minimum physical intrusion necessary to obtain the information will be used; and

(iv) the search does not involve the breaking or non-consensual entering of any real property and any container to be searched is, at the time of the search, in the lawful custody of the United States or its agents.

(c) Where necessary, the request and authorization may be oral, but shall be followed by written confirmation as soon as possible.

(3) I am not delegating the authority to make any physical search within the United States or of the property of United States persons abroad for foreign intelligence or counterintelligence purposes that involves the breaking or non-consensual entering of any real property or the search of any personal property which is not in the custody of the United States or its agents, except in emergency situations where a person's life is reasonably believed to be in imminent danger.

(4) In addition, I authorize the Attorney General to adopt procedures governing the conduct of physical searches authorized herein to ensure their legality and propriety, which procedures shall provide for authorization in emergency situations and for the minimization of the acquisition, retention, and dissemination of information concerning United States persons which is not necessary for legitimate Government purposes.

Nothing in this directive shall be deemed to authorize the warrantless opening of mail in United States postal channels, nor shall anything in this directive be deemed to affect PD/NSC-9.⁴

Jimmy Carter

⁴ PD/NSC-9, "Army Special Operations Field Office in Berlin," was issued on March 30. It is scheduled for publication in *Foreign Relations, 1977–1980*, vol. XXVII, Western Europe.

61. Memorandum From the Deputy to the Director of Central Intelligence for National Intelligence (Bowie)¹

Washington, September 29, 1977

MEMORANDUM FOR

Deputy Assistant to the President for National Security Affairs
Director, Intelligence & Research, Department of State
Assistant Secretary of Defense, International Security Affairs
Assistant to the Chairman, Joint Chiefs of Staff

SUBJECT

Presidential Intelligence Priorities

1. Under the Presidential decision and Executive Order,² the main formal mechanism for the policy-makers to define their needs for intelligence will be the Policy Review Committee. Hence, in developing priorities, it is useful to ask how the PRC can best express its interests to the Intelligence Community. It will wish to make sure that the Intelligence Community devotes itself not only to furnishing information of immediate policy concern, but also to providing the basic research on issues that will be of continuing policy concern over extended periods of time. Consequently, I have concluded that the Policy Review Committee might well adopt a two-tiered approach to developing intelligence priorities.

2. The sample list of broad topics of basic long-term interest (Tab A) is intended to guide our long-range efforts in analysis and collection, and point the way to more specific topics for basic National Intelligence Estimates. This list would probably change only gradually over time, but it should receive regular review to ensure that it always accurately reflected major concerns.

3. Tab B is a sample list of issues of immediate interest. Many of these issues are, in fact, subsets of the more basic topics in Tab A. I would expect that the Policy Review Committee would review this listing at regular intervals—perhaps every other month—with a view to ensuring that it is up to date and, further, that it take into account planned policy initiatives and expected developments that might generate needs for intelligence.

4. I am submitting these lists as the basis for discussion at our next meeting. We can then discuss the usefulness of the proposed approach

¹ Source: Carter Library, National Security Council, Institutional Files, 1977–1981, Box 89, SCC035 Intelligence Covert Activities, 10/6/77. Secret.

² Reference to PD/NSC–17 (see Document 59) and the executive order called for in its final paragraph.

as well as the substance of the lists themselves, which, if approved by the PRC, would be sent to the agencies of the Intelligence Community for translating into specific intelligence requirements.

Robert R. Bowie³

Tab A

List Prepared in the Central Intelligence Agency⁴

Washington, undated

National Intelligence Topics of Basic Long-Term Interest

I. Advanced Countries [*less than 1 line not declassified*]

- economic conditions and prospects
- trade
- political and social trends
- cohesion of NATO
- foreign policy issues

II. The USSR and Eastern Europe

- Soviet foreign policy
- Soviet military capabilities and intentions
- strategic arms reduction
- advanced technology
- Soviet economic prospects
- trends and stability in Eastern Europe
- Communist activities in the Third World

III. China

- Sino-Soviet relations
- economic and political prospects
- prospects for U.S./PRC normalization of relations
- military capabilities and intentions
- foreign policy

IV. Key Developing Countries [*1 line not declassified*]

- industrial and resource development

³ Bowie initialed “RRB” above this typed signature.

⁴ Secret.

- economic policy
- foreign policy objectives
- domestic instability
- indigenous military capabilities
- V. Less Developed Countries
 - economic progress and prospects
 - agricultural and infrastructure development
 - domestic political stability
 - foreign policy interests and priorities
 - role in North-South debate
- VI. Global Issues
 - human rights
 - nuclear proliferation
 - energy
 - arms transfers
 - technology transfer
 - transnational terrorism
 - food and population prospects
 - resources
 - environment
- VII. Strategic Areas of Continuing Concern
 - Middle East
 - Korea
 - Greece/Turkey
 - Southern Africa

Tab B

List Prepared in the Central Intelligence Agency⁵

Washington, undated

Critical Issues of Immediate Interest

I. USSR

A. Soviet assessments of the U.S. (including assessments such as SALT proposals).

⁵ Secret.

- B. Soviet economic prospects.
- C. Leadership after Brezhnev.
- D. Critical issues affecting future strategic balance.
 - (1) Soviet ASW capability.
 - (2) Soviet ASAT capabilities, and significance as warning.
 - (3) Soviet defense capability against bombers, SRAMs and cruise missiles.
 - (4) Soviet progress in advanced technologies crucial to developing weapon systems.
- E. Soviet capability for *sustained* combat operations in a *prolonged* NATO-Pact conflict.
- F. Soviet and Pact chemical warfare capabilities.
- G. Warning times associated with Soviet options for initiating war in Europe.
- H. Soviet capabilities against SLOCs.
- II. PRC
 - A. Chinese policies to U.S.
 - B. Trends in Sino-Soviet state relations.
 - C. Chinese military capabilities and intentions against Taiwan.
- III. Western Europe
 - A. Prospects for the 1978 elections in France and implications.
 - B. Evolving PCI role in Italian politics.
 - C. Turkish policy toward Cyprus.
- IV. Middle East and South Asia
 - A. Prospects for restoration of political stability in Pakistan.
 - B. Probable Arab and Israeli strategies toward settlement and if current peace efforts collapse.
 - C. The viability of the Sadat government.
 - D. [1 line not declassified]
- V. Africa
 - A. Evolution of the Rhodesian problem.
 - B. Prospects in South Africa.
 - C. Ethiopia-Somalia hostilities.
 - D. Conflict in Angola and Zaire.
- VI. East Asia-Pacific
 - A. Indications of North Korea's priorities, internal and external.
 - B. Instability in South Korea.
 - C. The Philippines' view of its relationship with the U.S.
 - D. Prospects in Taiwan.

E. Japan's evolving view of its international role.

VIII. Latin America

A. Cuban objectives vis-a-vis the U.S.

B. Panamanian developments affecting the Canal treaty.

IX. Economics

A. Potential threats to oil sufficiency: [*less than 1 line not declassified*]
production shortfalls.

B. Trade imbalances and trends toward protectionism.

X. Nuclear Proliferation

A. South Africa's nuclear strategy.

B. Nuclear policy and plans [*less than 1 line not declassified*].

C. [*less than 1 line not declassified*] uranium export policy.

62. Message From Director of Central Intelligence Turner to Chiefs of Station¹

Washington, October 4, 1977

To: [*1½ lines not declassified*]. Ref: Director [*message indicator not declassified*].

1. Ref transmits the text of new agreement between myself and Secretary of State on relationships between Chiefs of Station and Ambassadors. I want in this supplementary message to share with you both the reasoning behind my role in negotiating this arrangement and the spirit in which I hope it will be executed.

2. The basic thought which motivated me toward this agreement was the essentiality of as complete cooperation and teamwork between ourselves and the State Department as possible, both in the field and in Washington. I have received a sufficient number of reports from Ambassadors during my six months as Director to recognize the value of the close relationships most of you have established with your Ambassadors. I know that most Ambassadors value the contributions you make to their efforts to implement our foreign policy. While you may not have experienced it personally, however, there are some cases

¹ Source: Department of State, INR/IL Historical Files, TIN: 980643000017, State-CIA Relations, January–May 1978. Secret; Priority; Unintel Rybat; [*handling restriction not declassified*].

where relationships between an Ambassador and a Chief of Station have been strained. We all recognize that to some extent this is because our requirements—as specified in the agreement—for holding private some of the details of our activities from even the Chief of a United States Mission can engender suspicion. The last few years of publicity which often exaggerated the nature and independence of our operations have perhaps placed an added strain on this relationship. By making our agreement with State more explicit, I hope to reduce, if not eliminate, some of the causes for friction.

3. Accordingly, I approached this new agreement from the point of view of how much more could we share with our Ambassadors while still preserving our essential elements of secrecy. I sincerely believe that we can go further than in the past. Essentially what I believe we can do is to inform our Ambassadors to a degree of detail such that they will never be surprised to learn that one of our operations is taking place. This does not mean that every detail must be disclosed. It does mean that you must continue to improve your partnership with your Ambassador. There is no way that such a partnership's terms can be spelled out in precise detail in a written agreement. I anticipate, though, that at one extreme you could be willing to discuss any cable or communication with the Ambassador. At the other extreme you will have to make extensive deletions before sharing. In between there will be a ground on which you feel comfortable. Detailed specifics of our more sensitive operations, however, are not needed by Ambassadors and most would shun exposure to them. Ambassadors, like myself, are in contact with the public and neither of us want to be placed in the danger of inadvertent exposure that could cost an agent of ours his life or risk the loss of a valuable source. Occasionally, a Chief of Station and Chief of Mission will not see eye to eye on the appropriate level of disclosure. In such instances I expect you to hold your ground politely but firmly. Secretary Vance and I are fully prepared to arbitrate any differences which may arise. You must never neglect the obligation you have to my statutory responsibility for protecting our sources and methods of collecting intelligence. I can only fulfill this responsibility by dependence on you. At the same time we have to recognize the Ambassadors' statutory responsibility for the activities of all elements of his Mission. I am confident that these two obligations can be discharged in cooperation and harmony.

4. Let me also say that I view this new arrangement as an integral part of the new oversight procedures which have been evolving over the past two-three years. The Intelligence Oversight Board, the congressional oversight committees and the greater involvement of the National Security Council in intelligence matters are all part of this process. Oversight can be a bureaucratic impediment and a risk to

security. It also can be a tremendous strength and benefit to us. It shares our responsibilities. It ensures against our becoming separated from the legal and ethical standards of our society. It prevents disharmony between our foreign policy and intelligence efforts. It helps us build a solid foundation for the future of our intelligence operations. Bringing the Ambassadors more into our confidence will provide us the benefit of a critical perspective on our intelligence production and its contribution to foreign policy. I think you would be interested to know that when I was in London recently, I discussed this question with MI-6. What came through clearly was that even in the very secretive British model of intelligence, Ambassadors are integral to the process of approving sensitive clandestine operations.

5. Additionally, I see several other advantages to us of increased cooperation with Chiefs of Mission. In my view we will need more than ever in the years ahead to dovetail the reporting from Foreign Service channels with that from ours. There are gaps in the State Department's ability to provide information which we can neatly fill. There are areas of traditional intelligence reporting which can be better achieved at less risk by Foreign Service channels. Beyond this, there are a number of areas today where we need support from the State Department. Our cover problem is an issue of great concern to me. If we do not solve it, our capability to fulfill our mission will evaporate in the long term. We also need to increase our representation in areas that have been neglected in the past. We will do better in these and other areas the more we are truly a part of the Mission's team. The reorganization recently directed by the President has established a new foundation for better cooperation here in Washington. Under my direction, the new National Tasking Center will be fixing requirements for intelligence collection which will apply to the Agency as well as to other intelligence collectors. Although the Foreign Service is not an intelligence collector as such, the Department and the Ambassador will be advised of these requirements to help the Foreign Service in planning its own reporting. I expect that the needs of our policy-makers will be more sharply defined, that our resources will be more efficiently utilized, and that we will establish more cooperative efforts here and in the field to meet those needs. As this new concept evolves, we will all feel its impact. I fully expect that it will increase the benefits of teamwork which you have already established with your Ambassador and which the President expects the Ambassador to establish with all elements of our government in the country to which he is the President's representative.

6. I do want to make several points clear on dimensions to which these new relationships do not take us.

A. To begin with, you must always remember you work for me and between us we have a responsibility for producing intelligence

that is entirely divorced from considerations of policy. You must be most conscientious in reporting to me on the political, economic and military situations in your area entirely independently of your Ambassador for that is part of providing intelligence separate from considerations of policy. If your reports in these areas are ever at marked variance with your Ambassador, I would want to know that so as to make my independent judgment. I would also expect that you would let the Ambassador know of your honest differences of opinion.

B. These new arrangements must not be allowed to stifle the innovations and imagination which have made this agency great over the past 30 years. I fully recognize the risks that this policy entails. There may be some Chiefs of Mission who will never want to accept a risk. There may be others who will not accept a risk today for a potential benefit some years away. In such instances you will be placed on your mettle first to make our case lucidly on the local scene, and next to hold your ground and pass the baton to me. Yet I doubt that these risks need be serious. Moreover, I hope that as we work closer with State, the value and quality of our product will come into greater recognition. The more we are able to bring our State Department partners into an understanding of and appreciation of our role, the stronger our agency will be, not only in the near term but in the years after you and I have long left the scene. Because we must build toward that objective, I believe this new relationship is going to be much to our benefit.

7. I would appreciate your making this message a permanent part of the file with reference, and your showing it to your Ambassador if he wishes to read it.

8. Finally, I could not have negotiated this new arrangement were it not for my confidence in each of you and the spirit and manner in which you will carry it out. You can count on me and your colleagues here to support you in every way possible to make your efforts more productive, meaningful and significant. I continue to meet with visiting Chiefs whenever possible. I am taking every opportunity to meet with Ambassadors to make them aware of our role in each overseas mission, what he and I expect from you, and how we can be effective members of his team. I meet about once a week with Secretary Vance to exchange candid views on matters of importance to our nation and our organizations. My participation in inter-agency forums, my weekly sessions with the President, Vice President and the President's Assistant for National Security Affairs, my increased community responsibilities as recently directed by the President—all of these are signs of the growing teamwork developing in the intelligence community here. That same spirit must be cultivated in the field. I expect you to be out in front to do this.

63. Memorandum From Paul Henze of the National Security Council Staff to the President's Assistant for National Security Affairs (Brzezinski)¹

Washington, October 15, 1977

SUBJECT

Significant Political Intelligence—Why Isn't There More?

Your observation² that the U.S. Government benefits from an extraordinary quantity of high-quality technical intelligence but is *under-supplied with political intelligence* is valid. This has been true for a long time. Recently the imbalance has been *worsening*, not improving. Achieving a fundamental improvement entails much more than asking for it. Your recent calls for better political intelligence have fallen on sympathetic ears among CIA officers specializing in human source collection overseas, but they are also a bit vexed because they feel that only a few of the shortcomings in this field are in their power to correct. Wider action based on better understanding of the problem is needed.

The acute imbalance between intelligence community performance in the political and technical fields is the outgrowth of a number of factors which have become accentuated during the past 25 years. Americans naturally find it easier to think technically than to think politically. It has always been easy to gather large quantities of technical data; less easy to devise quick means of processing and analyzing it but, with the enormous surge in developments in electronics in recent years, processing and analysis have become remarkably sophisticated and rapid. Given the strong military orientation of our national security effort plus the fact that most technical intelligence has ended up being collected and processed by elements of the Department of Defense, money has not been a serious obstacle. Our military establishment is an insatiable consumer of technical data. The system feeds upon itself. Thus, though *technical intelligence collecting and processing are far more expensive* than human intelligence collection, we have continued to allocate more and more money to technical intelligence while funds spent on *human collection* have stayed steady or, in many areas of the world, *declined*.

The result is that while we now enjoy nearly real-time photography from satellites [*less than 1 line not declassified*] we are not much closer

¹ Source: National Security Council, Carter Intelligence Files, Political Intelligence, Miscellaneous 1977-79. Secret. Sent for information. Printed from an unsigned copy.

² Not further identified.

than we were thirty years ago to knowing what goes on in the minds of the top men in Moscow or Madrid, Peking, Algeria or Brasilia, what Arab leaders say to each other when they get together or how French elections are going to come out.

Would more money for political intelligence collection help? Undoubtedly, but other aspects of the problem need to be addressed first. Our governmental system does not value or use political intelligence as readily as it utilizes technical intelligence. The bureaucracies which process what is collected operate in rather old-fashioned, traditional ways. Political intelligence is not massaged, dissected, stored and accumulated the way technical intelligence is. Much of our bureaucracy routinely feels little day-to-day need for incisive political intelligence and therefore rates it as relatively unimportant. While the accumulation of a large data base from which deviations can be gauged is taken for granted among technical analysts, those who analyze and interpret political data normally work much more impressionistically. This is particularly true of the central consumer of political intelligence, the State Department and related elements of the overt foreign affairs establishment, both at home and abroad.

Embassies abroad should be major information reporting instruments, just as CIA stations. Occasionally they are, but embassy political reporting performance is notoriously spotty and frequently inadequate. The State Department *has never evolved a structured system of reporting*, a disciplined standard reporting format or a system of relating an officer's reporting performance to his efficiency ratings. Embassies are chronically hampered by tight budgets that prevent officers from being reimbursed for luncheons and dinners where knowledgeable foreign contacts can be cultivated and induced to share confidences. I have yet to hear of an embassy that had enough travel money to permit its officers to move around the country, get to know it and develop the kinds of regional contacts that are essential to understanding any complex country in depth. To make these criticisms is not to say that embassies do nothing well—some officers do develop contacts, some do travel and some spend their own money to do their jobs better. But the system is weak and it is not all the fault of the State Department except that it has for much too long acquiesced in too tight budgets and the notion of can't-do has become rather deeply ingrained.

The result is that many State Department officers do not aspire to perform to a very high level of proficiency as political reporters or analysts of their country. They keep themselves busy with courtesy calls, diplomatic cocktail parties and routine paper-shuffling. In fairness to some, it must be admitted that not all diplomatic posts justify a high output of political reporting; some are primarily representational or entail service functions, such as catering to the needs of American

businessmen and tourists. The State Department must take responsibility for a bewildering array of service functions that other agencies in the foreign affairs establishment are largely spared—CIA, for example.

The CIA station system abroad has evolved to *compensate for most of the shortcomings of the State system*. CIA stations work within a flexible system of operational directives which set productivity goals and requirements for reporting. Officer performance ratings and promotions reflect agent recruitment and field reporting performance. CIA does not spend large amounts of money in the field but funds for operational entertainment and travel have always been available. In addition, CIA officers are able to pay foreigners who collaborate with them for the information they provide. Recruited CIA agents are passed from officer to officer, as rotations occur, according to established procedures that emphasize mutual responsibility and the special nature of the relationship. CIA officers usually function with less status than their State colleagues, but they are generally less burdened by extraneous and lower-priority demands on their time. During the last few years, however, *the CIA system*, in spite of the features which make it easier for CIA to handle human sources and produce more incisive political intelligence than State Department officers do, *has suffered increasing degradation*.

CIA is responsible for some of the degradation itself. Financially, it has short-changed its human source operations at the expense of more glamorous technical operations. The Operations Directorate has *stressed "hard targets,"* i.e. cultivation of Soviets and East Europeans, Chinese and officials of other Communist-controlled countries, to the point where many field stations have almost ceased to work on other objectives and gathering of political intelligence about local situations and developments in important countries has declined. (The CIA Station [less than 1 line not declassified] was scheduled to be closed in 1973 and during the same period the CIA Station [less than 1 line not declassified] practically abandoned internal reporting to concentrate on cultivating Soviets, though no recruitments ever took place.) Considering the enormous amount of effort devoted to "hard-target" human source development for many years now, CIA has had very few real recruitments and even fewer agents in place [less than 1 line not declassified]. Furthermore, concentration on hard-targets has been interpreted only as developing relationships with people who can eventually serve as agents [less than 1 line not declassified] and elsewhere in the Communist world. It has not included learning about the activities and impact of Communist representatives in countries where they are assigned. The Intelligence Community's data base on this subject is *seriously deficient*.

During the past few years, almost all CIA field stations have suffered *personnel cuts*. Recently, Admiral Turner has announced an 800-

man reduction in CIA's Directorate of Operations over the next two years.³ He has said that the reduction will not affect personnel abroad, but such a large reduction is bound to have (and is already having) traumatic effect on the DDO as a whole. Cover and administration problems are increasingly limiting efficiency of DDO personnel abroad. Nevertheless, man for man, the quality of CIA personnel in field stations is still superior to those the State Department assigns abroad.

There are *other problems* over which CIA has little or no direct or immediate control. The *terrorist threat, the Agee problem,*⁴ *KGB exposures and the criticism and adverse publicity* to which CIA has been subjected in the Western press for several years have taken a toll on morale and drive. New regulations and restrictions, more elaborate operational and administrative reporting procedures, concern in Langley about having everything documented, cross-checked, approved in advance to meet legal requirements, along with a tendency to play safe in the field, have not only discouraged initiative but have resulted in a situation where even the most motivated field personnel put a great deal of time into unproductive tasks. Chiefs of Station have to exert themselves [*less than 1 line not declassified*] to ensure that their officers give real priority to getting out intelligence reporting rather than getting bogged down in the endless stream of administrative and procedural correspondence that keeps coming out from Washington.

More relevant to the immediate problem of increased intelligence reporting is the fact that CIA field operations over the past several years have been subjected to many specific restrictions. Justified as many of these may be, they have reduced productivity and operational momentum. Several categories of agent sources can no longer be used or used only with special dispensations and limitations. Many kinds of organizational contacts are prohibited. Our ambassadors have been increasingly sensitive about CIA field operations and have been encouraged—both by specific directives and general advice from Washington—to limit CIA contacts in host country governments. One can debate the pros and cons of each individual case and relationship, of each set of restrictions, and there are arguments on all sides. *The net result is much less dynamic field operations.*

Another problem is harder to measure but it can be documented in many individual cases. As more and more revelations have occurred,

³ A September 22 memorandum from Aaron to Mondale provides an overview of the CIA internal reorganization, including a plan for six Presidentially-appointed deputies to work in the Office of the DCI. (Carter Library, National Security Affairs, Brzezinski Material, Brzezinski Office File, Box 95, Subject Chron, Intelligence 9/77)

⁴ A reference to Philip Agee, a former CIA officer who in 1975 exposed CIA operatives overseas.

long-standing collaborators abroad have become increasingly uneasy about their relationships with CIA. In (fortunately) most cases, this unease has merely taken the form of expression of worry and increased attention to security of contacts. In some cases we know that sources have been reporting less fully than they formerly did; they withhold information they fear the U.S. Government may not be able to protect. In a few cases, long-standing agents have dropped CIA contact. Finally, and perhaps most seriously, there are the potential new contacts who might have been developed and recruited if they had not decided in advance to avoid an American intelligence relationship out of fear of exposure. We never know how many of these there have been, though some cases can be documented.

Liaison with foreign intelligence services is one of CIA's basic responsibilities abroad. Liaison relationships have sometimes been significant channels for acquiring important information, especially in countries where the relationship includes contact with [1 line not declassified] intelligence chiefs who are important figures in their own government. Liaison relationships have been adversely affected, as a CIA survey done last February demonstrated,⁵ by continuing leaks and publicity about CIA operations and there has been a reduction in the frankness with which such people discuss sensitive and important matters with Chiefs of Station.

If Dick Helms is indicted and prosecuted,⁶ the publicity such a celebrated trial is bound to receive, as well as the spirited defense Helms must be expected to put up, will severely compound the problems the Agency already has in maintaining agent and liaison relationships abroad.

All these factors, sometimes interacting and having a cumulative effect, have reduced CIA's capability to collect high-quality intelligence from agent sources abroad. Both time and effort are needed to overcome these difficulties. *Intelligence comes not only from agents, however, but from the perceptions of experienced, senior CIA officers abroad* reported from time to time as the sum total of their knowledge and judgment about the local situation. This kind of reporting is an established tradition in CIA and has often provided the U.S. Government an unusual dimension of insight into complex foreign situations less colored by "localitis" than embassy estimates. The formal rules for coordinating these field estimates with ambassadors have been codified and, where everybody is rational, the system still works well, though when a COS is extremely

⁵ Not found.

⁶ Helms served as DCI from 1966 to 1973 and was prosecuted in 1977 for lying to a Senate committee in 1973 regarding covert operations in Chile.

busy, going through the coordination process can sometimes be so time-consuming that it discourages reporting. We need more of this kind of reporting, but it is not being encouraged at the present time and recent revised rules on COS-Ambassador relationships,⁷ which tilt in the direction of the Ambassador, will have the effect of *subtly discouraging* COS's from taking initiative in this area.

CIA is the central element in intelligence reporting overseas but by no means the only one. In most major countries, *several U.S. military intelligence elements* (DIA, NSA, OSI, CIC, etc) *usually outnumber the CIA Station in manpower*. With some exceptions they are *not particularly relevant* to the problem of increasing high-level political intelligence reporting. *Embassies are*.

With the State Department representation at their core, embassies usually [*less than 1 line not declassified*] USIA, AID, DEA, FAS, Peace Corps and sometimes representatives of several other U.S. Government agencies. A tolerable working relationship between the COS and Ambassador is crucial for productive political intelligence operations. Horror stories of earlier years notwithstanding (many are exaggerated), no one in CIA in recent years has challenged the principle that the Ambassador must be briefed on all essentials of intelligence activities in his country.

But what is essential for the ambassador to know and what is not? The trend over the past several years has been toward telling the ambassador *more and more operational detail, identifying sources, explaining methods and describing relationships*. Telling the ambassador usually results in knowledge spreading to others in the embassy (DCM, counsellors, political officers) so a process of *erosion of security* sets in. Once identity of an agent is revealed in an embassy, knowledge of the identity is almost inevitably passed on from one FSO to another through the years. *Sources and methods are compromised*. This issue is too complex and specialized to permit detailed discussion here, but let me mention a couple of tendencies that are particularly germane to the topic of this memorandum. Ambassadors are characteristically apprehensive about *CIA penetrations of the host government*; the higher the level the greater the concern. Sometimes the concern revolves crassly around the fact that the agent will tell CIA more and be more influenced by the COS than he will by the Ambassador; more frequently the ambassador honestly fears that compromise of the agent will embarrass the embassy and does not want to take any chances. So pressures build up to drop sources, especially those whose information or current position does not have obvious high priority at a given time. COS's,

⁷ See Document 62.

knowing the difficulty of recruiting and retaining good agents, tend to take a much longer-term view of the problem of tiding agents over lean periods than ambassadors do. The revelations and accusations of recent years have tended to make all ambassadors more cautious. So, as they learn more and more about CIA operations, the general tendency among ambassadors and State Department officers in general has been to be more and more *conservative about risks* and to attempt to *restrict CIA field operations*. This kind of atmosphere does not encourage production of more high-level political intelligence.

This aspect of the issue can perhaps be summed up by saying that most ambassadors have looked upon the opportunity—and to some degree the enjoiner—to know more about what CIA is doing as *an exhortation to be more restrictive*. Presidential letters and State Department and CIA directives defining and asserting ambassadors' authority over intelligence operations have *not* caused most ambassadors to feel responsibility or pressure for improving intelligence reporting from their missions. We went through a long effort this spring and summer to develop a Presidential letter on COS-Ambassadorial relationships⁸ that would not be perceived primarily as cautionary and restrictive. I am not sure we succeeded too well. Neither CIA nor State—caught up in their own petty bureaucratic concerns—was very helpful in getting any sense of real dynamism into the letter in the form in which it finally went out.

The most characteristic attitude in embassies toward intelligence reporting is "let CIA do it." While State Department officers always feel responsible for doing at least a minimal degree of routine political and economic reporting, most other country team elements (USIA, MAAG, AID, etc) make a minimal contribution to a mission's reporting output. The Peace Corps, where it is still active, usually has access to levels of society with which the rest of a U.S. diplomatic mission will have little or no contact. Nevertheless, it has always been a tradition in the Peace Corps to avoid anything that could be remotely considered political reporting. If we are really interested in improved political reporting from U.S. missions abroad we must look not only to CIA and help it do better but *more importantly perhaps*, find ways of encouraging ambassadors to mobilize *the full resources of their country team* for systematic reporting.

A final word on the impact of Admiral Turner on the Agency and in particular if Admiral Turner's 800-man cut on the DDO is necessary, because this may be the most important problem of all. CIA greeted the Carter Administration with a *keen expectation* that with new leadership

⁸ See Document 65.

it would leave behind a period of strain and controversy and be able to rebuild its own capabilities and redirect its energies to real USG priorities. No one in CIA expected to return to the free-wheeling days of earlier years and everyone respected the need for intelligent adjustment to new restrictions and legal requirements. But there was an enormous desire to take advantage of the opportunity to be creative and energetic in pursuit of *agreed objectives* and *new challenges*. Eight months later all this sense of excitement and optimism has *dissipated*. *The prevailing mood of CIA, both on the operational and analytical sides of the agency is apprehension, depression, frustration.* Admiral Turner is separating the DDI from the DDO—something no intelligent, experienced officer on either side of the house wants or recognizes as advantageous.

For the DDO, news of the 800-man cut had a devastating effect. Not that there may not be 800 people who can be dispensed with in the directorate. This is not the problem. The problem derives from the fact that the Admiral has handled the cut as a vindictive operation. He has announced that the upper ranks are to be cleaned out: the experienced people are to be gotten rid of. Meanwhile promotions, which have steadily slowed in recent years in the DDO, have almost come to a halt. The people most affected by this are the younger and medium-level officers. Senior DDO officers long ago became accustomed to being promoted at a much slower rate than State or USIA or most of the other civilian departments of the government. To read much of the American press, one would still think the CIA and the DDO in particular were overstaffed with officers thirsting and throbbing to go out and take on dangerous duties in the far reaches of the world. This is an utterly false image. *Gradually, most of the drive and imagination and willingness to sacrifice that has been characteristic of CIA at its best ever since OSS days is disappearing. If matters go on as they have been in recent months, we will not have a clandestine intelligence service worthy of the name by the time the first Carter Administration reaches its term.* And the problem of improved political intelligence, let alone a real breakthrough in this field analogous to the scientific intelligence breakthrough we have experienced since the late 1950's, will be a totally academic consideration.

CONCLUSIONS

- There are intrinsic, historical and bureaucratic reasons for the disparity between technical and political intelligence performance in the U.S. Government.

- There is a case for allocating more money to political intelligence collection, but it will be effectively spent only if certain preconditions are met.

- A more dynamic, creative, positive approach to human source collection is needed. This must be the responsibility of *both* CIA and the State Department.

- CIA should give heightened priority to political intelligence collection within a broadened set of objectives and more creative management procedures.

- The State Department should modernize and systematize its approach to political reporting and make this function the central responsibility of most embassies.

- Measures should be taken to mitigate the effect of breaches of security, excess publicity, cover erosion and other factors which have adversely affected intelligence operations abroad during the last few years.

- More comprehensive CIA field analytical reporting should be required and regulations governing it should be simplified.

- The principle of ambassadorial control of overseas missions should not be enforced in such fashion as to restrict and discourage creative intelligence operations.

- If any of these measures is to have any effect as far as CIA is concerned, current and accelerating negative trends in Agency morale must be reversed.

64. Letter From the Chairman of the Senate Select Committee on Intelligence (Inouye) and the Vice Chairman of the Senate Select Committee on Intelligence (Goldwater) to President Carter¹

Washington, October 20, 1977

Dear Mr. President:

We are writing to explain in more detail the reasons for our request that the draft language we sent to you in our October 11, 1977, letter be included in the Executive Order governing the intelligence activities of the United States.² Because we fully share your expressed views that this Executive Order should serve as a model or blue print for the statutory charters which are to follow, we believe it is of utmost importance to include the language that we sent to you for your study and consideration.

The provisions are fundamental. They are critically necessary for governance of secret activities and particularly secret intelligence activities. We agree with your view that in a Constitutional government the minimum safeguard for the protection of a democratic constitutional government such as ours to protect against the possible misuse of the power that accrues from the conduct of secret activities—secret activities which at best are reviewed by only a small number of especially delegated officials in both the Executive and Legislative branches—is a full awareness of the nature of Executive branch secret intelligence activities by the Legislative branch. We are jointly committed to strengthening the constitutional oversight mechanisms of both the Executive and Legislative branches. The failure over the past thirty years of oversight must not be repeated.

In discussions with those involved in the drafting of the Executive Order on Intelligence Activities in the Executive branch, the Committee has made it clear that we fully recognize there are gray areas in which the respective prerogatives and privileges of the Legislative and Executive branches may on occasion collide. We have made it clear that we recognize that there are two sides to the question of full and complete access to information: That just as there is a danger of a President or Attorney General misusing secret authorities, or that there is a danger of an illegal “plumbers” activity on the one hand, so too, on the other

¹ Source: Carter Library, National Security Council, Institutional Files, 1977–1981, Box 89, SCC036 Intelligence EO 11905, 10/18/77. No classification marking. Brackets are in the original.

² The letter commented on the proposed Executive Order on Intelligence Activities. (Ibid.)

hand, there is a danger of an irresponsible Senator or committee in the Legislative branch. And that is why we have developed with Admiral Turner a clause to add to the basic S. Res. 400³ language as follows:

Consistent with the authorities and duties conferred by the Constitution upon the Executive and Legislative branches, the Director of Central Intelligence and the head of any department or agency of the United States involved in any intelligence activities shall: . . .

Further, the Committee recognizes that there are fragile and important sources and methods to be protected and that is why we have added to the language of S. Res. 400:

. . . Due consideration shall be given to the duties under law of the DCI to protect sources and methods.

And third, the Committee recognizes that the President should be allowed flexibility in the timing of reporting abuses to oversight committees. And that is why we have made the following modification:

report in a timely fashion [rather than immediately]

We would hope that our recommended language will be accepted as a whole because it is based upon a long history of events which goes back to the Second World War. Alternate language proposed by some lawyers in the Executive branch may seem at first glance neutral enough, but which in fact, if used, would trigger considerable opposition. The language that we have submitted to you for your consideration builds upon the understandings that were arrived at when the 1946 Atomic Energy Act⁴ was enacted, that were contained in the Senate Watergate inquiries and the inquiries into illegal and improper intelligence activities. The language cited earlier recognizes the fact that the President or perhaps the Legislature may have to take extraordinary steps to deal with emergency situations in which the security of the nation is at risk. It also fully recognizes that on rare occasions an impasse may occur between the Legislative and Executive branches which may require the Courts to decide as the Constitution provides.

The Committee has delayed its introduction of statutes governing intelligence activities until this framework Executive Order has been agreed upon and issued. We recognize that the process of enacting statutes will necessarily be a lengthy one. We are also in agreement with you that there are certain intelligence activities which should not be specified in detail in legislative charters. It is therefore all the more

³ S. Res. 400, passed by the Senate in May 1976, established the Senate Select Committee on Intelligence.

⁴ P.L. 79-585.

necessary to make it clear that we are in agreement that the oversight committees of the Congress should have full and complete access to information as set forth in the language that we have given to you. This language is based on thirty years of give and take between successive Administrations and Congresses. It contains key phrases which have been worked out carefully and after painful experience and debate, and should not be unhinged.

This recommended provision is fundamental to the success of our joint effort. We believe that it expresses the spirit of comity and our mutual conviction that meaningful and effective oversight of intelligence activities is a shared responsibility of both the Legislative and Executive branches and that to carry out this responsibility the Congress must have full access to information as set forth in the language we have sent to you. We, of course, would be happy to meet with you at any time to discuss these questions, should you wish.

With kind regards,

Aloha,

Daniel K. Inouye
Chairman

Barry Goldwater
Vice Chairman

65. Telegram From the Department of State to Select Diplomatic Posts¹

Washington, October 27, 1977, 2139Z

257648. For Ambassador and Chief of Station from Secretary and DCI. Subject: Relations with the Central Intelligence Agency. Ref: CA-6693 dated December 17, 1969; State 256085.²

1. The President has approved the following instruction which reaffirms the responsibility of U.S. Ambassadors for the direction, coordination, supervision and support of the activities and programs of every element of their Missions, including specifically the activities of the CIA, and provides guidance for them and their Chiefs of Station in the discharge of their responsibilities. A strong and effective intelligence service is essential in maintaining the security of the United States and in developing the knowledge necessary for the formulation of policy. In significant instances, the timely and accurate information on foreign governments or organizations that is critical to the wise and effective conduct of our foreign relations can only be acquired covertly. Ambassadors have a special responsibility to support Chiefs of Station to achieve the most effective possible intelligence program, including that directed against third country targets. This instruction, which was drafted jointly by the Department of State and CIA, supersedes CA-6693 of December 17, 1969. The Secretary of State and the Director of Central Intelligence ask Ambassadors and Chiefs of Station to use it to ensure that the intelligence activities of their Missions yield the best possible results and are conducted in conformity with United States foreign policy interests and the basic responsibilities of this government.

2. A 1974 law and 1976 executive order bear on Ambassadors' responsibilities. PL 93-475 dated October 26, 1974, (22 USC 2603A) provides that:

"Under the direction of the President

"(1) The United States Ambassador to a foreign country shall have full responsibility for the direction, coordination and supervision of

¹ Source: National Archives, RG 59, Records of the Under Secretary for Management (M), 1977-1978, Box 6, Chron November 1977. Secret; Roger Channel. Drafted by Saunders; cleared in draft by Vance, Turner, Read, and Wells; approved by Habib. Telegram was sent to select diplomatic posts [*text not declassified*]. The original is attached to a covering memorandum from Joan Clark to Benjamin Read, November 10.

² CA-6693 is printed in *Foreign Relations, 1969-1976*, vol. II, Organization and Management of U.S. Foreign Policy, 1969-1972, Document 311. Telegram 256085 to all diplomatic posts, October 26, 1977, transmitted Carter's letter outlining "the authority and responsibilities of Chiefs of Mission." (National Archives, RG 59, Central Foreign Policy File, D770394-0548)

all United States Government officers and employees in the country, except for personnel under the command of a United States area military commander;

“(2) The Ambassador shall keep himself fully and currently informed with respect to all activities and operations within that country . . . and

“(3) Any department or agency having officers or employees in a country shall keep the United States Ambassador fully and currently informed with respect to all activities and operations of its officers and employees in that country . . .”

3. Executive Order 11905 dated February 18, 1976, provides that the Secretary of State shall “coordinate with the Director of Central Intelligence to ensure that U.S. intelligence activities and programs are useful for and consistent with U.S. foreign policy” and further shall “support Chiefs of Mission in discharging their responsibilities to direct and coordinate the activities of all elements of their missions.”

4. The Director of Central Intelligence and the Chief of Station as the DCI’s designate are responsible under the National Security Act of 1947 for protecting intelligence sources and methods from unauthorized disclosure. Executive Order 11905 also directs that the Director of Central Intelligence “ensure that appropriate programs are developed which properly protect intelligence sources, methods and analytical procedures,” as well as “the establishment, by the intelligence community, of common security standards for managing and handling foreign intelligence systems, information, and products, and for granting access thereto.”

5. CIA’s activities abroad, any or all of which may be carried out at a particular Station according to priorities established by the Director of Central Intelligence, include:

(A) The conduct of foreign intelligence and foreign counterintelligence collection and technical and SIGINT collection programs either independently or through liaison with local intelligence and security services;

(B) As authorized by the President, the conduct of covert action—and maintenance of the infrastructure therefor—in support of U.S. national policy (e.g., non-attributable propaganda and political, paramilitary and economic actions);

(C) The coordination of foreign intelligence, foreign counterintelligence and technical and SIGINT collection activities of other U.S. departments and agencies as authorized by the President; and

(D) The conduct of third-country operations, which have global significance.

6. Chiefs of Mission have the responsibility to express a judgment on all CIA activities in their countries of accreditation in light of U.S.

objectives in the host country and in the surrounding areas and to provide assessments thereon to Washington. To enable them to discharge this responsibility, Chiefs of Station—unless CIA has been specifically exempted from this responsibility by the President or the Secretary of State—are required to keep Chiefs of Mission fully and currently informed about all CIA programs and activities carried out in their countries of accreditation. For example, the Chief of Station will:

(A) Inform the Chief of Mission well in advance of the initiation of any intelligence activities directed against objectives in the host country;

(B) Identify prior to contact host-country officials of rank equivalent to U.S. Assistant Secretaries and above whom Station personnel propose to meet inside or outside the host country;

(C) Brief the Chief of Mission in advance, in accordance with arrangements they may make, on contacts inside or outside the host country with nationals of the host country of political importance;

(D) Identify to the Chief of Mission individuals and organizations within the host country with which CIA maintains covert relationships and with which he and senior Embassy officers that he may designate have official contacts;

(E) Brief only the Chief of Mission on the number of nonofficial cover officers who are not identified to the host country as CIA employees, and on the relationship of their assignments to the Station's operational program, but identify such personnel only if the Ambassador is likely to have continuing personal contact with them. The Chief of Mission only will be informed on TDY travel to the host country of officers under nonofficial cover who will not be identified to the host country as CIA employees. Nonofficial cover officers who are identified to the host government as CIA employees and the relationship of their assignments to the Station's operational activities will be included in briefings of the Chief of Mission. Deputy Chiefs of Mission and other Embassy personnel will be informed only in exceptional circumstances.

(F) Obtain the Chief of Mission's advance clearance for visits by CIA personnel under official cover for official purposes to the host country; and

(G) Inform the Chief of Mission about activities against third country targets in detail sufficient to permit him to assess the effect discovery would have on U.S. relations with the host country.

7. The Chiefs of Mission's main concern will be with the overall effect of CIA activities on U.S. relations with the country of accreditation rather than with operational details or the identity of specific sources or methods. The Chiefs of Station are to review with the Chiefs of Mission all non-administrative communications to and from the Station except for those messages or parts of messages which would reveal

sources and methods. If a Chief of Mission feels the need for more detailed or specific information to assess political risks or the substance of a critical substantive report, he may request it. If a Chief of Station believes he should not furnish this additional information, both parties should immediately report the matter to the Department of State and to the CIA for resolution. If a Chief of Mission believes a CIA activity might impair U.S. relations with the country of accreditation, he is authorized to suspend the activity pending action in Washington.

8. It is the responsibility of the Chief of Mission to ensure that the full reporting potential of all components of his mission is realized and that they contribute to the information reporting process on a continuing basis. The information which the U.S. Government needs to fulfill its intelligence needs can frequently be derived from open and overtly handled sources and contacts. Fullest possible exploitation of these has the advantage of limiting the need for covert intelligence collection and ensuring that sensitive operations and personnel are concentrated on the highest priorities. In addition to exercising his coordination role as stated in paragraph 5C above, the Chief of Station should be prepared to give the Chief of Mission his views on how all aspects of the Mission's reporting contribute to the intelligence process.

9. This directive is addressed to Chiefs of Mission in their role as Ambassadors responsible to the President and the responsibilities and authorities set forth herein are not delegable except in the prolonged absence of the Chief of Mission. In his absence these responsibilities devolve upon the Charge. The Department of State will assure that Deputy Chiefs of Mission have the necessary security clearances and are fully briefed to discharge these responsibilities with regard to the intelligence mission. To the extent that the Chief of Mission deems necessary, after consultation with the Chief of Station as the representative of the DCI, the Deputy Chief of Mission should be kept informed of the Station's activities.

10. The views of Chiefs of Mission on any matters affecting the Station's relationships with their mission may also be discussed with senior Foreign Service inspectors, who will have been briefed by CIA in Washington.

Vance

66. Memorandum From the Chairman of the Intelligence Oversight Board (Farmer) to President Carter¹

Washington, November 1, 1977

ISSUE

Would an Executive Order requirement that the IOB report to both the President and the Justice Department undermine its confidential operation?

The members of the Intelligence Oversight Board oppose the proposal of the Attorney General to amend the current draft of Executive Order 11905² to require that the IOB report to the Attorney General as well as the President certain analyses and recommendations prepared for the President. It is our judgment that such a requirement impairs the confidentiality of IOB advice to the President and opens it to excessive Congressional scrutiny and possibly to Freedom of Information processes.

The latest redraft of Executive Order 11905 provides that the IOB, as part of the White House staff, reports to the President only. President Ford's Order requires the IOB *to report* to the Justice Department, as well as to the President, on matters which in the Board's view raise serious questions of legality. The present redraft requires the IOB *to forward* to the Attorney General only those matters identified as legal issues in an intelligence agency's report to the IOB. The Attorney General proposes to modify the current draft of the Executive Order, as outlined in his recent memorandum to you. Nevertheless, we recommend adoption of the current draft for the following reasons.

The Senate Intelligence Committee staff has indicated a desire that the IOB be more independent of the President and exercise its oversight function in some form of collaboration with the Committee. The Committee staff specifically cites the existing requirement for IOB reports to the Attorney General as the basis for treating the IOB as different from other White House staff and, therefore, more amenable to Congressional scrutiny. From a purely legal standpoint, the question of Congressional access to Presidential advisors is unclear.

There are no controlling court decisions. However, extensive precedent of a largely political nature does indicate consistent Congressional reluctance to demand access to the work and recommendations of the President's personal staff.

¹ Source: Carter Library, National Security Affairs, Brzezinski Material, Subject File, Box 29, Intelligence Oversight Board, 3-12/77. No classification marking. Printed from an unsigned copy.

² Neither the Attorney General's proposal nor the draft executive order was found.

You have told us that you wish the IOB to function as a small group of confidential advisors, not subject to direct dealings with Congress except in rare situations under specific Presidential instruction to do so. Furthermore, in your reorganization of the Executive Office you made a deliberate decision that the IOB should be a part of the White House Office. The IOB believes that decision would be undermined by imposing a formal reporting requirement on the IOB different from that of any other member of the White House staff.

The members of the IOB feel strongly that IOB advice to the President must enjoy the same kind of confidentiality as do communications between the President and other members of his White House staff. This is true whether the IOB's report to the President concerns a matter raised by an intelligence agency, a matter uncovered by the IOB in the course of its oversight, or a matter referred to the IOB by the President. While the President's Counsel frequently consults with the Attorney General on matters being prepared for Presidential consideration, such referrals are made on the basis of the Counsel's own judgment and not as a result of a blanket requirement imposed by Executive Order to report all legal issues.

Under established procedures, the Counsel also automatically refers to the Attorney General any indications of criminal violations. This referral implements the general obligation of all Government officials to report crimes to the Justice Department. Therefore, it seems unnecessary and inappropriate for the Executive Order to address it again through a broad reporting requirement on all legal issues.

All indications are that the operation of Executive Branch oversight of intelligence activities will be raised when the Senate considers the upcoming legislation on the intelligence community, and that attempts will then be made to legislate some sort of relationship between the IOB and the Congressional oversight committees. In our opinion, such ties would lessen the effectiveness of the IOB as a Presidential instrument and should therefore be opposed. A continuation in the Executive Order of dual reporting requirements for the IOB would make it considerably more difficult to resist that type of legislation.

67. Summary of Conclusions of a Policy Review Committee Meeting¹

Washington, November 25, 1977, 10:00–11:30 a.m.

SUBJECT

Intelligence Requirements

PARTICIPANTS

CIA

Stansfield Turner (Chairman)

Dr. Robert Bowie

JCS

General George Brown

Lt. Gen. William Smith

ACDA

Spurgeon Keeny

NSC

Zbigniew Brzezinski

David Aaron

Samuel Hoskinson

Robert Rosenberg

State

Cyrus Vance

Harold Saunders

Defense

Harold Brown

Dr. William J. Perry

Adm Daniel J. Murphy

Treasury

Robert Carswell

J. Foster Collins

SUMMARY OF CONCLUSIONS

The DCI chaired this meeting with the purpose of defining and ranking substantive intelligence requirements as directed by PD-17.² An interagency working group chaired by the Deputy to the DCI for National Intelligence had prepared two requirements lists³ to stimulate PRC thinking: one of general longer-term topics of “basic continuing interest” to guide the development of Intelligence Community capabilities; the second of short-term topics the principal intelligence consumers believe of importance to policy decisions that loom in the next six to nine months.

Initial discussion focused on the topics for near term (six to nine months) intelligence production.

—Dr. Brzezinski opined that the working group list was useful and a step forward but focused almost entirely on “political analysis” rather than “political intelligence.” In his opinion, much more “political

¹ Source: Carter Library, National Security Council, Institutional Files, 1977–1981, Box 67, PRC 046, Intelligence, 11/25/1977. Secret. The meeting took place in the White House Situation Room.

² See Document 59.

³ See Document 61.

intelligence" involving factual reporting on the perceptions, objectives, plans and tactics of key leaders and governments was needed by the policymakers in addition to the normal analytical product. There was general agreement with this proposition and it was clear from the discussion that more factual, as opposed to analytical, reporting was desired on economic and military topics as well. It was decided that a list of policy initiatives that will be important over the next year should be compiled from which specific requirements for political intelligence can be derived.

—Secretary Vance agreed with the observation that traditional embassy political reporting must be strengthened, especially in countries where covert collection is limited for policy reasons, to meet the new emphasis on in depth factual reporting. He felt that it would be helpful to send the embassies the final requirements list that emerges from the PRC along with an introductory statement about what it was intended to achieve.

—Secretary Brown and General Brown both cautioned that the new emphasis on political intelligence must not be done at the cost of or result in reduced emphasis on intelligence concerning traditional national security interests relating to military defense concerns.

—Each of the principals provided the DCI with specific additions, modifications or substitutions they wished to make to the short-term requirements list. (Messrs. Bowie and Hoskinson kept book).⁴

The following major points emerged for discussion of the list of longer-term topics intended to guide the development of Intelligence Community capabilities.

—The topics were so broad as to be virtually meaningless for discussion purposes.

—An attempt should be made to reflect the relative emphasis that should be given to different areas and topics.

As soon as both lists are revised, the DCI will decide whether another PRC meeting is necessary or whether they can be approved by written correspondence between the principals.

⁴ Not found.

68. Memorandum From Michael Armacost and Michael Oksenberg of the National Security Council Staff to the President's Assistant for National Security Affairs (Brzezinski)¹

Washington, November 28, 1977

SUBJECT

NSC Staff Access to State Evening Notes and PDB Items

We are increasingly concerned that we are not being kept informed of important intelligence and policy items going regularly to the President. This problem, we understand, may soon become even more serious since the President will now be receiving selected raw intelligence items each day.

Naturally, we do not gainsay the President's right to have privileged channels of communications with his key advisors. Our concern is that the system does not adequately protect the President's interests. For example, on several occasions State has sent forward items affecting Vietnam, Korea, or Indonesia that had not been cleared with EA. The regional considerations had not been adequately addressed. Moreover, the PDB system—particularly with the added call for raw intelligence—allows the CIA upon occasion to advance parochial views and interests. We are concerned, in short, that items in our area reach the President without adequate context or perspective.

We are also concerned that we cannot effectively acquit our own responsibilities to you and to the President if we are unaware of important recommendations that are going to him on Asian matters. Insofar as State officials are convinced, moreover, that their Evening Reports are not regularly distributed to the NSC Staff, they have begun to seek more and more of their guidance from the President through that informal vehicle. We are only erratically informed of these items by the Front Office, and are frequently placed in the position of having State people quote back to us Presidential marginal notes which we have not seen. The Indochinese refugee problem is but one recent example where State did not like your memorandum and therefore used the Evening Report to go directly to the President.²

¹ Source: Carter Library, National Security Affairs, Brzezinski Material, Agency File, Box 11, NSC, 4-12/77. Confidential. Sent for action. Brzezinski wrote "RI [Rick Inderfurth] Speak to me" at the top of the memorandum.

² Brzezinski wrote "agree" beside this paragraph. The Indochinese refugee problem refers to the vast number of individuals fleeing Vietnam, Laos, and Kampuchea to find refuge in safer territories like Thailand, Malaysia, and Indonesia. Brzezinski's memorandum was not found.

If this situation continues, the NSC's role in the interagency process will be further depreciated. Our principal bureaucratic leverage with the Departments—which after all have large staffs, lines of communications to the fields, and better access to the Congress—inheres in our proximity to the President and knowledge of the information that goes to him. We feel we are losing that advantage, and thereby are positioned less effectively to serve the President's and your own needs.

RECOMMENDATION:

That you routinely circulate on an “eyes only” basis the PDB and State Evening Reports to each cluster.

Approve _____ Disapprove _____³

Alternatively, that the Front Office send to each cluster all items of interest on an “eyes only” basis.

Approve _____ Disapprove _____⁴

³ Brzezinski underlined “the PDB” and checked the “Disapprove” line.

⁴ Brzezinski changed “items of interest” to “action items” and checked the “Approve” line. Beneath the recommendations, Rick Inderfurth wrote, “*Comment:* 1. The President would *never* approve distributing the PDB to the staff. Also, remember that about 90% of the items contained in the PDB are, either sooner or later, contained in the National Intelligence Daily (NID) *which the staff does see.*” Aaron wrote “irrelevant” adjacent to this comment. Inderfurth continued, “2. With few exceptions, *action* items contained in Vance’s evening report are sent to the appropriate NSC staff member after the Pres. has commented. 3. My recommendation: That you discuss this problem with Vance + ask his views (due to Vance’s desire for confidentiality for his Evening Report channel). Rick.” Aaron wrote “weak” adjacent to comment number 3.

69. **Memorandum From Paul Henze of the National Security Council Staff to the President's Assistant for National Security Affairs (Brzezinski)**¹

Washington, November 30, 1977

SUBJECT

Better Political Intelligence—Memorandum for Stan Turner

As you requested, I have prepared a memorandum from you to Turner (TAB A) incorporating the most important ideas that have emerged from recent discussion of how to improve political intelligence production. His correspondence to you is at TAB B.²

The main thrust of the memorandum is directed at the DDO, but it has important implications for the analytical side of CIA as well. Talk about improving analysis has so far meant much more quantity but not much improvement in quality. Too much of the paper which pours out from the Agency (and from other parts of the Intelligence Community as well) is not much better than average graduate-school seminar material. It is too wordy. The policy makers it is intended to serve can't possibly find time to read most of it. The Agency has the capacity to do better, but I have the impression that Professor Bowie has not yet really tried to grasp what you have been saying about this problem.

The main problem with the DDO is that the personnel-cutting process has been so mishandled by Turner that the directorate is in danger of losing its sense of drive and creativity. The improvements you want in political reporting can help restore a clear sense of purpose and importance to the DDO, but there also needs to be some mitigation of the vindictive atmosphere which now prevails in the directorate.

There is a danger that the whole subject of improving political intelligence reporting and analysis could get sidetracked. For this reason, I included in the attached memorandum requests for three specific kinds of response from the Agency:

- (a) reviews of reporting in 30 key countries,
- (b) a list of countries where ambassadorial or other restrictions inhibit or prevent expansion of reporting, and
- (c) questions on the "hard target" area.

¹ Source: National Security Council, Carter Intelligence Files, Political Intelligence and Analysis—Reporting, Nov–Dec 1977. Secret. Outside System. Sent for action.

² Tabs A and B are attached but not printed.

In putting this memorandum together I drew on Sam's report on last Friday's PRC meeting, too.³

There remains the question of what State is or might be doing to improve reporting performance of embassies. Do you want me to draft a memorandum from you to Vance on this subject?⁴

³ Hoskinson's report on the PRC meeting on Friday, November 25, was not found, but see Document 67.

⁴ Beneath the final paragraph, Inderfurth wrote, "A very good suggestion. State should be encouraged (prodded) to improve its political + economic reporting. Rick." An unknown hand added, "ZB—YES. Hal Saunders needs help."

70. Memorandum From the President's Deputy Assistant for National Security Affairs (Aaron) to President Carter¹

Washington, December 12, 1977

SUBJECT

New Executive Order for the Intelligence Community

The SCC has completed lengthy and detailed consideration of a proposed new Executive Order for the Intelligence Community (Tab A).² Per your instruction in PD-17,³ Stan Turner and Harold Brown prepared the initial draft and then others with different perspectives—most notably the Vice President, Griffin Bell, Cy Vance, Bob Lipshutz, Stu Eizenstat, Tom Farmer⁴ and their senior associates—were involved through the NSC system in a comprehensive review of the major issues posed in this sensitive area. There was also an unprecedented degree of involvement and input at each stage by the Senate Select Committee on Intelligence⁵ and to a lesser degree by the new House Select Committee.

¹ Source: Carter Library, National Security Council, Institutional Files, 1977–1981, Box 33, PRM 11 (2 of 2). Confidential. Sent for action. "The President has seen" is stamped at the top of the memorandum.

² Not found attached.

³ See Document 59.

⁴ See Document 66.

⁵ See Document 64.

The end result is a proposed Executive Order that reflects both the letter and spirit of your reorganization decisions and which provides for the necessary restrictions on and oversight of our foreign intelligence and counterintelligence activities without interfering unnecessarily with the legitimate intelligence collection and production process. My staff worked particularly closely with the Justice Department on the critical restrictions section. The Vice President has also reviewed it, and agrees with it.

While some at State and a minority on the Select Committees would have imposed more far-reaching restrictions on certain types of activities, all agree that the proposed new Executive Order represents a responsible step forward from the existing Ford Administration Order⁶ and will provide an acceptable framework for foreign intelligence activities until acceptable statutory charters can be enacted by Congress. We can expect some criticism that we have not gone far enough but we believe we have struck the right balance and avoided restrictions that would cripple our national foreign intelligence effort.

It is not necessary to read through the entire lengthy draft but, before OMB puts it in final form for publishing, your specific guidance is needed on the following major issues:

1. The most difficult problem to handle with the Senate Select Committee was the provision for reporting to Congress. The Committee's initial demands would have amounted to a broad waiver of Executive privilege without any qualification but, after coming close to the point of confrontation, the Committee now appears reasonably content with a "compromise" position developed by the Justice Department and incorporated into the current draft. (Section 5(d)(1)–(3), p. 49). The language tracks S. Res. 400, which established the Select Committee, except for the preamble that limits its application to be consistent with applicable authorities and duties, including those conferred by the Constitution and to give due consideration to the protection of sources and methods.

The Attorney General believes that this formulation "would permit the Executive Branch to raise all current legal objections to disclosure" and to assert Executive privilege, if necessary (Tab B).⁷ Cy Vance finds this formulation acceptable but others have expressed some concerns. Harold Brown is concerned that the Administration's flexibility in dealing with the Congressional oversight committees may be limited too much and thinks that more assertive language subjecting Congressional reporting to undefined Presidential "standards" would help. On the

⁶ Reference to E.O. 11905.

⁷ Not found attached.

other hand, Stan Turner is concerned that even the reference to your right to “establish procedures” for reporting to the Select Committees goes too far and could be misunderstood and eventually cause problems with Congress.

Tom Farmer and Bob Lipshutz believe that the reporting provision to Congress should specify clearly your intentions—as expressed in a letter you sent to Senator Inouye last summer⁸—to determine yourself when IOB-reported possible illegalities or improprieties have occurred and, when corrective action is warranted, report them to Congress. In practice this probably means that only insignificant (i.e., those improprieties which did not call for corrective action) would *not* be reported to Congress. All illegal acts will be automatically reported to the Attorney General for appropriate action by the Justice Department, and also reported to the Intelligence Committees. The language in the SCC approved draft E.O. (Section 5(d)(3), p. 49) was carefully drafted to leave you the implicit latitude to determine yourself when alleged illegalities or improprieties actually have occurred, since all reporting is “under such procedures as the President may establish.” It would, however, commit you to report even those insignificant improprieties that in your judgment did not warrant remedial action.

Farmer and Lipshutz are concerned to make sure that senior Administration officials understand the procedures you wish to follow and do not, as Stan Turner says he intends, report possible abuses on their own without first advising you. They also hope to protect you and the IOB as much as possible from Congressional second-guessing. The counter argument is that this explicit approach will almost certainly be interpreted out of context as a large loophole for you to cover up from Congress your Administration’s future intelligence abuses when in fact it is hard to imagine an actual impropriety you would not want to do something about; and, if it was so trivial that no remedial action was warranted, in most such cases little would be lost in reporting it to Congress. The Select Committees will also tend to suspect the worst, and we are counting on them to negate possible criticism of other areas of the E.O. This is why the SCC members favored a less explicit approach than that set out in your earlier letter to Senator Inouye, that nevertheless implicitly protects your option to decide for yourself when abuses actually have occurred and gives up the meaningless, but politically very troublesome, exception of not reporting insignificant improprieties to Congress on the grounds that “no corrective action was warranted.”

⁸ See Document 58.

I believe *you should accept the Attorney General's formulation in entirety* on the basis of his judgment that your constitutional prerogatives are adequately protected and your retention of the implicit option to decide yourself when abuses have occurred and will be reported to Congress. This would in effect codify the status quo. To do less would destroy the goodwill we have so carefully nurtured with the Committees and which we will need as they turn more actively to the business of drafting statutory charters. It could also contribute to a public impression of possible erosion of legitimate Congressional oversight.

RECOMMENDATION

That you approve the Attorney General's recommended language on reporting to Congress. (Section 5(d)(1)–(3) p. 49)

APPROVE _____ DISAPPROVE _____⁹

2. Stan Turner, in his own words, “would like to make clear that he believes the Executive Order is seriously flawed” because it fails to give him “full control” over the National Foreign Intelligence Program Budget. PD-17 gives the DCI “full and exclusive authority” for the “approval” of the NFIP budget prior to its submission to you and for monitoring its implementation but is silent on the issue of what specific programs should be included in the NFIP. This was done purposefully since the intent was to only give the DCI budget control over predominantly “national” intelligence activities and some of the programs in the present NFIP are “tactical” and, therefore, should be removed and considered in the regular departmental budgets.

a. What seems to bother Stan most is a provision in the E.O. to the effect that he and Harold Brown must agree on which Defense intelligence programs are predominantly “national” in character and therefore put into a newly constructed NFIP, rather than starting with everything presently in the NFIP—including a significant number of clearly “tactical” programs—and agreeing on what should be removed. (Section 2(g) (3), p. 4). In my view, the problem is much more imagined than real since Harold has promised repeatedly to put everything “national” under Stan's full budget control as you intended in PD-17 and is fully reconciled to your reorganization decisions. Moreover, there is a provision in the E.O. for NSC review of the composition of the NFIP budget so that a court of appeals exists to arbitrate any differences that might arise over “national” and “tactical” in the future. This has worked well in this year's budget review.

⁹ Carter checked the “APPROVE” line and wrote in the margin, “JC. Abbreviate & simplify if possible.”

b. Stan Turner would also like to change the draft E.O. to specifically state that the FBI's foreign intelligence and counterintelligence activities will be part of the NFIP budget rather than to be subject to inclusion only upon agreement between the DCI and the Bureau as are other elements of the NFIP like the State Department's intelligence unit. While he intends to leave the FBI's foreign intelligence programs within the NFIP, Griffin Bell feels "very strongly" that the Attorney General has certain special responsibilities to protect the rights of Americans and that the more obvious potential for abuse, both in terms of public perception and institutional bias, would result from giving the DCI any irrevocable control on FBI activity in this country. Given the strength of the Attorney General's opinion and the fact that the NSC will, in any event, retain a capability to review decisions by the DCI and Attorney General in this area, I believe the FBI should not be irrevocably included in the NFIP.¹⁰

RECOMMENDATION

That no changes be made in the provisions of the draft E.O. that pertain to the NFIP budget (Section 2(g) (1)–(4), p. 4)

APPROVE _____ DISAPPROVE _____¹¹

3. There was considerable discussion within the SCC about intelligence officers participating in U.S.-based organizations on an undisclosed basis. All agree intelligence agencies should be banned from influencing the activities of U.S. organizations or spying on Americans. No one, on the other hand, objects to undisclosed participation for foreign intelligence and counterintelligence purposes in organizations composed primarily of non-U.S. persons which are reasonably believed to be acting on behalf of a foreign power (like Soviet trading entities). Nor is there any serious objection to undisclosed participation in U.S. organizations (universities, professional groups, etc.) for the purpose of enhancing professional qualifications or for obtaining non-proprietary information. The Vice President and Cy Vance, however, are troubled by CIA's operational requirement for undisclosed personnel membership in U.S. organizations for the purposes of "spotting" possible sources, contacts or recruits and for developing credible cover for subsequent intelligence activities abroad. While they reluctantly accept this requirement, the Vice President in particular is concerned that to detail it in the E.O. could cause strong criticism on this sensitive issue. Therefore, the Justice Department has drafted general language (Section 4(b) (7) p. 39) to allow for such activities under strictly limited conditions and procedures approved by the Attorney General and for published purposes only. CIA finds this requirement onerous and fears that it

¹⁰ Carter wrote "I agree" in the margin next to this sentence.

¹¹ Carter checked the "DISAPPROVE" line.

will involve them in endless bureaucratic red tape but in the end should be able to live with it. I see no other alternative.

RECOMMENDATION

That you approve the Justice Department's proposed language to cover the more controversial CIA involvements in U.S. organizations. (Section 4(b) (7) pp. 39-40).

APPROVE _____ DISAPPROVE _____¹²

4. Cy Vance tabled for SCC discussion prohibitions against the use of U.S.-funded exchange programs for intelligence purposes and against "covert destabilization" of "friendly" governments. There was no other support for inclusion of either prohibition in the E.O. The Justice Department, on behalf of the FBI, is strongly opposed to the exchange program prohibition since it would both dry up a useful source of information and provide the KGB with a secure and safe mechanism to engage in espionage in this country. State was content to have a hearing on the "covert destabilization" prohibition in view of the fact that any proposed programs of this nature would first have to be recommended by the SCC, approved by you and reported to Congress.

RECOMMENDATION

That neither the covert destabilization nor exchange programs prohibitions be included in the E.O.

APPROVE _____ DISAPPROVE _____¹³

5. Practical experience since the issuance of PD-17 last summer has demonstrated the need to clarify the relationship between the DCI's "full and exclusive" control of the NFIP budget and the PRC's new role of establishing the highest level consumer requirements for foreign intelligence. If NSC-level consumer requirements are really going to drive the activities of the Intelligence Community they must be reflected in and form the ultimate basis for budget decisions. In practice, however, two different staff bureaucracies are involved and, unless they are forced to come together at budget time there will be a continuing tendency for each to go its own way. Therefore, I believe there should be a provision in the E.O. that requires the PRC to review the proposed NFIP budget *prior* to its submission to you to consider its responsiveness to NSC-level consumer requirements. Since Turner would be chairing the PRC for these purposes it would not be an erosion of his budget authority and would help ensure that the consumer requirements-intelligence programs loop is closed.

¹² Carter checked the "DISAPPROVE" line.

¹³ Carter checked the "APPROVE" line.

RECOMMENDATION

That you approve clarification in the E.O. of relationships between the PRC “consumer’s union” and the NFIP budget process as indicated above. (Section 3(b) (1) (iv), p. 7)

APPROVE _____ DISAPPROVE _____¹⁴

6. In PD-17 you directed that the National Security Council should act as the “highest organizational entity that provides guidance and direction to the development and formulation of national intelligence activities” and assigned important new intelligence review responsibilities to both the SCC and PRC. This requires a more active NSC Staff role and involvement in the business of the Intelligence Community than in the past, especially in the budget and sensitive activities areas. This new role would be facilitated by providing an NSC Staff observer seat on the National Foreign Intelligence Board (NFIB) which is to be chaired by the DCI and meets regularly to advise him on major foreign intelligence issues, some of which later come before NSC committees for resolution. This will not be popular with the traditionalists in the intelligence bureaucracy who prefer as little White House involvement as possible in their affairs but is totally consistent with the main thrust of the Executive Order.

RECOMMENDATION

That a representative of the Assistant to the President for National Security Affairs be given observer status at NFIB meetings.

APPROVE _____ DISAPPROVE _____¹⁵

7. The whole intelligence field is still a highly politicized subject and we will want to give careful attention to how we make public the new Executive Order. It would, therefore, be most helpful if you could meet with leaders of the House and Senate Select Committees when the Executive Order is officially issued to thank them for their unprecedented cooperation and to let them share some of the credit. This is one area where we also deserve credit for working well with Congress, and it will be most helpful to have their full support in responding to the inevitable critics.

APPROVE _____ DISAPPROVE _____¹⁶

¹⁴ Carter wrote a question mark beside this recommendation. He checked the “DISAPPROVE” line.

¹⁵ Carter checked the “DISAPPROVE” line.

¹⁶ Carter checked the “APPROVE” line and initialed “JC” at the bottom of the page.

71. Note From President Carter to the President's Assistant for National Security Affairs (Brzezinski)¹

Washington, December 13, 1977

To Zbig

(1) Entire ExOrder is excessively verbose, repetitive & confusing—even worse than Ford's 11905—Many paragraphs unnecessary—

(2) Paragraph designations are impossible—3(c)(2)(iii)(A)—could be 3323(A)

(3) 2(g)(3)—(p4)—Keep present arrangement of functions—Let any changes be decided by a) DCI & dep't head or b) by me.

(4) 3(b)(1)(iv)—(p7) I see no reason for PRC to review the budget except after it is submitted by DCI to OMB. Comments to me by PRC would be o.k.

(5) Too much verbiage about NSC SCC 3(c)—I'm not sure any of it is necessary.

(6) 4(b)(7)—(pp 39–40) I suggest deletion

(7) 5(a)(2)(v)—(pp 46–47) Is this what we have now?

(8) Keeping substance as approved by me, let Bob Lipshutz help to correct problems (1) and (2) above. Expedite

J.C.

¹ Source: Carter Library, National Security Council, Institutional Files, 1977–1981, Box 33, PRM 11 (2 of 2). No classification marking. The note is handwritten.

72. Memorandum From Director of Central Intelligence Turner to President Carter¹

Washington, January 7, 1978

SUBJECT

New Executive Order on Intelligence

One provision of the new Executive Order on intelligence [Section 4 (c)] requires the SCC to make recommendations or give approval to sensitive intelligence collection operations. As understandable as it is to place some form of control over such operations, I believe that this provision may cause more problems than the added control will be worth. Specifically:

a. We all recall the instance in which you cancelled two clandestine operations because they had been disclosed to a few members of one committee of Congress. I suggest that the visibility of the SCC process and its track record on security warrants more concern than the Congress. If, to meet this danger, we drastically curtail SCC staffing procedures, we may place a very high burden on the SCC principals, depending on the number of such operations considered to be sensitive.

b. There is no way to define "sensitive" in this context, e.g., expense, location or number of U.S. persons involved all could miss the mark. What is sensitive in one country may not be in the next, at one moment not the next, etc. Also, operations approved and in train as nonsensitive can turn sensitive for a wide variety of reasons. In short, we are virtually dependent on the DCI to recognize and identify sensitive operations, no matter what the review process. What the Executive Order can do is to establish pressures on the DCI to identify sensitive operations and subject them to added scrutiny outside the Intelligence Community. This could be achieved with the following wording:

"The DCI shall report in writing to the SCC on the following types of collection programs:

(1) All national reconnaissance programs involving manned vehicles.

(2) [1 paragraph (5 lines) not declassified]

(3) Any program which by its nature might raise questions of propriety or legality. (Included in this category would be operations

¹ Source: Carter Library, National Security Affairs, Staff Material, Office, Box 134, Intelligence Charter EO 12036, 1/9/78. Secret. Carter wrote at the top of the memorandum, "Zbig & Stan—I agree w/this, but prefer to let it be omitted from E.O. & handled as a standard issued by me. J." Brackets are in the original.

along the following lines: operations involving the use of persons or organizations with whom relationships are prohibited under CIA regulations [DOI 50–10] in those instances where in the Agency’s judgment the potential intelligence gains justified a waiver of the regulation; operations in United States trust territories; operations involving cooperation with private American corporations or other private institutions [other than cover arrangements] which by their nature could raise ethical or conflict of interest issues.)

(4) Programs to counter international terrorism.

(5) Programs to counter international narcotics traffic.

“The DCI shall be held responsible for making the basic determination of which other clandestine operations shall be reported to the SCC prior to their implementation and which should be reviewed by the SCC on a periodic basis. The procedure for SCC notification shall be an oral report to the Chairman by the DCI, leaving it to the Chairman’s discretion as to whether or not to advise the Secretary of State, other members of the SCC, and/or to refer the operation to the President for approval. In addition, the DCI shall provide an annual oral briefing to the SCC on ongoing clandestine operations which he deems to be politically sensitive. The DCI shall also be required to immediately call to the SCC Chairman’s attention any ongoing operation that for reasons of compromise, possible compromise or because of contemporary political developments may cause embarrassment to the United States and/or which in his judgment may have assumed unacceptable political risks.”

This wording avoids the requirement for a specific written review process of the most sensitive operations which:

(a) Might have to be circumvented in some instances due to extreme sensitivity;

(b) Might well lead to enactment in Congressional charters of a provision for notification to Congress of all operations approved as a result of the SCC process (in the image of notification on covert actions). Note that the Intelligence Oversight Board has already asked to see all such SCC actions on clandestine operations.

Stansfield Turner²

² Turner signed “Stan Turner” above this typed signature.

73. **Memorandum From the President's Assistant for National Security Affairs (Brzezinski) and the President's Deputy Assistant for National Security Affairs (Aaron) to Vice President Mondale**¹

Washington, January 9, 1978

SUBJECT

Meeting with the President on the Executive Order for the Intelligence Community

At TAB A² is a copy of the redrafted Executive Order for you to present to the President. Also included is a draft proposed public statement (TAB B)³ that doubles as well as a summary and answers to questions the President posed on the last draft (TAB C).⁴

Some points worth making to the President include:

—This new draft is a *good faith effort to meet the President's full requirements on style, clarity, and brevity without sacrificing content*. All of his points, comments, and suggestions have been addressed. The restrictions section has been entirely rewritten and the rest of the text severely edited and to a degree, restructured. The new text is 15 pages less (*or about 30 percent shorter*) than the draft the President reviewed over the Christmas holidays.

—A *draft public statement has also been written which doubles as well as a layman's summary*. This is intended to be the President's brief, non-legalistic explanation to the American people.

—The present draft *should be acceptable to most members of the Congressional oversight committees*. All will recognize it as an important step forward from President Ford's E.O. 11905. It is detailed enough to form the Administration's basic position on statutory charters but falls short of the far-reaching restrictions that some Select Committee members want and which could cripple our national intelligence effort. Congressional support will help us defend against a certain inevitable amount of criticism from some of the public interest groups (i.e., ACLU, Mort Halperin,⁵ et al).

¹ Source: Carter Library, National Security Affairs, Brzezinski Material, Subject File, Box 30, Intelligence Reorganization 1/78. Unclassified. Sent for information. Printed from a copy that only Aaron initialed.

² Attached but not printed.

³ Not found attached.

⁴ Not found attached. For the President's questions, see Document 71.

⁵ Halperin was Director of the Center for National Security Studies.

—The present draft is *defendable in public*. It is a reasonable and responsible approach to the problem which builds on past experience and looks forward to further steps in the same direction. Combined with a Presidential summary statement, it is understandable to the uninitiated but interested people and meets the challenge of studious potential critics who are well versed in the legalisms of the intelligence business.

—All involved—Zbig, Stan, Harold, Griffin and Bob⁶—agree that the President should *endorse this improved draft in principle subject to a final interagency technical review* that there have been no inadvertent errors in the severe editing process.

⁶ Zbigniew Brzezinski, Stansfield Turner, Harold Brown, Griffin Bell, and Robert Lipshutz.

74. Memorandum From the President's Assistant for National Security Affairs (Brzezinski) to President Carter¹

Washington, undated

SUBJECT

New Executive Order for the Intelligence Community

The new Executive Order codifies and implements the major relationships between the Secretary of Defense and the DCI set forth in PD-17 (Tab A).² The original draft of the Executive Order was produced jointly by Harold and Stan, they participated actively in the NSC review of successive drafts and seem to have a common understanding about their respective roles in the future.

Under the new Executive Order, the *DCI will*:

—Develop and approve a consolidated budget composed of the national intelligence programs of all departments and agencies (80%

¹ Source: Carter Library, National Security Council, Institutional Files, 1977-1981, Box 12, PD 17 [8]. Unclassified. Sent for information. Carter wrote at the top of the page, "Zbig—OK—Let someone who is qualified double check EO for wording, legal technicalities. JC." The NSC provenance profile indicates that the date of the memorandum was January 11, 1978. (*Ibid.*)

² Not found attached. For the text of PD-17, see Document 59.

in DOD) for submission through OMB to you, present this budget to Congress, monitor its implementation and be responsible for any reprogramming actions. The interagency National Foreign Intelligence Board, which includes all of the program managers, advises the DCI on his budgetary responsibilities, and the relevant department heads are given an explicit right of appeal directly to you.

—Task all national intelligence collection systems (most of which are under DOD line management) through the new National Intelligence Tasking Center (NITC) which will be jointly manned by civilian and military personnel. Normally the DCI will control the NITC but there is a provision for you to turn over full control to the Secretary of Defense during periods of crisis or during war. The NITC will translate requirements validated by the PRC (which includes the Secretary of Defense and Chairman, JCS) into specific collection targets and assign these to appropriate intelligence collection organizations.

—Produce finished national intelligence products (estimates, memoranda and other reports) in consultation with departmental analytical centers like the Defense Intelligence Agency.

Under the new Executive Order, *the Secretary of Defense will:*

—Continue to have responsibility for day-to-day operation (including authority to hire and fire) of NSA, DIA, NRO and the intelligence elements of the military services.

—Act as executive agent for USG for all signals intelligence and communications security activities.

—Provide for timely transmission of “critical” intelligence as defined by the DCI.

—Have full tasking, budget and production responsibilities for all tactical military intelligence activities.

In short, the new Executive Order centralizes under the DCI collection tasking (during peacetime and with the direction of the PRC), budget control of all national intelligence activities and analysis for NSC-level users. The Secretary of Defense retains daily operational responsibility for all DOD intelligence programs including collection of signals intelligence, responds to national intelligence collection tasking by DCI, and has his own analytical support (DIA).

The relationship between the DCI and the Secretary of Defense is complex but both know what is expected of them. This will not, of course, guarantee success but should work satisfactorily if *both* work at it in a constructive manner.

75. **Memorandum From the President's Assistant for National Security Affairs (Brzezinski) to Director of Central Intelligence Turner¹**

Washington, January 14, 1978

SUBJECT

Political Intelligence and Analyses

After reviewing the record of the dinner meeting you hosted on October 27,² and reflecting on the discussion at the PRC meeting on November 25,³ I want to provide you with a few personal observations relating to the problem of improving political intelligence.

As I see it, the political intelligence problem has three elements: a lack of priority attention to the opportunities for overt collection; insufficient collection by clandestine means of basic political and economic information; and inadequate exploitation of information already in hand. The first of these problems should be easiest to remedy, but it is not your problem. I am taking it up separately with Cy Vance because most of this work needs to be done by embassies. The other two are primarily within your area of responsibility.

Clandestine Collection

Good analyses cannot be based on inadequate information. We need to know more about thoughts and plans of key leaders of groups in important advanced and secondary countries, how they make policy decisions and how they will react to our decisions and those of other powers. More often than not, clandestine collection is likely to be the best source of this information.

In this connection, I am concerned that [*less than 1 line not declassified*] the clandestine collection efforts go into "hard targets," especially the Soviet Union [*10 lines not declassified*]

I understand that various kinds of restrictions on clandestine collection hamper efforts in some countries. I would appreciate having a paper on this subject, describing each situation where restrictions, whether imposed by ambassadors or resulting from other factors that are to some degree under our control, limit intelligence reporting. We

¹ Source: Carter Library, National Security Affairs, Brzezinski Material, Agency File, Box 2, Central Intelligence Agency, 9/77-3/78. Secret.

² A memorandum of record of this meeting is in the National Security Council, Carter Intelligence Files, Political Intelligence and Analysis—Reporting, Nov–Dec 1978.

³ See Document 67.

can then consider whether and how some of these restrictions might be lifted or adjusted.

I look forward to reviewing the papers on political intelligence collection in the thirty selected countries you promised at the dinner meeting. Rather than wait to present these all at once, I suggest you send them to me as they are done so that I can have my area specialists review them. The papers should comment on reporting from open and non-clandestine official sources in each country with which we deal as well as clandestine collection.

Finally, considering the enormous amount of money and manpower the Intelligence Community devotes to technical collection and exploitation, I believe we should make certain that we continue to devote adequate resources to human intelligence collection. I continue to think that a PRC(I) discussion of manpower and budget resources devoted to clandestine collection would be useful. I urge you to include this on the agenda for such a meeting.

Exploitation of Information

Good information does not ensure good analysis. The Intelligence Community must find ways to sharpen and improve its analyses. I know that as a result of our meetings during the budget cycle, you and Bob Bowie are initiating a program to achieve this objective. I would like to offer my own thoughts about this problem as I perceive it from here. Specifically,

—Political analyses should be focused more on problems of particular concern to the U.S. Government. We see too many papers on subjects peripheral to our interests or offering a broad overview of a region or country that is not directly linked to a particular problem, event or development of concern to the government. These often resemble political science seminar papers rather than highly sophisticated intelligence analyses. For example, a broad paper on Soviet global political and military intentions and objectives, which can do no more than amplify views available to the policymakers from sources outside the government, is of little use. More valuable would be specific papers based on unique intelligence information and specialized analysis concerning Soviet intentions and objectives in particular areas such as arms negotiations or individual countries or regions (i.e., the Horn of Africa). Moreover, the more specific the subject, the more likely that unique intelligence sources can make an important contribution.

—Political analysis needs to pay greater attention to the future. Predicting intentions and objectives are the essence of political analysis. Too often the papers we see explain or review events in the past and give only a bare nod to the future. I would like to see more papers that succinctly set forth the facts and the evidence on a subject or

problem and then conclude with a well informed speculative essay on the implications for the future. The consumer *wants* 100% accurate crystal ball gazing by Intelligence; but we recognize this is unrealistic and unattainable. So, we *expect* and hope for thought-provoking, reasonable views of the future based on what you know about the past and present in any given situation. Above all, analysts should not be timorous or bound by convention: we may disagree, but you will perform the most useful service in forcing our attention to the future and prompting us to think about potential problems.

—Any program to improve political analyses should address the hiring and training of analysts; incentives that promote creativity, expertise, and self-improvement; and means by which well thought out though controversial views of proven individual analysts can be circulated more easily. A committee is rarely the source of insight or wisdom.

—Finally, it is my impression that Chiefs of Station often have more understanding of the political dynamics of the countries that they serve than any other American officials. Their experience abroad gives them perspective that analysts at home lack. I believe they should be encouraged to submit more frequent field assessments and also that their comments should be sought on draft analyses.

In the past, intelligence consumers have frequently failed to articulate their needs and too often have offered only blanket criticism of intelligence products. I have tried above to be specific in expressing my concerns and needs. I hope to be helpful in the future in conveying requirements and complaints in such a way as to assist you in pinpointing and remedying problem areas. I also will encourage my staff likewise to establish close working relations with the senior officials of the Intelligence Community to foster better communications on the problems and opportunities of political intelligence analysis.

Zbigniew Brzezinski

76. Editorial Note

On January 24, 1978, President Jimmy Carter signed Executive Order 12036 on United States Intelligence Activities. On that day, Carter wrote in his diary, "I finally signed the executive order for the intelligence community and expressed my confidence in Stan Turner. It was a major step in the right direction. Now we have to con-

strain the congressional committees from passing an overly restrictive intelligence charter.” (Carter, *White House Diary*, page 165) The executive order was intended to serve as an interim measure in intelligence reorganization, with the end goal of legislated intelligence reform.

Carter had advocated for intelligence community reform from the beginning of his administration. He wrote in his diary: “One of my early goals was to reorganize completely the confused intelligence community. Responsibilities were fragmented among many agencies, each one jealously guarding its independence and prerogatives. The situation in Congress—which had multiple committees correlating with the agencies—was no better. I used my executive authority to put Stan [Turner] in ultimate control of all the agencies and to merge many of them, but congressional action was needed to consummate the process.” (Ibid., page 32)

For the text of the executive order, see *Public Papers: Carter, 1978*, Book I, pages 194–214. For the text of the President’s public statement issued the same day summarizing the most important features of the executive order, see *ibid.*, pages 214–216.

77. Action Memorandum From the Director of the Bureau of Intelligence and Research (Saunders) to Secretary of State Vance¹

Washington, February 9, 1978

SUBJECT

Two Major Problems in State-CIA Relations

Two serious recent developments raise basic issues about State-CIA relations here and in the field which we recommend form the centerpiece of your next meeting with Stan Turner on February 14.² You may even wish to find an opportunity to discuss this privately with the President beforehand.

In short, the two issues are these:

—For some months, statements have come from the White House that they want “more political intelligence.” This has been discussed in several PRC and SCC meetings, and on January 14 Zbig sent Stan

¹ Source: National Archives, RG 59, Records of the Secretary of State, 1977–1980, Lot 84D241, Executive Order on Intelligence, 1978. Secret. Sent through Read. Cleared by Marks. A copy was sent to Habib.

² Minutes of the meeting were not found.

a memo³ which has the effect of asking for an increase in clandestine collection and intimating that CIA rather than the Foreign Service is the most likely source of better political intelligence. This has already given rise to increased CIA activism abroad which several of our ambassadors have reported on.

—We have now brought to light three CIA messages, previously kept from us, interpreting the joint message which you and Stan sent on relations between ambassadors and station chiefs.⁴ While we will not know the full implications of what information CIA instructed the station chiefs to withhold from the ambassadors until we can have detailed conversations with CIA, the spirit of the messages was clearly at odds with the spirit of the joint instruction. This raises fundamental questions about the Agency's good faith in their relations with us.

Both of these developments raise fundamental issues about the authority of the Secretary of State and of the ambassadors in assuring that intelligence activities are consistent with foreign policy.

We have asked to meet with you to discuss these problems. Each is laid out in more detail below.

The Thrust For More Political Intelligence

A number of discussions on this subject are brought together in the Brzezinski memo at *Tab 1*.⁵ (This is a bootleg copy of the memo, so we need to protect our sources.) This memo on top of previous comments by the President to Stan give him every reason to feel that he has a strong mandate for increasing clandestine collection against other governments even at the cost of reducing collection efforts against the "hard target countries." The memo says that the problem of political intelligence has three elements:

—a lack of priority attention to opportunities for overt collection which Zbig says he intends to discuss with you;

—insufficient collection by clandestine means of basic political and economic information; and

—inadequate exploitation of information already in hand.

In discussing the need for increased clandestine collection on the thoughts and plans of key leaders in important advanced and secondary countries, the belief is expressed that more often than not clandestine collection is likely to be the better source of the information. Zbig goes on to state his impression that "chiefs of station often have more understanding of the political dynamics of the countries that they serve

³ See Document 75.

⁴ See Document 65.

⁵ Not found attached. Printed as Document 75.

than any other American officials” and urges that they be encouraged to submit more frequent field assessments.

While no one disagrees with the desire for better political intelligence and analysis, the approach of pressing for increased clandestine collection apart from careful policy control raises serious potential problems. A new burst of CIA activism has already begun as a result at the same time that CIA has attempted to circumscribe the increased authority to ambassadors to review clandestine collection. We have had complaints from several ambassadors about CIA activities which were not appropriately cleared with them.

Apart from the question of maintaining control over these clandestine operations and assessing the risks against the gains, this thrust raises a further danger—that of lulling ourselves into the false assurance that we can totally rely on the answers produced by increased clandestine collection. The effort to collect “the ultimate five percent” of the information necessary to be sure of the intentions and reactions of foreign leaders is inherently doomed to fail. We simply cannot expect to get all the information we would like to have on which to base our decisions. Even where we do have apparently ample political intelligence, we still risk being misled when our sources—as is almost inevitable—are not fully aware of all the factors involved in the thinking and intentions of the foreign decision-makers. Thus, purloined plans are useful grist for an analyst’s mill but in themselves (especially in raw or quasi-documentary form) they can lead us astray.

Therefore, we feel that it is essential for you to assert control over this exercise. One way of doing this is to keep the ambassadors in a central position to review all collection efforts, and this is discussed below. In addition, we believe there is need for definition of what is required to improve our political intelligence and for a sophisticated review of a proper division of labor between overt and clandestine collection. Two approaches are possible:

—Most immediate would be an instruction to the field on the subject of improving reporting and on the proper uses of clandestine collection. This could be cleared with CIA and the White House, but the process could reassert your and the ambassadors’ central roles.

—A longer term approach would be to ask a high level group to review all source reporting from a number of important posts and to help us understand the limits and opportunities from overt and covert collection before we rush into an across-the-board increase in covert collection.

Ambassador/Station Chief Relations

There are six relevant formulations on ambassadors’ access to CIA material: You are familiar with PL 93–475 (Tab 2),⁶ the President’s letter

⁶ Not found attached. P.L. 93–475 includes a section that makes Ambassadors responsible for oversight of all U.S. Government personnel at a post, including intelligence personnel. See Document 65.

(Tab 3),⁷ the Joint State-CIA Instruction which you and Stan worked out on relations between ambassadors and CIA station chiefs (Tab 4).⁸ You are aware of but probably have not seen a supplemental DCI message sent October 4 (Tab 5)⁹ and two more CIA messages sent October 11 (Tabs 6 and 7).¹⁰ A juxtaposition of the relevant language from these documents is at Tab 8.¹¹

These various formulations, particularly the unilateral CIA instructions, raise several questions:

1. whether the Joint State-CIA Instruction is consistent with PL 93-475 and the President's letter;

2. whether the three CIA messages are consistent with the Joint Instruction;

3. whether CIA should unilaterally determine the classes of information a chief of station will show to the ambassador.

The President's letter (Tab 3), dated October 25, 1977, is on the public record. It says the Ambassador has "the authority to review message traffic to and from all personnel under your jurisdiction."

The Joint Instruction (Tab 4), approved by the President, was sent by State to the field on November 10, 1977, and was also sent separately by CIA to all its stations and bases. It provides that chiefs of station "are to review with the Chiefs of Mission all non-administrative communications to and from the Station, except for those messages or parts of messages which would reveal sources and methods." It further provides that the Chief of Mission can request any information withheld and that, if the Chief of Station believes he should not provide it, the matter should be resolved in Washington.

This seeming limitation on the sweeping language of the President's letter originally led us to suggest including in that letter a statement that special circumstances limiting the ambassador's access to certain communications were included in a separate instruction. It was decided, however, that this phrase would raise more questions than it answered. The judgment was also made that the ambassador's authority to request whatever additional information he felt he needed brought the instruction into conformity with the President's letter. Finally, the President cleared both the letter and the Joint Instruction.

The Joint Instruction also provides, in paragraph 6, that the President or the Secretary of State can *exempt* the CIA from any responsibility

⁷ Not found attached. See footnote 2, Document 65.

⁸ Not found attached. Printed as Document 65.

⁹ Not found attached. Printed as Document 62.

¹⁰ Not found attached. The messages are summarized below.

¹¹ Not found attached.

to inform a chief of mission about CIA programs and activities in his country. This may be even more troublesome, since it raises the specter of Chile-Track II,¹² presumably what P.L. 93–475 was designed to foreclose. When the Joint Instruction was being drafted, we argued that the “or” should be “and”, but lost. The issue seems larger today in light of the subsequent CIA messages.

There are *three CIA messages* at issue:

Admiral Turner’s October 4 message (Tab 5) was checked in draft in the Department (four of our five suggested changes were included in the message as sent). While its tone was troublesome, we felt we could live with it.

Two CIA messages were sent to the field on October 11 (Tabs 6 and 7). They were not cleared with the Department, and station chiefs were instructed not to show them to ambassadors. We only learned of their existence after the Binder article appeared last Friday.¹³ One (Tab 6) is a general comment. It states that the Joint Instruction “basically codifies procedures currently in existence.” It says that the legislative history showed that PL 93–475 does not remove “the flexibility that exists under presidential directives regarding ambassadorial responsibilities” and that the law has not nullified the DCI’s authority for protection of sources and methods. It also asserts that the ambassador’s authority under the Joint Instruction to request information on sources and methods “does not constitute authority for chiefs of station to provide such information.”

Finally, it states that the Joint Instruction “constitutes exemption to presidential letter to ambassadors.”

In sum, the message seems to interpret the Joint Instruction as an authorization to conduct business as usual.

The other October 11 message (Tab 7) gives more detailed instructions as to what will and what will not be shown to ambassadors, using cryptonym indicators (*[less than 1 line not declassified]* for material to be shown to ambassadors, *[less than 1 line not declassified]* for other material).

This instruction lists materials such as intelligence reports, assessments and sitreps as suitable for review with the ambassador, while data identifying sources, operational plans, administrative matters, and certain coded categories of material is not. A precise understanding of the significance of the message will depend on more detailed knowl-

¹² A reference to the 1970 covert action plan in Chile that was conducted without Department of State knowledge.

¹³ A reference to David Binder’s article, “State Dept. and C.I.A. Split on Envoy Role,” *New York Times*, February 3, 1978, p. A1.

edge as to just what would fall into these excluded categories, but they seem at least to be broader than what was intended by the distinction between administrative and non-administrative communications in the Joint Instruction.

CIA and NSC argue that the CIA's messages were non-controversial efforts by Agency staff to give their chiefs detailed guidance on handling material under the new instruction. This would have been unobjectionable in theory. What we find troubling are (a) the tone of the messages and instruction not to discuss them with the ambassadors, (b) the fact that there was no discussion of the last two with us, and (c) the scope of the messages excluded from review. Essentially what the CIA did was to send the positions it took in negotiations with us to the field as the interpretation of the instruction. At the very least, that was less than straightforward.

Now it seems to me we have two choices:

1. We could ask the Agency to rescind their unilateral messages and negotiate detailed guidance on what will and will not be shown to ambassadors to be sent out with our clearance and to be shown to ambassadors.

2. We could re-open the issue of ambassadors' access to all communications, say that this recent experience shows that limited access will not assure his being "fully and currently informed", and insist that the joint instruction be amended as follows: "The Chiefs of Station are to show the Chiefs of Mission all communications to and from the Station with only source identification and operational details excised." We could also propose that the Joint Instruction be amended to require notification to the Secretary of State whenever the CIA is exempted from the requirement to keep a Chief of Mission informed.

We believe that disclosure of the secret CIA messages almost requires us to recommend the second course to the President. We tried to accommodate CIA's concerns and they did not deal squarely with us. A law and a Presidential instruction are involved. Moreover, the discrepancy between the President's forthright public letter and the more restrictive position of the secret messages could be politically troublesome for the President if the issue is pursued.

We would prefer to see this handled quietly and hopefully with Stan's cooperation, but we see little likelihood we could take the first course and trust the Agency to play it straight.

State-CIA Relations in Washington

However the above choice falls, it seems to us that now is the time to launch our long-proposed effort to regularize meetings involving the State policy bureaus, the CIA Division Chiefs, and INR. What we envision are parallel memos from you and Stan to the Assistant

Secretaries and to the CIA Division Chiefs instructing them to meet on a regular basis and defining what CIA must tell the Assistant Secretaries and what it can properly withhold. There will probably be more resistance to the effort to codify what must be divulged in this exercise than there was in the discussion of the joint instruction on ambassador/station chief relations, but it seems to us that the effort is important.

Recommendations

1. That you find an opportunity to discuss privately with the President your concern over the impetus given to increased CIA collection without opportunity for full policy control of the exercise. Specifically that you:

—confirm that no request from the President (or Zbig) for better intelligence was intended to lead to CIA activity outside your control and the ambassadors’;

—seek his agreement to propose to Stan that you develop an instruction to ambassadors on the need to improve both overt and covert collection and on a division of labor between the two approaches;

—that, if you are satisfied with the President’s understanding and support, you raise the subject with Stan and promise to produce a draft message for discussion later in the week.

2. That, on the secret CIA messages, you make the following points to Stan:

—Revelation of the secret CIA messages re-opens the question of the ambassadors’ access to communications. You see little choice now but to propose a change in the joint instruction as described above.

—Before raising this with the President, you wanted to see what Stan’s own views were.

3. A separate memorandum on the proposed Special Presidential Intelligence Committee is attached at Tab 9.¹⁴

¹⁴ Not found attached.

78. Letter From Director of Central Intelligence Turner to Secretary of State Vance¹

Washington, February 23, 1978

Dear Cy:

Out of a concern that the discussions between our staffs on the State-CIA "Treaty"² may not be progressing as dispassionately as I would hope, and because I am deeply concerned at the recent turn of events, I would like to lay out my views on this critical subject to you privately.

There is no relationship more important to the intelligence community than that with the Department of State; there is no one, after the President, whom I would rather accommodate than you. Yet, despite what I consider a substantial effort on my part to foster that relationship through agreeing to the "Treaty," selecting an Ambassador as my Deputy,³ and hopefully cooperating in other ways, the State-CIA relationship seems imperiled.

Let me recount what has happened as seen through my prism. Once the "Treaty" was signed, the burden of change was on us. Because the changes called for were in a most delicate area, the secrecy of very sensitive and risky operations, I felt that amplifying instructions to CIA Chiefs of Station were necessary. The staff's draft of amplifying instructions to be issued in my name was not to my satisfaction so I drafted them personally. After clearing it with Hal Saunders, it was sent to the Chiefs of Station with instructions to show it to Ambassadors. I hope that you can take time to read that message (enclosed)⁴ because I believe it leaves no question that I expect the Chiefs of Station to observe the spirit as well as the letter of the "Treaty." The message was purposely forceful to ensure compliance with this change of long-standing policy.

My staff then recommended that the Chiefs of Station be provided with specific procedural guidance. It was not their intent that this message undercut the "Treaty." We were, however, adjusting existing procedures and attempting to delineate where changes were and were

¹ Source: National Archives, RG 59, Records of the Secretary of State, 1977-1980, Lot 84D241, Executive Order on Intelligence, 1978. Secret.

² See Documents 65 and 77.

³ Frank Carlucci had served as Ambassador to Portugal before becoming Deputy Director of Central Intelligence.

⁴ Not found attached. Printed as Document 62.

not required. Perhaps because the Agency was fundamentally in agreement with the existing procedures, a defensive tone crept in. I reworked their draft substantially but its tone was not changed adequately. I assume the responsibility for this.

Finally, the staff originated the famous "View/Mum" message, designed to establish a system permitting Washington to know at a glance what had been called to the Ambassador's attention. I do not recall whether or not I saw this in advance, but I did know of its existence soon thereafter. Although it has now been cancelled, I supported, and still do support, this mechanism enabling Washington to monitor that which has been shown to an Ambassador, for if a Station Chief neglects to call a given message to the Ambassador's attention, we can ask him to do so.

In sum, I permitted the poorly worded message to go out. While I do not believe that it has led our people to undercut the agreement or my specific admonishment as to its spirit, an unfortunate air of suspicion has been fostered, particularly among those who read only the staff messages and not the one which bore my personal identification.

The question is "Where do we go from here?" Really there are two issues: What will best serve the Government's needs? What can be done to allay the suspicion that has been aroused?

On the first issue, the question is "To what depth is it crucial that an Ambassador know CIA activities?" The agreement is explicit: Ambassadors should know the scope of CIA activities. My supplementary instructions are also explicit: Ambassadors will not be surprised. Yet why not tell them everything? First, because the scope, or nature, of a CIA activity will usually be adequate for an Ambassador to judge that activity's equities. Operational mechanics or the identity of agents are details which usually will not change those equities, but will place on the Ambassador the added responsibility of their concealment. Concealment of information is an art in itself. Without specialized knowledge of hostile collection techniques, defense against inadvertent disclosure of meaningful information is greatly reduced. In view of the fact that lives are sometimes at stake, Ambassadors would assume an unnecessary burden of responsibility by knowing every detail. In some instances the risks which foreign agents are asked to take for us are so great that my case officers would demur if someone other than their Chiefs of Station, and perhaps one or two individuals at Headquarters, had access to the full details.

Second, public knowledge that the CIA was required to reveal the details of all its activities to Ambassadors would be a severe if not fatal blow to our ability to recruit foreign nationals willing to commit

treason against their own government for the United States. We are already in a crisis of confidence around the world because of the numerous leaks of CIA clandestine relationships. A major issue with the Congress this year will be the degree of detail we will be required to provide to them on clandestine collection operations. There was a last-minute crisis over Executive Order 12036 in averting wording that would require exposure of every sensitive clandestine operation to the full SCC. Whether it is two reliable committees of Congress, our trusted Ambassadorial corps or the high-level SCC, further sharing of critically sensitive, operational secrets and the inevitable publicizing of that policy would, in my view, weaken our clandestine activities for a very long time. Even dampening 30 years of mistrust and suspicion by a relatively few Ambassadors is not worth the price.

The instances in which an Ambassador would find it necessary or worthwhile to read more messages concerning intelligence activities than are now being offered to him would be few. I intend to ensure that such will be the case by continuing to insist that our Station Chiefs live by the spirit of our agreement. I see no way that we can ever share everything we do; such is the necessary consequence of intelligence work. As long as one message is withheld, some suspicion will be aroused. We need to build toward a mutual confidence that the terms of our agreement, which I believe adequately protect Ambassadors and on-going intelligence activities, are fulfilled.

How can that best be achieved? If we amend the agreement we will pay the consequences of creating the *perception* and perhaps the fact of much greater risk to our operations, while not satisfying the Ambassador who is suspicious because he still will not see everything. Trust is justified and can be built over time.

To renegotiate an agreement less than four months after it is put into operation would in effect suggest we deliberately tried to undermine it, and this is not the case. I suggest the correction be appropriate to the problem, which arose from a distorted interpretation of well intended but egregiously worded instructions. While we can always clarify the agreement, what we decided upon after extended negotiations is basically sound. I intend to put my full weight behind the agreement and propose a joint message to this effect.

In this way we can refute the distortions and build a solid relationship based upon an atmosphere of mutual trust. In doing so, my Chiefs of Station will be again assured that there was never an intent to undermine a word of our agreement or my supplementary instructions, and your Ambassadors will be assured that they have firm rights

which we both support. A draft joint statement to our field organizations is enclosed for your consideration.⁵

Yours,

Stansfield Turner⁶

⁵ Attached but not printed. For the text of the joint statement sent to all diplomatic posts, see Document 81.

⁶ Turner signed “Stan” above this typed signature

79. Presidential Directive/NSC-31¹

Washington, February 24, 1978

TO

The Vice President
The Secretary of State
The Secretary of Defense
The Attorney General
The Director of Central Intelligence

SUBJECT

Technical Surveillance for Foreign Intelligence Purposes (S)

The Attorney General has advised me that the President has the constitutional power to approve warrantless use of locational “beepers,” and concealed car cameras (as described in his memorandum of February 2, 1978)² which are used within the United States or directed against U.S. persons abroad if the person under surveillance is an agent of a foreign power. He has also advised me that those constitutional powers authorize approval of the use of minimal trespasses and seizures of personal property necessary to the installation, use and removal of the devices.

¹ Source: Carter Library, National Security Council, Institutional Files, 1977–1981, Box 1, PD-NSC 1-32 [2]. Secret.

² In a March 1 memorandum to Mondale, Vance, Brown, Bell, and Turner, Christine Dodson, NSC Staff Secretary, noted that the Attorney General’s memorandum was actually dated February 9, not February 3. The memorandum was not found.

I am satisfied that circumstances may arise which would be sufficiently compelling to justify use of these techniques for foreign intelligence and counterintelligence purposes, including international terrorism. Therefore, pending the enactment of legislation in this area, I delegate the power to the Attorney General and his successors in office, to approve, without prior judicial warrant, use of locational “beepers” and concealed car cameras, pursuant to the following standards and procedures:

1. Warrantless use of these techniques in circumstances where a warrant would be required in a criminal case will, except in emergency situations, only be authorized upon the personal approval of the Attorney General (or Acting Attorney General), and at the request of the head of the Department, Agency or Bureau desiring to use the technique.

2. Approval will not be granted unless the Attorney General (or Acting Attorney General) has satisfied himself that:

a. the requested surveillance is necessary to obtain significant foreign intelligence or counterintelligence information;

b. there is probable cause to believe the person who is the target of the surveillance is an agent of a foreign power;

c. the minimum physical intrusion necessary to obtain the information sought will be used; and

d. the surveillance does not involve the breaking or non-consensual entering of any real property.

3. Where necessary, the request and authorization may be oral, but shall be followed by written confirmation as soon as possible.

4. No surveillance shall continue for over 90 days without the written authorization of the Attorney General (or Acting Attorney General).

5. In addition, I authorize the Attorney General to adopt procedures governing the surveillances authorized herein to ensure their legality and propriety, which procedures shall provide for authorization in emergency situations and for the minimization of the acquisition, retention, and dissemination of information concerning United States persons which is not necessary for legitimate Government purposes.³

Jimmy Carter

³ Carter handwrote a sixth point: “Notify me when such surveillance is authorized.”

80. **Memorandum From Paul Henze of the National Security Council Staff to the President's Assistant for National Security Affairs (Brzezinski)**¹

Washington, March 23, 1978

SUBJECT

Covert Action and the "In Extremis" Doctrine (U)

No foreign policy concept has been more *persistent* in this Administration *and more mistaken* than the "in extremis" approach to covert action. I recall Cy Vance at one of the earliest SCC reviews of covert activity in February 1977 stating that he did not want anyone to think that he was *totally* against covert activity—but he felt we should engage in it *very seldom* and only in *limited fashion* and under the *most unusual circumstances when fundamental U.S. interests were in serious danger*. He went on to say that he felt we should maintain *some* covert capability but we should use it *very seldom*. This Vance view was readily accepted in State; we hear it all the time. It fits comfortably into a broader State approach to foreign policy—the notion that whether *action* is overt or covert, it should always be minimal, (if it cannot be avoided at all) taken only after long deliberation and delay and never be very comprehensive or sustained. *Suaviter in modo; suaviter in re! Pas trop de zèle!*² Unfortunately the Vance view of covert action has also been echoed over and over again by other Administration spokesmen and there is still a sizable—though apparently contracting—body of opinion in Congress which shares it. (C)

Not only is this view mistaken, it is *dangerous*. If one were to apply the same principle to the practice of medicine it would go something like this: do not treat the patient until he is near death; then spare no effort to demonstrate that you have tried to save him! Covert action becomes a form of extreme unction—it may save the soul but the body perishes; but at least the next of kin feel virtuous . . . (U)

A great deal was learned from a generation of covert action experience. These were some of the lessons:

- The sooner you begin to work on a potential problem the better are your chances of success.

¹ Source: Carter Library, National Security Council, Institutional Files, 1977–1981, Box 103, SCC151 Intelligence Charters 3/27/79. Confidential; Sensitive; Outside the system. Sent for action.

² Latin for "Gently in manner; gently in deed." French for "Not too much zeal!"

- Careful preparation reduces costs and risks.
- Effective covert action must be based on solid knowledge—both of the situation you are working on and the people you use to work on it; i.e. you need intelligence.

In other words, an ounce of prevention may be worth many pounds of cure. There are other lessons too:

- Covert action need not be taken by Americans—it may be more effective if we use other nationalities as action instrumentalities.
- Various forms of institution building are often especially effective as covert action techniques.
- There are different degrees of covertness in covert action—sometimes it is only the impetus that needs to be kept secret; sometimes the funds; sometimes everything but the final result; occasionally even the final result. (C)

If you wait until the last minute to take covert action (or any kind of action for that matter) you are much less likely to do it well—you are also likely to spend (i.e. waste) much more in money and manpower than you otherwise might do and you greatly increase the risk of (a) *exposure* and (b) *failure* because of haste and lack of preparation. (U)

The never-large and (compared to other U.S. Government programs) never costly CIA covert action structure that was built up in the 1950's and continued through the 1960's, but which has since been largely disbanded, was always far from perfect but a great deal was learned from practice and a wide variety of *flexible* capabilities was developed. Covert support of organizations ranging from labor unions, professional associations and student groups [2 lines not declassified] and many kinds of training and research organizations provided a capability for sending experts in to any area or situation to diagnose problems, size up action opportunities and assess people with whom we could work. Many of the most effective people used for these tasks were *not Americans* [less than 1 line not declassified] (C)

Exposés, self-righteous clamor, congressional action and various kinds of wilful self-emasculatation have deprived us of almost all these capabilities. About all that is left is a worldwide press-placement network, a few consultants and an over-age platoon or so of PM types. Calls for “covert action” in recent years have often resulted in not much more happening than insertion of an article in a [less than 1 line not declassified] newspaper, e.g., as a means of “countering” Communist penetration of the Horn of Africa. This may foster the comforting illusion that we are doing something about a situation we don't like but real impact on events has been next to nil. And to require a Presi-

dential Finding to do even this kind of thing reduces the concept to banality.³ (C)

Another part of the current covert action problem is the persistent *illusion*—still very strong in State—that there are hundreds if not thousands of officers in CIA thirsting to undertake covert programs in every corner of the world: to overthrow governments, commit assassinations, manipulate politicians, foment riots and embarrass and harass Communists and other undesirable elements. This assumption is utterly false. *CIA has very few covert action personnel left.* A large portion of its most experienced officers have been fired or retired and those who remain have little stomach for taking risks. It would be hard to find a CIA operations officer who has not personally experienced the embarrassment which exposures and revelations have caused for field agents (including at times their imprisonment or death) and the reluctance of foreign intelligence services to cooperate fully with us when they fear their collaboration will be exposed and cause them embarrassment, or worse, in their own country. Concepts of responsibility and honor are as high among CIA officers as among any group in the U.S. government. For this very reason, they can no longer be persuaded to display enthusiasm and ingenuity in devising covert action plans when they are not confident of their ability to execute them effectively. *Stan Turner gives the impression of greater covert capabilities than CIA actually possesses.* This may be in part because he is reluctant to admit the damage his personnel policies have done to the DDO; it may also be that he actually understands so little of the prerequisites for effective covert action that he does not realize how limited his Agency's covert capability has become. (C)

CIA can still muster some covert capability, but its resources are severely limited and we should not delude ourselves into thinking that it can undertake very much, or can sustain several programs over any period of time without substantial augmentation of resources and talent. (U)

In time, and with proper leadership, a genuinely effective covert action capability can be built up again in CIA. The current trend is still downward and a marked further decline will occur at the end of this calendar year when another wave of retirements occurs. (U)

There are three prerequisites for reestablishing a real covert action capability in the U.S. Government:

³ The Hughes-Ryan Amendment to the Foreign Assistance Act of 1974 (P.L. 93–559) amended the Foreign Assistance Act of 1961. It requires that a Presidential “finding” be submitted to the appropriate congressional committee in order to secure the appropriation of funds for covert actions. It also included provisions that required the President to report all covert actions to specified congressional committees within a specific period of time.

(1) abandonment of the “in extremis” doctrine and quiet reestablishment of the principle that covert action is a regular part of the spectrum of foreign policy actions for which the U.S. Government maintains permanent capabilities.

(2) Repeal/revision of present restrictive legislation and extensive reporting requirements which almost guarantee that covert action efforts, even those of modest and preliminary (i.e. preventive) scope, will become public knowledge.

(3) Restoration of CIA capabilities to plan and execute covert action programs on a continuing basis; provision for retention, recruitment and training of talented officers and creation of a working atmosphere which brings the best in creativity and performance out of them. (C)

From these prerequisites other actions follow naturally: ambassadors must be deprived of the veto power they now have over covert action planning and preparatory effort as well as the authority they now have to limit relevant intelligence collection; the identity of CIA officers must be protected by legal safeguards. (C)

Unless the above steps are taken not only will the remaining slender covert action capabilities of the USG continue to atrophy; covert action undertaken in response to urgently felt emergency needs will in all likelihood be ineffective and in some instances may prove to be politically embarrassing. (U)

81. Telegram from the Department of State to All Diplomatic Posts¹

Washington, April 8, 1978, 0213Z

90943. For Amb and Chief of Station from Secretary and DCI. Subject: Relations with CIA. Refs: (A) State 257648 (1977) (B) Director [*message indicator not declassified*] (1977).²

1. It has been six months since we issued the joint instructions contained in Reference A. It seems appropriate to review with you, in

¹ Source: National Archives, RG 59, Records of the Secretary of State, 1977–1980, Lot 84D241, Executive Order on Intelligence, 1978. Secret; Roger Channel; Special Handling. Drafted by Read (M), Mason (M), and Carlucci (CIA); cleared by Jeffrey Smith (L/PM), McAfee (INR), and Turner (CIA); approved by Vance. The telegram bears a stamp that reads “CV.”

² See Documents 65 and 62, respectively.

general terms, issues that have arisen under that instruction and to issue some clarification.

2. Since the instruction was issued, we believe that State and CIA have worked more closely to develop the kind of information which our government needs in order to face the dangerous situations in the world today. You are to be commended for your efforts in this matter. However, some uncertainty remains. A story appeared in the press which led the Congress to make inquiries about how P.L. 93–475,³ the President's letter,⁴ and the joint instructions have been implemented. In particular, questions have arisen about the relationship of P.L. 93–475 to the DCI's responsibility to protect sources and methods as discussed in paragraph 4 of the joint instruction; and about the meaning of the term "administrative communications" in interpreting paragraph 7. Those paragraphs are clarified below.

3. As indicated in Ref B, the DCI recognizes the need for the Chief of Mission to be fully and currently informed and it is his policy that the Chief of Mission never be surprised. The DCI has sent a cable to all Stations reaffirming this and his intent to abide by the letter and spirit of the joint State/CIA instruction.

4. The following comments are furnished to amplify paragraph 4 of Ref A:

It is vital that such sources and methods be protected. Whenever the circle of persons with knowledge about a particular source or method is widened, the risk of compromise increases. Thus it is incumbent on Chiefs of Mission to be certain that there is a genuine need for them to have detailed information on sources and methods before they ask for it; and, once they know, to give that information adequate protection. The DCI is charged by statute, "under the direction of the NSC" with the responsibility "for protecting intelligence sources and methods from unauthorized disclosure". Such disclosure in order to keep a Chief of Mission fully and currently informed pursuant to PL 93–475 is authorized as prescribed in paragraphs 6 and 7 of the State/CIA instruction.

5. For the purposes of interpreting paragraph 7 of Ref A administrative communications are defined as communications which consist entirely of information relating to the routine administration and internal management of CIA, its officers, employees and Stations. Included are such matters as personnel matters (pay, allowances and leave, fitness reports, travel of employees and dependents subject to the provisions of paragraph 6 F., training, etc.), medical and other personal information on officers, employees and dependents, logistical support

³ See footnote 13, Document 77. The relevant section of P.L. 93–475 is quoted in Document 65.

⁴ See footnote 2, Document 65.

for CIA Stations, CIA inspector general reports and related traffic, and physical security information. Administrative messages may also include certain information concerning a United States person, the dissemination of which is affected by E.O. 12036,⁵ guidelines issued by the Attorney General to implement E.O. 12036, or the Privacy Act. An example of such information would be information about a United States person acquired overseas by electronic surveillance which is being referred to CIA Headquarters for a determination as to whether it must be “minimized” (i.e. destroyed) or whether it may be retained or disseminated. Any information contained in any administrative message which has implications for foreign policy, relations with the host country, or management of the Mission (as distinguished from internal management of the Station) may be reviewed by the Chief of Mission.

Vance

⁵ See Document 76.

82. Telegram From the Department of State to All Diplomatic Posts¹

Washington, April 8, 1978, 1929Z

91048. For Chief of Mission from the Secretary. Subject: Improving Reporting and Analysis.

1. The President wants to sharpen the responsiveness of foreign reporting, including intelligence gathering, to the needs of those who make and implement policy. Abroad he looks to you to do this as his personal representative in your country of accreditation.

2. As one step toward more responsive foreign reporting, the President has directed in Executive Order 12036 on Intelligence Activities that the NSC Policy Review Committee itself periodically review and set national intelligence information priorities. The members of that

¹ Source: National Archives, RG 59, Records of the Secretary of State, 1977–1980, Lot 84D241, Executive Order on Intelligence, 1978. Secret; Roger Channel; Special Handling. Drafted by Saunders, Read, Mason, and Galloway; cleared by Theodore Heavner (INR), and McAfee; approved by Vance.

committee for this purpose include the Secretary of State, the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, the Director of Central Intelligence and the Assistant to the President for National Security Affairs. That committee has approved two lists: (A) a list of issues of current concern to the policy makers and (B) a list of subjects which require continuous attention.² The lists will be sent to you in a separate message.

3. As another step, the President has asked that Chiefs of Mission as his personal representatives actively exercise their overall responsibility for reviewing and improving reporting and analyses from their Missions. As I indicated in my message on reporting last June (77 State 131292),³ the focus should be on quality, not quantity. I want to share with you the current thinking here on what is needed. Of course, in many cases these needs are already being met, but everyone can review efforts to see where an even better job can be done.

4. The need as it is presently felt here is for more precise information on and analyses of (A) the objectives and intentions of foreign leaders, particularly toward the US, and (B) the basic political and economic factors which affect their governments' ability to carry out their policies. More specifically, we are interested in foreign leaders' views of US intentions, strengths, weaknesses; and, conversely, their own ability to achieve their own objectives. In other words, we are interested in knowing as intimately as possible the basic thinking of foreign leaders and what will determine their actions. We need both your analysis and the evidence you are using in as concrete a form as possible.

5. The kinds of questions that are helpful to keep in mind include these:

—Thinking of host country officials, particularly their underlying motives and goals: "What do they really want; why; how do these fit in with US objectives; what will they settle for?"

—Likely future developments and the potential impact on US interests: "What comes next, how will it hit us?"

—How the US can influence developments, what we can and should do to meet anticipated developments: "How can we get a handle on the situation?"

—Host country response to future US moves and policies: "If we do this, what will they do?"

² See Documents 61 and 67. The revised lists of national intelligence topics are attached to a memorandum from Brzezinski to Turner, February 23, in Carter Library, National Security Affairs, Staff Material, Office File, Box 32, INT Documents: #800s–900s: 2/78.

³ See Document 45.

—Presenting all developments against a backdrop of US interests and policies: “How are we in the picture?”

6. We recognize that the key to pointing your reporting at the needs in Washington is to have an always current picture of exactly what those needs are. This can be done only through a continuing dialogue between the desks and bureaus here and your posts. I am asking the Director of INR, the Assistant Secretaries, and others with equivalent responsibilities here to give their attention to improving this dialogue and their feedback on your reporting. The Department will make every effort to reflect the foreign affairs informational and analytical needs throughout the government to you. A good rule of thumb is to try to put yourself in the place of the President and his advisors, keeping always in mind not only direct US interest but also the worldwide context in which your reporting must be read and acted upon.

7. It should be understood that none of the above is meant to curtail the timely reporting of the facts of important developments in your host country. We continue to need to know what is happening, as well as why it is happening and what it means for us.

8. Taking the goals and objectives for your country, the reporting priorities articulated by the Policy Review Committee, and the suggestions of this instruction into account, you should review the USG reporting program in your country with the appropriate members of your Country Team (including any plans of your Chief of Station to increase collection against host country targets) and ensure that your resulting decisions allocating reporting responsibilities among them with respect to your country and other countries (if elements of your Mission report on third countries) are clearly understood by the appropriate Country Team members and shared with the Department.

9. In most cases, the bulk of required information will be available overtly through the normal diplomatic activities of your Mission’s staff, which should be the primary basis for overall reporting from your country of accreditation. In those cases where desired information may exist but is not obtainable through normal diplomatic means, clandestine collection may be considered. In rendering judgment as specified in paragraphs 6 and 7 of State 257648⁴ as to whether or not clandestine collection should be attempted in a given case, such factors, as the importance of the desired information, its probable availability, the feasibility of acquiring it, and the risks attendant upon its collection by clandestine means, particularly in terms of sensibilities of host government officials should be weighed by you and the Chief of Station.

⁴ See Document 65.

Your direction of the USG reporting effort in your country will be guided by PL 93–475, the President’s instructions to you in his October letter (State 256085)⁵ and by State 257648.

Vance

⁵ See footnote 2, Document 65.

83. Memorandum From Samuel Hoskinson of the National Security Council Staff to the President’s Assistant for National Security Affairs (Brzezinski)¹

Washington, April 26, 1978

SUBJECT

Improving Political Intelligence

As you requested, Stan Turner has provided a status report on the measures being taken to improve political intelligence and analysis in response to your memorandum of January 14. (Tab A)² Paul, Rosie³ and I have all reviewed it.

BACKGROUND

As background, you should be aware that your January 14 memorandum created quite a stir within CIA. It came, of course, at the nadir of the decline in morale brought on by the disruption of Turner’s internal reorganization, firings and insertion of inexperienced top management. To the working level in both the Clandestine Service and analytical corps it was an affirmation that someone “up there” was really taking their efforts seriously and was trying to help in a construc-

¹ Source: Carter Library, National Security Affairs, Brzezinski Material, Brzezinski Office File, Box 97, Intelligence (Improvement Issues), 1978–1980. Secret. Sent for information. In the margin, Dodson wrote, “ZB: I spoke to a group (31) of *mid-level* CIA analysts. The first question was about how seriously did you take your memo, how much follow up was there going to be. Very enthusiastic. Incidentally, most of them had copies; I was the only one who had not seen it! Christine.”

² The status report was not found attached. For Brzezinski’s memorandum, see Document 75.

³ Paul Henze and Robert Rosenberg.

tive manner. In short, it had a therapeutic effect on the troops who know that your critique is right and, at least momentarily, shook up the entrenched bureaucrats who usually manage to stifle such thinking before it becomes a threat to their "proven" way of doing business.

The January 14 memo also somehow (mysteriously?) got to the State Department even though it had only been officially sent to the DCI.⁴ Among the more suspicious types at State it was viewed as an attempt by you to push CIA into the guarded preserves of the Department for political reporting. This is one of those old hoary interagency conflicts that never seem to die and has always plagued attempts to improve political reporting in the past. The hard fact, of course, is that there is more than enough complementary reporting for the CIA Stations and Embassy Political Sections to do and the good Ambassadors know it. The others must be prodded!

There is also Congressional awareness of your critique and talk in the Select Committees of their following up on your initiative. This will not be unhelpful if we are to sustain the momentum we have induced.

STATUS REPORT

The status report addresses all of the major points in your critique, albeit a bit defensively. It is a model of good writing from a technical standpoint but, like so much of the Agency's analytical products, it conveys no sense of enthusiasm.

It is clear to me that despite reorganizations and Bob Bowie, CIA's analytical element is still infected with the "current intelligence" syndrome. While a lot of lip service is given to "breakthrough" analysis, "over-the-horizon assessments," and "interdisciplinary estimating," NFAC's management still clings to the newspaper reporting approach of serving the policymaker. They hear you talking (and Kissinger, Schlesinger and others before you) but down deep refuse to make a full commitment to the new era of a more scholarly approach to foreign policymaking. Hence, the "new" improvement measures cited, while certainly in the right direction, in most instances amount to little more than tokenism and in fact have been talked about for many years.

If we are skeptical, it is only because we have seen the same senior management team say the same things before without anything really changing. I (Hoskinson) know them all personally and spent too many years in that deadening intellectual environment to believe that mere harassment from the White House will make a fundamental difference. Short of virtual elimination of the top echelon of NFAC management—

⁴ An unknown hand drew two lines next to this sentence in the left-hand margin. See Document 77.

much of which is superfluous—we can only hope for incremental and marginal improvement at best within the lifetime of this Administration.

CLANDESTINE COLLECTION

The response to your critique of clandestine collection is almost pathetic.

—To your call for more clandestine collection about the political intentions and dynamics of key countries comes yet another promise of “clandestine collection plans” for 30 key countries (but only two have been completed since October!!) and assignment of [*name not declassified*] (the completely inexperienced Turner crony and some say inept new Deputy for Collection Tasking) to review all forms of collection for each of the 30 countries.

—To your questioning of the meager returns from the “hard target” effort against the Soviets comes the answer “you may be hoping for more than is likely to be possible” and, in any event, “the full dividends . . . may not have paid off yet.” But, alas, the PRC(I) consumers union (which Turner has totally neglected except when you prod him into a meeting) and [*name not declassified*] implementation of the National Intelligence Tasking Center (which virtually everyone but Turner [*name not declassified*] are highly skeptical about) will help, as will “relocation” of some dwindling clandestine assets.

WHAT NEXT?

We should continue to keep up the pressure on this problem wherever and whenever there are suitable opportunities. Something important has been started—especially at the working levels—and we can help encourage this enthusiasm to bubble up to the senior management level.

Turner has provided us with an ideal opportunity by offering in his status report briefing sessions for you with his “clandestine service people” and “key analytic leaders” to discuss “what they feel they can do with regard to your concerns on political analysis.” *You should take him up on this as soon as possible.*

Some members of the NSC Staff have established patterns of frequent consultation with both analysis and DDO officers on collection and analysis relating to their area of interest. We should not only encourage continuation of this practice but selectively broaden it. On key issues we should more frequently levy direct requirements for both clandestine collection and analysis on the Agency. It would also be useful to request specific assessments from Chiefs of Station. *We believe you should bring these thoughts up at our weekly NSC Staff meeting.*

Another exchange of memoranda with Turner will not have much effect because he is not close enough to these problems himself to

appreciate what you are driving at and bristles at the very thought of your telling him how to run his ship. It would be useful for you to explain your concerns, however, to Frank Carlucci. The improvements which we want must be made at the upper working level—where there is most receptivity to what you are seeking. More dialogue, direct meetings and more frequent requests for specific information and analysis will establish habits of consultation and better understanding of what is needed. This approach will also enable us to avoid entanglement with the excessive layers of supervision and review—of which the [name not declassified] operation is the most striking example—which Turner has set up but which contributes virtually nothing to the production of better intelligence.

Finally, to help maintain momentum, and assure that pressure is kept on the process until substantive results are attained, *you should tell Turner that you would propose a PRC(I) meeting in the near future to have the consumers constructively comment on his Attachment I⁵ "Improving the quality of analysis" from Bob Bowie.* Turner suggests this will be done in his memo. *Don't let the opportunity fade away.*⁶

⁵ Reference to an attachment to the status report.

⁶ Aaron wrote below this, "I agree. DA." Inderfurth wrote underneath the final sentence, "Sam, ZB wants a memo based on this last paragraph to send to Turner. Full speed ahead. Rick."

84. Summary of Conclusions of a Special Coordination Committee Meeting¹

Washington, May 15, 1978, 4:30–6:00 p.m.

SUBJECT

Legislative Charters for Intelligence Community

PARTICIPANTS

<i>State</i>	<i>White House</i>
Ben Read, Under Secretary for Admin	David Aaron (Acting Chairman)
Herbert Hansell, Legal Adviser	NSC
<i>Defense</i>	Samuel Hoskinson
Secretary Harold Brown	Robert Rosenberg
Deanne Siemer, General Counsel	<i>CIA</i>
<i>JCS</i>	Admiral Stansfield Turner
General William Smith	Frank Carlucci, Deputy Director
<i>Justice</i>	Tony Lapham, General Counsel
Attorney General Griffin Bell	<i>OMB</i>
John Harmon, Assistant Attorney General, Office of Legal Counsel	Randy Jayne, Associate Director for National Security and International Affairs
<i>NSA</i>	<i>FBI</i>
Vice Admiral Bobby Inman	Director William H. Webster
	John Hotis, Inspector, FBI

¹ Source: Carter Library, National Security Council, Institutional Files, 1977–1981, Box 11, PD 17 [5]. Secret. The meeting was held in the White House Situation Room. Carter initialed at the top of the page. In a May 12 memorandum to Brzezinski, Hoskinson wrote, “This is the first meeting of the SCC to consider the intelligence charter legislative problem. We started the wheels in motion for this review of S2525 some time ago, but it took the President’s recent meeting with Senators Bayh and Huddleston to really activate Stan Turner. As you will recall, the Senators hoped to hustle us into intensive talks designed to settle very quickly what they felt were only a few significant points of difference. The President, however, lectured them on the ‘voluminous and detailed’ nature of S2525, the ‘changing mood’ in the country, the need to ‘retain flexibility’ and about the ‘difficult political position’ they had put him in.” (Carter Library, National Security Affairs, Brzezinski Material, Brzezinski Office File, Box 96, Subject Chron, Intelligence (Charter Legislation), 2/77–5/78) Carter met with Senators Huddleston and Bayh, Secretary Brown, and Turner on April 26 from 11:03 to 11:40 a.m. (Carter Library, Presidential Materials, President’s Daily Diary) S. 2525, “National Intelligence Reorganization and Reform Act,” was introduced in the Senate on February 9 and referred to the Senate Select Committee on Intelligence. Documentation on this proposed bill, which is substantial, is in the Carter Library, National Security Council, Institutional Files, 1977–1981, Boxes 94–104 & 121–122, files on Intelligence Charter; Carter Library, National Security Affairs, Brzezinski Material, Brzezinski Office File, Boxes 96–97, files on Intelligence (Charter Legislation); and Carter Library, National Security Affairs, Staff Material, Office File, Boxes 135–136, files on Intelligence Charter.

SUMMARY OF CONCLUSIONS

The SCC met to begin its consideration of S2525 introduced by the Senate Select Committee on Intelligence (SSCI). Issue papers had been prepared by a special Senior Working Group and reviewed by the National Foreign Intelligence Board. The agenda included consideration of a statement of charter legislation principles, Title VI (NSA), Title V (FBI), Title IV (CIA) and Title III (Foreign Intelligence Surveillance).

A set of revised charter legislation principles were approved in substance (revised list attached). It was agreed that the principles should provide a broad framework for subsequent discussion with Congress. All dealings with Congress will be conducted within the context of these principles.

NSA's proposed charter (Title IV) was endorsed subject to the working out with the SSCI a number of secondary technical changes and modifications. State receded on a clarification it has proposed relating to 22 USC 2680a, involving the need for Ambassadorial cognizance of NSA field operations, and agreed to work out its possible problem at the staff level.

The FBI's proposed charter (Title V) was endorsed subject to the modifications set forth in the issue paper prepared by the Bureau. Director Webster said that the Title V provided a very positive statement of the FBI's foreign intelligence and counterintelligence role. He foresaw no basic changes in this area. Concern was expressed that the distinction between counterintelligence and law enforcement should not be drawn so rigidly as to preclude necessary flexibility in this area.

CIA's proposed charter (Title IV) was endorsed in principle. The following additional judgments were reached:

—The SCC should consider the need for additional legislation dealing with the overall problem of unauthorized disclosure of national security information. Justice should prepare through the Senior Working Group an issues paper for early SCC consideration.

—Any language that appears to reserve to the Congress not just oversight responsibility but also operational authority with respect to the intelligence functions should strongly be opposed. The Attorney General opined that such language would raise grave constitutional issues.

—It is politically unwise to include language in Title IV expressly authorizing other departments and agencies to assist CIA with cover arrangements. This is better handled by classified Presidential directives.

—Language that appears to condition intelligence collection authority on prior determinations that the information to be collected is not available from overt sources should be opposed as impractical.

—State’s proposal to require liaison functions to be conducted “in consultation with the Secretary of State” was reserved for consideration with Title I.

—State receded on a clarification it had proposed relating to 22 USC 2680a involving the need for Ambassadorial cognizance of CIA field operations, and agreed to work out its possible problem at the staff level.

The foreign intelligence surveillance issues posed in Title III were resolved as follows:

—Physical searches and mail openings should be reserved for SCC consideration when the other restrictions issues of Titles I and II are on the agenda. All restrictions topics should be considered as a whole.

—The Administration’s position on electronic surveillance for foreign intelligence purposes within the U.S. is adequately reflected in the current bill on this subject before Congress.² Nothing else remains to be done except to continue to work for the bill’s enactment.

—There was difference of opinion over how to proceed on the issue of electronic surveillance directed against U.S. persons abroad. The Attorney General felt strongly that nothing should move forward on the subject until the fate of domestic counterpart bill before Congress is settled.³ He recalled that the President had some time ago agreed to this strategy.⁴ Others could see some tactical political advantage in proceeding to resolve all the outstanding electronic surveillance issues now and discuss them with Congress, either together with or after discussion on Titles IV, V, VI. Since the issues paper on this subject needs further working level review, it was agreed to pursue this subject at the next SCC meeting on S2525.

The following procedural and administrative decisions were reached:

—After the President has reviewed the results of this meeting, senior staff level discussions should be opened with the Senate Select Committee on Intelligence per the President’s commitment. The DCI will act as the overall coordinator and strategist of these discussions for the Administration’s side, although it is anticipated that the General Counsels and technical experts will take the lead for their individual agency charters. Status reports will be provided to all SCC members on a timely basis.

² A reference to S. 1566, passed by the Senate on April 20. Carter signed P.L. 95–511, Foreign Intelligence Surveillance Act of 1978, on October 25. It provided for executive authority for electronic surveillance when necessary for national security.

³ A reference to S. 2525.

⁴ See Document 60.

—The next order of SCC business on S2525 should be the Title I community organization sections. Issues papers should be prepared to allow for an SCC meeting within a month.

—The Senior Working Group should begin work as soon as possible on a new draft restrictions title.

—The SCC will be the principal interagency coordination body on S2525. OMB's Legislative Reference Service will provide to the SCC a list of specific paragraphs it proposes to circulate to agencies and departments who have an interest but are not represented at the SCC.

Attachment

Paper Prepared by the National Security Council Staff⁵

Washington, undated

INTELLIGENCE CHARTER LEGISLATION PRINCIPLES

1. The Executive Order should provide the basic foundation for the intelligence charter legislation. The treatment accorded substantive issues appearing in both Executive Order 12036 and S. 2525 should not be in conflict.

2. Clear, concise, and reasonable authorities, responsibilities and limitations should be utilized to provide a readily understandable and nonburdensome guide for intelligence officers and employees. Excessively detailed authorities or restrictions may cause unintended results or preclude necessary and appropriate intelligence activities.

3. The balance between executive branch responsibility to execute the laws and the responsibility of Congress to enact laws must be maintained.

4. General oversight and reporting requirements should ensure that Congress receives necessary information but does not obstruct the normal functioning of the Intelligence Community. While restrictions and oversight provisions are complementary, excess in either area could frustrate legitimate intelligence activities.

5. The implications of the organization of the Intelligence Community as set forth in S.2525, particularly the relationships between the various entities, must be considered carefully.

⁵ No classification marking.

6. The bill should not specifically require reporting of liaison relationships and necessary information in this regard should be obtainable under general reporting requirements.

7. The question of adequate statutory protection for intelligence sources and methods should be addressed and resolved in this legislative effort.

85. Memorandum From the Chairman of the Intelligence Oversight Board (Farmer) to the President's Deputy Assistant for National Security Affairs (Aaron)¹

Washington, May 15, 1978

SUBJECT

Guidelines on Reporting to Congress Under E.O. 12036

At our last meeting with the President,² he asked the IOB to draft guidelines implementing Section 3–4 of E.O. 12036, which would ensure his control of the reporting process, as outlined in his July 12, 1977 letter to former SSCI Chairman Inouye.³

Our discussion of this issue with the agencies reveals a fundamental difference of approach. The Board feels that the paramount principle is Presidential control of the Executive oversight process and of reporting to Congress, and that except for special circumstances this objective outweighs the interest of reporting to Congress as rapidly as possible. Based on the President's comments on the issue, we believe he needs and wants adequate opportunity to consider proposed remedies and the timing of informing Congress from the Presidential perspective, under consistent standards and free from institutional pressures at the agency level. (See attached excerpt from IOB briefing paper for the President.)⁴ The opposing view, particularly in the case of the CIA, is that the speed with which an agency head reports to Congress is paramount, even if it might mean little or no opportunity for Presiden-

¹ Source: Carter Library, National Security Council, Institutional Files, 1977–1981, PD 17 [5]. Unclassified.

² A February 7 memorandum from Farmer to Carter in preparation for their February 9 meeting is *ibid.* Minutes of this meeting were not found.

³ See Document 58.

⁴ Attached but not printed.

tial review. This approach undercuts the concept of prior internal Executive Branch oversight for the President.

Draft guidelines, in the form of a memorandum from the President, were sent to the CIA and the Justice Department for comment. That draft is at Tab A.⁵ It provides for each agency to continue to report activities which raise questions of legality or propriety to the IOB, or in pressing situations, directly to the President. In either case, the President would review determinations that an activity is illegal or improper, proposed corrective action and the manner and timing of reporting to the Congress, before Congress was informed. Very minor matters could be reported to the Congress immediately, and an agency head "at any time" could suspend a questionable activity pending formal determination.

The CIA General Counsel, Tony Lapham, responded with several reservations to the Board draft.⁶ His primary reservation was that the first draft would result in a matter being reported to the Congress only if the IOB decided to refer it to the President "and then only in a manner and at a time specified by the President on a case by case basis." He said agency heads feel personally responsible to ensure that at some point improper or illegal activity is reported to Congress. He also suggested that this would be unacceptable to the congressional committees. In order to reassure agency heads and Congress, Lapham raised the possibility of a 30-day waiting period from the date a matter is reported to the IOB, during which notification of Congress would be deferred in order to permit review for the President and any required corrective action.

The entire Board subsequently discussed the issue at some length with Adm. Turner. He reconfirmed his view that the DCI must be free to go directly to the Congress as soon as he thinks it is appropriate. Adm. Turner said that both he and the congressional committees understand the Inouye letter, and the Executive Order, to call for prompt briefing on all questions of legality and propriety without necessarily waiting for prior Presidential review.

Moreover, it is now clear that the CIA is not following the standard set by E.O. 12036 in what they do report to Congress. Section 3-4, like the Inouye letter, authorizes reporting to Congress *when there has been a determination* that an activity is in fact illegal or improper. However, the CIA has been reporting matters if there is a question of legality or propriety, even before such a determination has been made.

On May 10, the IOB received a response from the Attorney General.⁷ He sees no legal problem with requiring that Congress be

⁵ Attached but not printed.

⁶ Not found.

⁷ Not found.

informed only after the President determines “the manner and timing of reporting to the Congress.” However, he said three policy problems should be brought to the President’s attention: that the procedure would burden the President and retard reporting to Congress; that our first draft might be viewed by Congress as an attempt to thwart prompt and complete reporting; and that agency heads might wish to report major questions immediately especially if a news story is imminent. The Attorney General wrote that “In such instances, the prompt report to Congress is in the President’s best interests and there may be no time to clear this decision with the President.”

We also discussed the matter with Bob Lipshutz, including the possibilities of modifications reflecting the concern raised by CIA.

There are three separate issues for the President to decide:

1. Will agencies report matters which raise questions, or only those determined to have been abuses?

2. Should there be a definite time after which an agency may report to Congress even if the President has not yet decided whether he feels the activity is improper, what corrective action to take, or how best to inform Congress?

3. Should a provision be made for agency heads to inform Congress immediately, without adequate opportunity for prior Presidential review, if a major problem is about to become public or otherwise seems to require especially speedy notification of Congress?

Our revised draft, which addresses these issues, is at Tab B.⁸ The new material is italicized. First, it makes clear that the agency would only report to Congress activities on which the agency has taken a position that an impropriety or illegality *has* occurred. If this is not what the President intended, the opening sentence of paragraph 4 should be modified accordingly.

Second, our revised draft provides for a waiting period and permits the agency heads thereafter to report the matter to Congress. While the 30-day time period suggested by the CIA General Counsel is adopted, Governor Scranton, Senator Gore and I all feel it is important to avoid an excessively rigid timetable. Flexibility should be preserved in case the nature of the matter requires more extensive review for the President to be able to know the full ramifications of the issue, to have approved a particular form of corrective action, or to complete additional consultation within the Government or with our allies which might be desirable prior to congressional investigation of the matter. Accordingly, this draft provides for the IOB to obtain an additional 30-day deferral, without requiring the President’s immediate staff to keep track of the running time or to request the deferral.

⁸ Attached but not printed.

Third, the revision also recognizes the possibility that an agency head may feel compelled to report some matters to Congress more rapidly than provided for in this timetable. In that case, the draft still requires the agency to flag its concern and then to discuss the urgency with the President or the IOB. The President should still retain control of the process. There conceivably could be instances when despite public disclosure of a controversy, he will want to defer testifying in detail to Congress until he has explored alternative solutions, consulted with allies, etc. Even if the committees are to be briefed almost immediately, it is particularly in such situations that he may want to inform the committee leadership himself.

We think this revised version, while modifying the scheme set forth by the President in his letter to Chairman Inouye, meets the main concerns raised by the Attorney General and the CIA. We request that following your consideration of these issues and any further discussions you may wish to have with the Justice Department and the DCI, an appropriate draft or alternative drafts be prepared for the President's review in the near future.

86. Memorandum From the Chairman of the Intelligence Oversight Board (Farmer) to President Carter¹

Washington, May 25, 1978

SUBJECT

Guidelines on Reporting Abuses to Congress Under E.O. 12036

1. SUMMARY

At our last meeting, you asked the IOB to draft and coordinate with David Aaron guidelines implementing Section 3–4 of E.O. 12036, ensuring your control of the reporting process. You indicated that the guidelines should track your July 12, 1977, letter to former Senate Intelligence Committee Chairman Inouye,² and should preserve a cushion of time for you to review determinations and direct corrective

¹ Source: Carter Library, National Security Council, Institutional Files, 1977–1981, Box 11, PD 17 [2]. Unclassified. Carter wrote at the top of the page, “To Lipshutz—I prefer Inouye letter, but am willing for Stan or AG to see me personally if necessary to expedite reporting to Congress. JC.”

² Not found.

action, with the benefit of independent staff judgment and analysis of the facts. The “Inouye letter” and pertinent portions of our briefing paper from that meeting are at Tab A.³

Proposed guidelines were sent to the CIA and the Justice Department and David Aaron for comment.⁴ Our discussion with the agencies reveals a fundamental difference of approach. The Board feels that the paramount principle is Presidential control of the Executive oversight process and of reporting to Congress, and that, except for extraordinary circumstances, this objective outweighs the benefit of reporting to Congress as rapidly as possible. You have indicated that you want adequate opportunity to consider proposed remedies and the timing of informing Congress from the Presidential perspective, under consistent standards and free from institutional pressures at the agency level.

However, CIA and, to a lesser extent, Justice have indicated that they consider speedy reporting to Congress paramount, even if as a result there might be little or no opportunity for meaningful Presidential review. We believe such an approach would preclude effective oversight at the White House level.

2. PROPOSED GUIDELINES

Guidelines tracking your letter to Senator Inouye are at *Tab B*.⁵ They would be implemented by a memorandum from you to the DCI, the Attorney General and the Secretary of Defense.⁶

Each agency would continue to report activities which raise questions of legality or propriety to the IOB, or in pressing situations, directly to you. In either case, you would first review determinations that an activity is illegal or improper, the proposed corrective action and the manner and timing of reporting to the Congress. Thereafter, Congress would be informed. Minor matters could be reported to the Congress immediately, and an agency head at any time could suspend a questionable activity pending formal determination.

3. CIA POSITION

The Board discussed the reporting issue at some length with Adm. Turner. He reconfirmed his view that the DCI should be free to go directly to the Congress as soon as he thinks it is appropriate. Adm. Turner said that both he and the congressional committees understand your letter to Senator Inouye, and the Executive Order, as permitting

³ Not found attached.

⁴ See Document 85.

⁵ Not found attached.

⁶ See Document 90.

agency heads to brief Congress on matters of legality and propriety without necessarily waiting for prior Presidential review.

Moreover, it is now clear that the CIA is not following the standard set by E.O. 12036 in what they do report to Congress. Section 3–4, like the Inouye letter, authorizes reporting to Congress when there has been a determination that an activity is in fact illegal or improper. However, the CIA has been reporting to Congress matters which they deem to raise a question of legality or propriety, even if the CIA has not yet concluded they are illegal or improper.

4. *JUSTICE POSITION*

Attorney General Bell finds no legal problem with requiring that Congress be informed only after you determine the manner and timing of reporting to the Congress. However, he raises three policy concerns for your consideration: that the proposed guidelines would unduly burden you and retard reporting to Congress; that, in any event, it might be viewed by Congress as an attempt to thwart prompt, complete reporting; and that agency heads need to report major questions to Congress immediately, especially if a news story is imminent. The text of his comments is at Tab C.⁷

5. *ISSUES*

a. Should agencies report to Congress any matter which raises questions of legality and propriety, or only matters determined within the Executive Branch to have been abuses?

b. Should there be a specific deadline after which an agency may report to Congress, even if you have not yet reviewed whether an activity is improper or determined what corrective action is necessary, and how best to inform Congress?

c. Should a provision be made for agency heads to inform Congress about a problem immediately, without opportunity for effective Presidential review, if the agency believes the circumstances require exceptionally speedy notification of Congress?

The reporting scheme set forth in your letter to Senator Inouye answered each of these questions in the negative, and the IOB's proposed guideline follows that scheme.

6. *RECOMMENDATION*

a. The IOB recommends that you send the memorandum at Tab B to the Attorney General, the DCI and the Secretary of Defense. David

⁷ Not found attached.

Aaron has reviewed the issues raised by the agencies and our proposed guidelines, and concurs in this recommendation.

b. However, in light of the concern expressed by the Attorney General and the DCI about the possible negative reaction of some congressional committee members, the Board has drafted an alternative version of the guidelines. This alternative version of the guidelines is at Tab D.⁸ The alternative imposes time limits for reporting to Congress unless you specifically direct a further deferral. Even if this approach is adopted, Governor Scranton, Senator Gore and I feel a rigid timetable would be unwise, in case you require more time to consult with allies to weigh the ramifications and to implement corrective action. The alternative provides for the IOB to obtain an additional 30-day deferral, without requiring your immediate staff to keep track of the running time or to request the deferral. If you have referred a matter to Dr. Brzezinski for further action, we would coordinate with the NSC to determine whether the additional 30-day deferral was necessary.

The alternative also contemplates emergencies when an agency head feels a matter must be reported to Congress more rapidly than provided for in this timetable. Nevertheless, he must flag his concern and then discuss the urgency with you or the IOB. There would be instances when despite public disclosure, you will want to defer testifying in detail to Congress. Even when committees are to be briefed immediately, you may want to inform the committee leadership yourself.

The IOB does not recommend this compromise. Although it addresses the concerns of the DCI and the Attorney General, it undercuts the Inouye letter and would substantially weaken your control over the reporting process. While there may be special emergencies handled on a case by case basis, if the guidelines specifically provide for immediate reporting to Congress, such an “exception” is likely to become “the rule.” Moreover, in our judgment, this compromise is unlikely to satisfy those members of Congress who might be critical of the guidelines recommended by the Board and the NSC.

7. ACTION

- a. Send letters at Tab B which I have signed.
- b. Send letters at Tab D which I have signed.
- c. Revise as indicated.
- d. Other.

⁸ Not found attached.

87. Summary of Conclusions of a Special Coordination Committee Meeting¹

Washington, June 27, 1978, 4:00–6:30 p.m.

SUBJECT

Legislative Charters

PARTICIPANTS:

<i>State</i>	<i>White House</i>
Warren Christopher, Dep Sec	David Aaron (Acting Chairman)
Herbert Hansell (Legal Adviser)	Robert Lipshutz
<i>Defense</i>	<i>NSC</i>
Deanne Siemer (General Counsel)	Samuel Hoskinson
<i>JCS</i>	Brig. Gen. Robert Rosenberg
Lt. Gen. William Smith	<i>CIA</i>
<i>Justice</i>	Admiral Stansfield Turner
Attorney General Griffin Bell	Frank Carlucci, DDCI
Ken Bass (Office of Legal Counsel)	Anthony Lapham (General Counsel)
<i>IOB</i>	<i>OMB</i>
Thomas Farmer (Chairman/IOB)	Bowman Cutter
Burt Wides (Counsel/IOB)	Arnold Donahue (Branch Chief for Intelligence)

SUMMARY OF CONCLUSIONS

The SCC met to consider Title I of S. 2525.² The special Legislative Charters Working Group had completed an exhaustive review of Title I and prepared a detailed report to the SCC including definition of issues for review and decision.³

The provisions of Title I involving restrictions on intelligence activities were set aside for later SCC consideration (mid-August) in conjunction with a new Title II that will cover all restrictions topics.

The following conclusions were reached on the issues identified as requiring SCC decision:

¹ Source: Carter Library, National Security Affairs, Brzezinski Material, Brzezinski Office File, Box 96, Subject Chron, Intelligence (Charter Legislation), 6–12/78. Secret. The meeting was held in the White House Situation Room. Aaron initialed next to his name in the list of participants.

² Title I of S. 2525 (see footnote 1, Document 84), National Intelligence, established an Office of the Director of National Intelligence under the direction of the National Security Council.

³ Not found.

1. *Should the DNI be changed from a Level II to Level I?* Different views require Presidential decision.

2. *Should the Assistant Directors be confirmed by the Senate?* Different views require Presidential decision.

3. *Should the DNI be given any authority with respect to formulation of intelligence requirements?* Principles established in E.O. 12036 should be reflected in Title I language.

4. *Should the provision granting DNI authority to insure “usefulness” of intelligence information be retained without modification?* Agreement against.

5. *Should the bill contain a definition of intelligence-related activities and give the DNI a right to review such activities?* Agreement that all references to intelligence-related activities should be deleted.

6. *What should be the provisions concerning the DNI’s budget-making authority?* Agreement that DNI should have same powers as E.O. 12036 gives to the DCI. The additional “fencing” provision requires Presidential decision.

7. *Should the DNI retain the authority to levy analytic tasks that is granted in E.O. 12036?* Agreement that the E.O. 12036 language should be included in Title I.

8. *Should the DNI have authority to terminate security clearances of contractors of Intelligence Community entities other than the O/DNI and the CIA?* Different views require Presidential decision.

9. *Should objection be raised to references in the bill to needs of the Congress for intelligence information and analysis?* Agreement that such objection should be raised.

10. *Should the IOB become a statutory entity and, if so, how detailed should its charter be and what kinds of questions should it address?* Differing views require Presidential decision.

The Working Group’s opinions on the “information issues” were endorsed in principle with the following exceptions.

1. *Entities Comprising the “Intelligence Community.”* The question of specific definition and designation versus broader and more flexible language will be put to the President.

2. *DNI as head of CIA.* The provisions which allow the President to assign the DNI’s function as head of CIA to the DDNI or an ADNI should be retained.

3. *Congressional oversight and accountability.* The President should be provided with a short form and the Title I long form language options.

4. *Provisions concerning Comptroller General Audits and Reviews.* Current practices should be retained.

No action is to be taken with the Senate Select Committee on Intelligence relating to the SCC's deliberations, until after the President has reviewed the results and indicated his decisions.⁴

⁴ On July 6 Hoskinson wrote to Brzezinski advocating for a meeting about S. 2525 among Brzezinski, Turner, and Brown, with the hope of reducing the number of issues requiring Presidential decision. (Carter Library, National Security Council, Institutional Files, 1977–1981, Box 13, PD 17/3 (1 of 2)) On July 19 Brzezinski presented five issues to Carter on Title I that required his decision. These five issues were: DNI as head of the CIA, DNI level, ADNI level, confirmation of ADNIs by the Senate, and congressional reporting requirements. (Carter Library, National Security Council, Institutional Files, 1977–1981, Box 12, PD 17 [6])

88. Memorandum From the Chairman of the Intelligence Oversight Board (Farmer) to President Carter¹

Washington, August 17, 1978

SUBJECT

Summary of your August 15 Meeting With the IOB

This memorandum responds to your request at our August 15 meeting² for a written summary of the principal categories of information and the degree of access to sensitive data which the Board considers essential in order to perform effectively the functions you have assigned to it.

Sensitive Collection Operations

Board access in this area includes both substantive information on specific activities and the authorization to examine the process by which projects are initiated, evaluated and approved.

We do not require the identities of individual sources. However, we believe it is necessary for us to receive on a regular basis detailed briefings on individual operations, identified by country and functional category of target, e.g., a French Cabinet official, a senior German labor union leader, a junior officer of the Italian Communist Party, etc., so

¹ Source: Carter Library, National Security Affairs, Brzezinski Material, Subject File, Box 29, Intelligence Oversight Board: 1/78–12/80. Top Secret; Sensitive. Carter wrote at the top of the memorandum, "To Farmer. J. cc: Zbig, Griffin [Bell]."

² Minutes of this meeting were not found.

that the Board can have a concrete and sophisticated understanding of the kinds of operations that are being run and the considerations that were weighed in the review process.³

Not only is this important in order to provide the Board sufficient background familiarity against which to evaluate specific operations from the standpoint of legality or propriety, but also for the purpose of judging whether the intelligence agencies have received proper authorization for ongoing collection activities, and whether activities treated as “sensitive collection” are in fact “covert actions” requiring compliance with Hughes-Ryan.⁴

Opinions of the Attorney General

Section 3–304 of Executive Order 12036 provides for the Attorney General to “inform the IOB of legal opinions affecting the operations of the Intelligence Community:”.

By memorandum to you of May 12, 1978, a copy of which is attached,⁵ we requested your concurrence for access to legal opinions issued to you and your Assistant for National Security Affairs, and outlined several examples of why such opinions are important to our work. On June 30, 1978, the Attorney General advised you by memorandum⁶ that “My policy on disclosure of such opinions to the IOB is to encourage such disclosure” and that “as President, you can appropriately waive that privilege (of confidentiality) not only for yourself but for all Executive Branch officials.” At the same time, he said that “Given the differing views that may exist within the intelligence agencies, I suggest that decisions on providing opinions to the IOB be made on a case-by-case basis rather than by adopting a blanket waiver of confidentiality.”

During the past few days, the Attorney General has informed me that he has given further thought to the matter, and believes that for the Board to serve you adequately it needs all opinions from all agencies. Therefore, he has decided to grant a blanket release to the Board of all legal opinions issued to him or subordinate agencies of the Department of Justice such as the FBI, and hopes that this action would serve as an example for other intelligence agencies. We also understand from Deputy Secretary Christopher that the Department of State has no

³ Carter wrote in the margin next to this paragraph, “Too specific. Each quarter Zbig will go over report with Chairman of IOB.”

⁴ See footnote 3, Document 80.

⁵ Attached but not printed.

⁶ The memorandum from the Attorney General to the President, June 30, is in the Carter Library, Staff Office Files, Counsel’s Office, Box 24, Intelligence Oversight Board: IOB Requests for Legal Opinions Rendered by the Department of Justice, 7–8/78.

objection to a blanket waiver of confidentiality for all Justice Department opinions on intelligence matters issued to the Department of State.

Furthermore, we want to suggest that as your confidential advisers and members of the White House Office it is appropriate for us to be aware of legal advice on intelligence matters which you or other members of your staff have received from the Attorney General. It would appear peculiar, in our view, to be forced to bargain on a case-by-case basis in an effort to learn of legal opinions from your Attorney General in the limited area in which we are serving as your staff.⁷

We request, therefore, that you grant to the IOB a general waiver of confidentiality for all legal opinions issued by the Department of Justice with respect to intelligence matters, including opinions to you and your National Security Adviser.

Guidelines for Reporting Abuses to Congress

You noted on a Board memorandum of May 25, 1978⁸ a preference for deferring agency reports of intelligence abuses until you had been able to review the matter after benefit of IOB staffing. However, you also indicated a willingness to permit the Director of Central Intelligence or the Attorney General to come to you directly if they felt circumstances required immediate reporting to Congress.

Draft guidelines implementing either alternative were submitted by the Board as part of its memorandum. We understand that a final version has been submitted to you by your Counsel.⁹

General Comments

One concept of oversight would have the Board function essentially as a "pressure valve," to be activated only when necessary upon the surfacing of an intelligence abuse. Under this formulation, the Board would have a nominal need for sensitive data, and would have little or no requirement for access to ongoing operations on a continuing basis. Such a formulation does not square with our understanding of your desire for Executive oversight, although it may partially explain the resistance by the NSC and some intelligence agencies which the Board has met in acquiring data and in establishing its need to know. The Board's primary role, which you have forcefully emphasized in meetings with the members, is to forewarn you of possible abuses so that potential wrongdoing may be avoided. A secondary, albeit

⁷ Carter wrote in the margin adjacent to this paragraph, "AG will give you a summary of opinions to me. You can request individual legal opinions. If objection, you appeal to me."

⁸ See Document 86.

⁹ Not found.

important, role is to alert you to abuses which we believe exist, in sufficient time for you to take the initiative in implementing corrective measures.

We are mindful of your concern for safeguarding national security information and agree fully that access to such material should be determined on a strict basis of *need to know*. In our view, the Board's "need to know" details of sensitive collection activities, and to have direct access to legal opinions regarding intelligence activities, derives entirely from the fact that if our judgment on propriety and legality is to be useful to you, it must be not only independent but also well informed.

The Board, consisting of three part-time and a single full-time professional staff person, is simply not equipped to struggle with intelligence agencies or the NSC on a case-by-case basis to justify its need to know. Unless the agencies are required by you to be forthcoming with respect to furnishing the Board with the kinds of information described above, the Board cannot perform adequately the functions assigned to it in the Executive Order and which you have amplified in our meetings with you.

The Board is not in the operational chain of approval for intelligence operations or production, and is therefore sometimes viewed by those directly in the process as a "second guesser" of officials whose responsibility is to initiate or conduct intelligence operations. A certain level of reluctance to share information with the Board is to be expected since its recommendation to you may result in your decision to terminate or modify some approved activity. Since the Board's only function is to provide you with a judgment independent of the initiating agencies such as the NSC, or the operating agencies such as the CIA and the FBI, the potential value of the Board's advice to you should be the factor which determines the Board's right to access to classified information.¹⁰

¹⁰ Underneath the final paragraph, Carter wrote, "Any allegation of impropriety from any source should be investigated by you. Come directly to me for assistance. I do not favor you, the FBI, the CIA nor anyone else monitoring 'all legal opinions,' 'all intelligence sources,' etc. on fishing expeditions. J.C."

89. **Memorandum From the Deputy Under Secretary of State for Management (Read) to the Assistant Secretary of State for African Affairs (Moose), the Assistant Secretary of State for Inter-American Affairs (Vaky), the Assistant Secretary of State for East Asian and Pacific Affairs (Holbrooke), the Assistant Secretary of State for European Affairs (Vest), and the Assistant Secretary of State for Near Eastern and South Asian Affairs (Saunders)**¹

Washington, September 11, 1978

SUBJECT

Post Reporting Plans

In his telegram of April 8, 1978 (State 91048 sent via Roger Channel to all Chiefs of Mission),² the Secretary emphasized the need for more responsive reporting and better analysis. He cited the President's request that chiefs of mission actively exercise their overall responsibilities for reviewing and improving reporting from their missions. The Secretary also stressed the need for an improved and continuing dialogue between the bureaus and country directorates and overseas posts. In this way, the field will have feedback on its reporting and will be informed of the informational and analytical needs of Washington agencies, but the essential voluntary characteristic of FS reporting will be preserved.

The problem of improving the quality of substantive reporting and the use of available resources was more recently discussed in the Policies Priorities Group (PPG) on July 31.³ Clearly we must focus scarce reporting resources on priority targets and cope with the growing problems of volume of reporting.

What is needed now is a mechanism which will encourage the posts and country directorates to put the Secretary's directives into practice. Suggestions made at the PPG meeting and recent experience with several posts and country directorates have shown that the combination of a post reporting plan and periodic consultations with appro-

¹ Source: National Archives, RG 59, Records of the Deputy Under Secretary of Management, 1978-1979, Chron September 11-12, 1978. Unclassified. Drafted by James Ruchti (M/MO/R) and Richard Long (INR/DDC); cleared by William Bowdler (INR), Theodore Eliot (S/IG), and Joan M. Clark (M/MO).

² Attached; printed as Document 82. Also attached is telegram 131292, June 7, 1977, printed as Document 45.

³ Minutes of the meeting were not found.

priate foreign affairs agencies, conducted by the country director, is an effective method for achieving this purpose.

The post reporting plan allows the post to retain the initiative in proposing future analytic reports. Country directorate consultations with other interested agencies allows the end-users in Washington to react to the post plan, to make known their information needs, and to comment on the quality of current reporting and the proposals for future reporting.

The procedure confirms the leadership and management role of the country director already conferred on him by I FAM 253. He would:

- chair the interagency consultations;
- act as the focal point for a dialogue with the chief of mission on the reporting plan, current reporting, and future needs;
- review and screen the reporting needs of members of the foreign affairs community including the intelligence community.

This procedure has the additional advantage of providing the means for directorates to oversee the transmittal of reporting requirements and guidance from the Intelligence Community to overseas posts.

The attached draft message⁴ outlines the principles underlying these procedures and requests all chiefs of mission to submit reporting plans as the initial step.

Please pass your comments on clearance on the draft message directly to DDC/OIL/CS—Dick Long, Room 8656 (Ext. 22482). He will prepare the final draft for my consideration on September 15.

⁴ Attached but not printed. Telegram 265767 to all diplomatic posts, October 20, requested posts to prepare a reporting plan for submission to country directors. (National Archives, RG 59, Central Foreign Policy File, D780430–0500)

90. Letter From President Carter to Secretary of Defense Brown¹

Washington, September 19, 1978

To Secretary Brown

As I stated in my July 27, 1977, letter to Senator Inouye,² I consider intelligence abuses to be of such import that I intend to deal personally with such matters, including the obligation of the Executive Branch to inform the appropriate congressional committees. Therefore, I am writing, pursuant to Section 3–4 of Executive Order 12036, to indicate the appropriate procedures for reporting to congressional committees “. . . information relating to intelligence activities that are illegal or improper and corrective actions that are taken or planned.”

The Department of Defense should continue to report to the Intelligence Oversight Board activities which raise questions of legality or propriety. The IOB will review the matter and, if it raises a serious question, report it to me with its recommendations. If you feel that the gravity of a matter is such that it should be reported directly to me, the information also should be provided at the same time to the IOB so that it can begin its review promptly.

After considering the reports of the Department of Defense and the IOB and, on questions of legality, the judgment of the Attorney General, I will review any determinations that an activity is illegal or improper, the proposed corrective action, and the manner and timing of reporting to the Congress. You will then make the appropriate report on the matter to the congressional committees, except when I communicate the matter to them directly.

In the case of questions of legality or propriety which you believe are so minor that they clearly do not need to be brought to my attention, you should continue to inform congressional committees, as well as the IOB, in a timely manner. You may, of course, at any time suspend an activity which raises a serious question of legality or impropriety,

¹ Source: Washington National Records Center, RG 330, OSD Files: FRC 330–82–0204B, 039, No Title. No classification marking. Identical letters were sent to Bell and Turner. (Ibid.) In a covering memorandum to Carter, September 20, Brzezinski wrote, “Stan Turner, Harold Brown and Griffin Bell are prepared to live with the guidance in these letters. However, their initial preference—which gave rise to this proposed guidance—was to report all possible abuses to you, the IOB and Congress simultaneously. This, of course, would have greatly limited your flexibility and would inevitably result in strong pressures from the Congressional oversight committees before you had a chance thoroughly to study the problem and decide upon appropriate remedial actions. The guidance in the letters assures that this will not be the case.” Carter wrote “OK. J” beneath Brzezinski’s note. (National Security Council, Carter Intelligence Files, Intelligence Oversight Board, 3 Jun 1977–25 Jan 1979)

² See Document 58.

until a final determination is made whether the activity should be modified or discontinued and what other corrective action is required.

If in your judgment special circumstances require reporting an illegal or improper activity to Congress within a time period shorter than those outlined here, you should so indicate at the time the matter is reported to the IOB or to me.

In any event, you should discuss this concern either with myself or the IOB before undertaking to report the matter to Congress ahead of this timetable.

Sincerely,

Jimmy Carter

91. Summary of Conclusions of a Special Coordination Committee Meeting¹

Washington, November 27, 1978, 3:30–4:30 p.m.

SUBJECT

Title II S2525

PARTICIPANTS

The Vice President

A. Denis Clift

Marilyn Haft

State

Warren Christopher, Deputy Sec

Lee Marks, Deputy Legal Counsel

Defense

Stanley Resor, Under Secretary For

Policy

Deanne C. Siemer, General Counsel

Justice

Attorney General Griffin Bell

John Harmon, Asst Attorney General

Ken Bass, Attorney Advisor

White House

Zbigniew Brzezinski (Chairman)

David Aaron

Robert Lipshutz

NSC

Samuel M. Hoskinson

CIA

Admiral Stansfield Turner

Frank Carlucci, Deputy Director

Anthony Lapham, General Counsel

JCS

Lt. General William Smith

FBI

Judge William Webster

James E. Nolan, Special Asst to the
Asst Director

¹ Source: Carter Library, National Security Council, Institutional Files, 1977–1981, Box 99, SCC 119, Intelligence Charters, 11/27/78. Secret. The meeting took place in the White House Situation Room.

NSA
Admiral Bobby Inman, Director
Daniel Silver, General Counsel

OMB
Arnold Donahue, Chief Security
Branch National Security Division

SUMMARY OF CONCLUSIONS

The SCC met to begin its consideration of the issues raised by Title II of S2525. The Legislative Charters Working Group had prepared an alternative draft and a series of issue papers.²

The Vice President spoke first to the question of general approach. He felt that the Working Group had gone about the problem in the wrong way. Rather than presenting its recommendations, the Working Group should have presented more clearly defined options. The SCC and the President were being asked to decide too many things rather than just to address the really major issues. Finally, the Vice President opined that the Working Group draft did not face up to realities on the Hill where it would be greeted with an explosion. The SCC had a responsibility to advise the President on the political environment as well as on the substantive issues.

The Attorney General said he was of much the same mind as the Vice President. He also expressed his strong concern that the Attorney General's role was reduced by the Working Group draft.

Mr. Christopher said he also had much the same reaction. He felt an overall disappointment with the mood and approach of the Working Group draft. It failed to draw on experiences of recent years and the abuses that had occurred. It was virtually without standards in such critical areas as covert action. He opined that it might be regarded as a negotiating document by some but, in fact, did a disservice to the Administration.

Mr. Resor felt that there were some real limitations in the Working Group's draft but, on the whole, it was a workable job. In his opinion, the issue papers presented some real choices.

Admiral Turner said that nothing had frustrated him more than this project. He had tried hard to find a coherent concept for charter legislation but feared we would come up with a "mess of pottage." He felt that it was necessary to first go through all the details and then step back and look at whether it all makes sense *and* the environment on the Hill. The question of where charter legislation would fit in the hierarchy of other controls must also be faced.

Judge Webster felt that the Working Group's effort was constructive and an adequate basis for proceeding to decisions.

² Title II of S. 2525 was entitled Intelligence Activities and Constitutional Rights. The alternative draft was not found. Hoskinson and Kimmitt forwarded the working group's paper to Brzezinski and Aaron under cover of a November 22 memorandum. (Carter Library, National Security Council, Institutional Files, 1977-1981, Box 99, SCC 119 Intelligence Charters, 11/27/78)

Mr. Lapham, as Chairman of the Working Group, explained that the Working Group draft did *not* represent a consensus view and was only a reference point. The basic work of the Working Group was to examine Title II of S2525, pull out the major issues and put down the alternatives. They had gone out of their way to present both pros and cons.

Dr. Brzezinski opined that an intermediary step was necessary before the SCC considered the issues and made its recommendations to the President. A small group of senior officials (Messrs Aaron, Carlucci, Resor, Lipshutz and a representative of the Attorney General) should meet to identify (a) the issues on which agreement already exists and (b) the few major issues that require SCC consideration and Presidential decision. With the exception of Admiral Turner, all agreed that this was a proper approach. The Admiral felt that the SCC principals should do this job themselves on the basis of the existing issues papers and Working Group draft.

92. Memorandum From Director of Central Intelligence Turner to the President's Assistant for National Security Affairs (Brzezinski)¹

Washington, January 17, 1979

SUBJECT

Intelligence Charter Legislation

Your memorandum of 6 December 1977² requested that I assume primary responsibility for the coordination of the Administration's efforts to develop an authoritative position, subject to review and approval by the Special Coordination Committee (SCC) and the President, concerning the multitude of issues presented by the six substantive titles of S.2525,³ the first attempt at intelligence charter legislation introduced by the Senate Select Committee on Intelligence (SSCI). In

¹ Source: Carter Library, National Security Council, Institutional Files, 1977–1981, Box 101, SCC 127 Intelligence Charters, 1/24/79. No classification marking.

² Not found.

³ The seven titles of S. 2525 were: I, National Intelligence; II, Intelligence Activities and Constitutional Rights; III, Foreign Intelligence Surveillance; IV, Central Intelligence Agency; V, Federal Bureau of Investigation; VI, National Security Agency; VII, Miscellaneous Amendments and Effective Date.

response to that charge and in an effort to give direction and shape to this process, I requested on 7 April 1978 that the agencies and departments concerned join in the formation of a "senior charter legislation working group" to be chaired by my General Counsel.⁴

That group began its deliberations almost immediately and by 22 May 1978, the major issues and alternatives in Titles IV, V and VI (the entity charters for CIA, FBI, and NSA, respectively) had been identified, reviewed by the SCC⁵ and approved by the President, and each entity began, and has continued, direct negotiations on its particular charter with the SSCI staff. In the interim between the SCC review of the entity charters and the President's approval of the SCC decisions in that regard, the working group began its review and assessment of Title I, dealing with the general organization and responsibilities of the intelligence community and senior officials with intelligence functions. The process of review and analysis by the working group, SCC consideration and resolution of issues, and Presidential approval and resolution of remaining issues, was completed on 3 October 1978,⁶ and the Administration position on Title I was presented to the SSCI on 1 November 1978.⁷

Following the SCC deliberations concerning Title I, the working group began its review of the remaining Titles II and III. These titles, along with certain provisions of Title I which had been reserved for later treatment, had been foreseen as the most difficult and most important since they attempt to impose an elaborate framework of detailed restrictions and limitations on a multitude of varied intelligence activities. The working group, as you know, completed its review of Title II and presented a detailed issues and analysis paper to the SCC for its meeting on 27 November 1978.⁸ At that meeting the SCC determined that a higher level group should be formed to review the working group product and attempt to resolve and narrow the outstanding issues which appeared to be presented in this regard by S.2525. To this end a "senior charter legislation task force" chaired by David Aaron,

⁴ Turner sent his April 7 memorandum, "S. 2525—Proposed Intelligence Charter Legislation—Organizational and Substantive Considerations," to Vance, Blumenthal, Brown, Bell, Schlesinger, Lance, and Brzezinski. (Carter Library, National Security Affairs, Brzezinski Material, Brzezinski Office File, Subject Chron, Intelligence (Charter Legislation) 2/77-5/78)

⁵ See Document 84.

⁶ Brzezinski reported Carter's decisions on Title I in an October 3 memorandum to Mondale, Vance, Brown, Bell, Lance, Jones, and Turner. (Carter Library, National Security Council, Institutional Files, 1977-1981, Box 12, PD 17 [6])

⁷ Not found.

⁸ See Document 91.

and composed of representatives from CIA, Defense, State and Justice has been organized and has begun this review process.

It appears to me to be essential to the development of sound intelligence charter legislation that there be minimal confusion in the lines of responsibility and that the Administration's resources be marshaled most efficiently to achieve that purpose. Accordingly, and since it has served its purposes, I believe the "senior charter legislation working group" should be disbanded at this time. In this way there will be no question but that the members of that group and the agencies they represent are now responsible for supporting the NSC and the Aaron task force in this regard in whatever way may be deemed necessary and appropriate by that entity. At such time as it may be deemed advisable, the working group is subject to revival or reorganization. In addition, I will be available to perform a central, coordinating role once again should that appear to be necessary.

Stansfield Turner⁹

⁹ Turner signed "Stan Turner" above this typed signature.

93. **Memorandum From Samuel Hoskinson of the National Security Council Staff to the President's Assistant for National Security Affairs (Brzezinski) and the President's Deputy Assistant for National Security Affairs (Aaron)**¹

Washington, January 17, 1979

SUBJECT

Intelligence Charters

Stan Turner proposes to disband the special intelligence charter legislation working group² he created to implement your directive that he assume primary responsibility for development of proposed Administration positions on S.2525 for SCC and Presidential review. In this way he feels there will be no question that the agencies and departments involved are now responsible for supporting the NSC and David's higher level review group created at the 27 November SCC meeting.³ Turner promises, however, to "be available to perform a central, coordinating role once again should that appear to be necessary."

On the surface this initiative appears to reflect little more than the obsession of CIA's lawyers for bureaucratic tidiness. You should also be aware, however, that there is an emerging feeling in some quarters that the real end game on charters has become one of who gets pinned with the blame for failure. At a minimum, there are sure to be a few unhappy scenes ahead under any conditions and I sense a distinct feeling at CIA these days that they want to distance themselves as much as possible from this whole mess.

I suggest that, rather than immortalizing all this in memoranda, you simply inform Stan that in effect the responsibilities you assigned him on charters are in abeyance as long as the Aaron group (which includes Carlucci) is working the problem for the SCC. His only responsibility at this point is to assume CIA's full cooperation with the Aaron group's effort.⁴

¹ Source: Carter Library, National Security Council, Institutional Files, 1977-1981, Box 101, SCC127 Intelligence Charters, 1/24/79. No classification marking. Sent for action.

² See Document 92.

³ See Document 91.

⁴ S. 2525 never made it out of the Senate Select Committee on Intelligence to which it had been referred in February 1978.

94. Memorandum From the President's Assistant for National Security Affairs (Brzezinski) to President Carter¹

Washington, undated

SUBJECT

Status Report on Political Intelligence

In response to your November note,² David Aaron, Dave Newsom and Frank Carlucci have been supervising a broad State-DCI-NSC effort to determine the factors contributing to unsatisfactory performance and to identify and implement practical remedies.

As a first step, political intelligence reporting [*1½ lines not declassified*] was reviewed in detail. This review established that in nearly all cases both collection and reporting were inadequate across the board on internal political dynamics. Specifically, insufficient attention has been given to strains associated with rapid modernization, population growth, urbanization and other such developments; strengths and weaknesses of the central leadership; nature and effectiveness of opposition forces; attitudes, social characteristics, cohesion and loyalty of the security forces *at all levels*; orientation and potential political influence of the mass media, labor groups, youth and student groups and religious elements; attitudes and influence of ethnic, racial or religious minorities; and Soviet activities, particularly with respect to infiltration of or influence on domestic political groups, subversion, and other intelligence activities.

Surveys of reporting from a number of other countries confirm that shortcomings in all of these areas are widespread.

The next step was to instruct all our diplomatic posts to reorder collection priorities to ensure consideration by collectors of the points noted above; to emphasize to all Ambassadors the important role of clandestine collection and the need to develop clandestine assets; and to instruct Ambassadors and Chiefs of Station to coordinate their collection and reporting better. A [*less than 1 line not declassified*] cable (at Tab A) conveying instructions on these points was sent on February 15. Additionally, selected diplomatic posts were directed to submit com-

¹ Source: National Security Council, Carter Intelligence Files, Political Intelligence Meeting, 5 June 1979. Top Secret; Sensitive. Printed from an unsigned copy. In an April 23 covering note to Brzezinski, Aaron argued that this memorandum not be submitted to Carter until Carlucci could review the draft after returning to the office on May 4. Both Carlucci and Newsom had been promised drafts. Brzezinski agreed. (Ibid.)

² This note is scheduled for publication in *Foreign Relations, 1977–1980*, vol. X, Iran: Revolution, January 1977–November 1979.

prehensive reports analyzing the vulnerability of their host government to destabilizing social, political or economic forces, or events such as the loss of a leader who is the principal source of stability.

Additionally, the following actions have been taken in recent weeks to improve political reporting:

—[1 paragraph (14 lines) not declassified]

—*Constraints*: Over the years a number of constraints have been imposed by Washington or by Ambassadors on the clandestine collection of information abroad. These have included a lack of cooperation on overseas CIA personnel assignments [*less than 1 line not declassified*]; refusal to permit the opening of a station; restrictions on collection, especially in the Middle East; and cover problems. Dave Newsom and Frank Carlucci have met several times and succeeded in reaching agreement to remove or reduce many of the constraints. A few remain and are still under negotiation; on one, clandestine collection in [*less than 1 line not declassified*], we will be coming back to you for a decision.

—*Cover*: A serious operational problem for CIA for years has been obtaining and keeping plausible cover for its case officers abroad. [12 lines not declassified]

—*Improved State Department Reporting*: A serious problem has developed in recent years with the increasing diversion of language-qualified political officers in our embassies to take care of visiting official delegations, particularly from the Congress. Moreover, as embassies have been tasked to perform additional tasks (such as narcotics, security, science and technology, refugees, etc.), limited resources available have resulted in the use of political officers' slots to perform these duties. The result has been a decrease of 18% in the number of political slots abroad now compared to 1970. State is taking steps to minimize assignments for its political officers other than political reporting, and has developed a plan which, over a period of years, would restore a number of political officer slots abroad. State, with NSC support, will be working with OMB on this.

—*Language Training*: There has been a serious decrease over the years in the number of language-qualified CIA and State Department officers serving abroad. [1½ lines not declassified] To reverse this situation, State and CIA both have agreed to develop incentives programs to encourage their personnel to learn and maintain foreign languages. By reprogramming already budgeted funds, the Department of State in FY 1980 will make available about \$300,000 for such incentives and CIA is prepared to allocate over a million dollars to this purpose. These incentives programs mark a major step in the effort to reverse a very adverse trend.

—*State-CIA Cooperation*: To diminish State-CIA rivalry in overseas posts and improve relations, both agencies have augmented their train-

ing programs at all levels to improve understanding in the ranks of each other's role. Additionally, the cable Cy sent to all posts in February contained a very strongly worded section on embassy-CIA relations and the importance of better coordination between the two. Also, State and CIA separately this month sent cables to their posts abroad³ encouraging greater exchanges of information and analysis by the CIA and State political reporters and greater efforts to improve relations between State and CIA personnel. No one has any illusions that this problem will be overcome in the immediate future, but an important start has been made.

All recognize that improved analysis must accompany improved collection. State and CIA independently in recent months have made major efforts to set forth a program of recruitment, training and incentives to improve analysis and reporting by their personnel abroad and here in Washington. A brief summary of their respective programs is at Tab B.⁴

You should be aware that progress in improving collection and reporting has been difficult because of long-standing disputes between the Department of State and CIA, including in particular deep seated hostility and resentment at State toward CIA activities abroad in general. Whether the subject is *[less than 1 line not declassified]* giving greater attention to developing clandestine assets, or administrative arrangements, there are many at State who seek to obstruct CIA efforts at every turn.

At the same time, CIA for years has failed to raise these problems to a policy level and appears simply to have acquiesced to measures which have significantly diminished the agency's political reporting capability. In light of this background, considerable credit is due David Aaron, David Newsom and Frank Carlucci for their role in this effort, particularly in Newsom's case because of the very difficult bureaucratic battles he has had to wage inside State to make even the limited progress outlined above. Without your prodding of last November,⁵ State-CIA recognition of your continuing interest, and continued pressure by David Aaron, this entire effort would fold overnight. The improvement of political intelligence is a long-range undertaking. We will keep pressing this effort, and I will report our progress to you periodically.

³ Neither found.

⁴ Not found attached.

⁵ See Document 67.

Tab A

Telegram From the Department of State to Select Diplomatic Posts⁶

Washington, February 15, 1979, 0122Z

38873. Subject: Political Reporting. References: (A) 78 State 90943; (B) 77 State 257648; (C) 78 State 265767.⁷

1. Last November the President, concerned about the quality of political reporting and analysis, asked Dr. Brzezinski, Admiral Turner and me to work closely together to strengthen political intelligence. At our request, David Aaron, Frank Carlucci and David Newsom have been examining the problem and have begun to develop recommendations for carrying out the President's instructions. I inform you of this so that you and your Mission will understand the importance which the highest levels in Washington attach to improving political reporting and so that you can better appreciate the special significance of the following guidance. (C)

2. Recent events abroad have raised questions here about our assumptions regarding internal political circumstances in countries of importance to us, particularly with respect to the prospects for their long-term stability. We are concerned, in particular, that Missions are not being sufficiently attentive in their reporting to:

—Institutional weaknesses of the political leadership and related inability to act effectively in a crisis;

—The extent to which processes of rapid change may be generating pressures which current regimes are incapable of handling;

—The possibility of a charismatic ethnic, religious or similar figure rapidly galvanizing diverse elements or classes of society into a unified potent political force;

—The sudden transformation of workers, under unusual economic circumstances, from disorganized, weak groups into an organized powerful force;

—The potential for a student movement antagonistic to the existing power structure to play, in combination with other forces, a major political role in bringing down the government;

⁶ Secret; Roger Channel. Drafted by Gates (INR); cleared by Bowdler, Newsom, Read, Wisner, Carlucci, Gates (NSC), and Tighe (DIA); approved by Vance. Sent to select posts [*text not declassified*].

⁷ Telegram 90943 is printed as Document 81. Telegram 257648 is printed as Document 65. For telegram 265767, see footnote 4, Document 89.

—The rapid resurgence of long repressed radical leftist elements in key sectors of the economy and bureaucracy; and

—The possibility that the cohesion, attitudes and capabilities of the armed forces may prove critical to the political balance and processes of many countries. (S)

3. Dr. Brzezinski, Admiral Turner and I are concerned that Washington may lack accurate information as to the vulnerability of governments of importance to us to destabilizing social, political or economic forces or to the loss of a leader who is the principal source of stability. We are concerned that our assumptions about the internal situation in a number of countries may be flawed or complacent. (C)

4. Accordingly, your Mission should undertake a searching review of its assumptions about the vulnerability of your host government to destabilizing forces or events. The review should, at minimum, address the following points:

—Major political or social strains associated with rapid modernization, population growth, urbanization, or other broad developments;

—Strengths and weaknesses of the central leadership (including the political and personal strengths and weaknesses of key individuals);

—Nature and effectiveness of the opposition forces (in-country or expatriate);

—Attitudes, social characteristics, cohesion and loyalty of the security forces at all levels repeat all levels;

—Orientation and influence of mass media;

—Orientation and political capabilities/potential of large groups;

—Attitudes and potential influences in times of social and political stress of youth and student groups;

—Organization, orientation and influence of religious elements and individual religious leaders;

—Attitudes and influence of ethnic, racial or religious minorities;

—Interactions among the above forces;

—External influences on the above forces;

—Soviet activities, particularly with respect to infiltration of or influence on domestic political groups; subversion; and other intelligence activities. (S)

5. The perception in Washington is that a number of posts need to intensify Mission coverage on the above subjects—which I expect to see integrated into post reporting plans called for in 78 State 265767. Within that context and for the longer term, all elements of your Mission should regard the checklist in paragraph 4 as comprising high priority targets for collection and reporting. (C)

6. We in Washington appreciate that your Mission in many instances is already active in collecting information, reporting and

analyzing some or all of the topics or groups listed above. Nevertheless, because of the importance of high quality, accurate and forward-looking political intelligence and analysis to our national security, I believe you should take a fresh look at your reporting and frankly appraise the quality of the information you have with a particular view toward developing new contacts and sources—overt; clandestine; and, for your host country's armed forces, through the Attache and MAAG—at all levels of the groups and institutions cited in this cable. (S)

7. In this connection, I am aware that some posts may impose restrictions on overt repeat overt contacts and travel of Embassy officers for various reasons. These include avoidance of contacts with certain opposition political parties, trade unionists, military personnel, religious elements or other elements of society, as well as travel in certain locales. I would like you to review any such "restraints" you may have in effect, either as a result of your own decision or previous guidance from Washington with a view to ensuring the broadest possible coverage consistent with your best judgment. You should provide your conclusions on those restrictions you believe must continue to be enforced for Washington's review and seek guidance in the future whenever you believe such restrictions should be expanded. (S)

8. [15 lines not declassified] Emphasis on the importance and priority of that role by Chief of Mission should serve to make the implementation of that policy more effective. (S)

9. I want to address the question of Embassy [less than 1 line not declassified] relations more specifically. In certain instances it will be necessary for your Mission to use clandestine sources to meet the objectives described above. I am aware of the risks, but, recognizing what is at stake, I believe you should review carefully how your Mission can make greater use of clandestine collection with a view to increasing their reporting. You should take into account that some information of importance may not be susceptible to overt collection, that some clandestine means should be used to verify information overtly collected (and vice versa); and that development of clandestine sources is probably desirable and necessary in the event overt sources are denied to us through a change in political circumstances. Accordingly, you should re-examine the role of clandestine collection at your Mission to see what further contribution it might make to your overall effort. (S)

10. While the risk of clandestine collection must always be taken fully into account, risks may have to be taken to obtain specific information not overtly available or where long lead time is necessary to develop assets which will be of benefit in the long term. It is in our interest to do what we can to ensure that we are aware of growing threats to the stability and any elements of weakness in the societies of countries where we have major interests. For you to make judgments

about political risks versus value of the information sought requires that [*less than 1 line not declassified*] keep you fully and currently informed in considering such problems. In cases where the Chief of Mission feels the risk of proposed clandestine collection efforts could prove too high, or where there are substantial differences on the priority of targets, the COM and COS should refer the matter to Washington for resolution. (S)

11. The coordination of clandestine and overt collection requires that the Chief of Mission assure that there is neither unnecessary duplication nor a concentration of resources on one area at the expense of others. The means by which this can most appropriately be accomplished is for the COM—as part of the reporting plan process—to review with the Station Chief both the principal political and economic contacts of the Embassy and the areas of focus of [*less than 1 line not declassified*] in order to identify individuals or areas where there appears to be a conflict or unnecessary overlapping of effort. In this manner, reporting responsibilities can be clearly and efficiently allocated. (C)

12. Clearly you will want to share this with [*2 lines not declassified*] Admiral Turner, Lt. General Tighe (Director, DIA) and Lt. General Graves (Director, DSAA) will be tasking their respective elements separately to provide full cooperation. You will also wish to bring to the attention of the other members of your Country Team the high priority we attach to improved reporting. (C)

13. The collection of information, however complete (and it can never be 100 percent) cannot produce the final product alone. Improvement of our intelligence and political assessments requires the most intensive exercise of intellectual capacity and judgment. In Washington and the field, I ask all concerned to set the highest standards. (C)

Christopher

95. **Memorandum From the General Counsel of the Central Intelligence Agency (Lapham) to Director of Central Intelligence Turner¹**

OGC 79-03970

Washington, April 30, 1979

SUBJECT

[2 lines not declassified]

1. *Action requested.* Your signature on the attached memorandum to Dr. Brzezinski (Attachment A)² apprising him of the [3 lines not declassified]. This memorandum is also intended to acquaint you with these details along with our recent communications with IOB concerning this subject.

2. *Background.* This matter was first brought to my attention in February of this year via a memorandum from the Inspector General (Attachment B) which sought our opinion concerning whether or not [1½ lines not declassified] contravenes any existing Executive Order strictures and/or Agency regulations (especially those governing relationships between CIA and [less than 1 line not declassified]). The specific details of the activity, as well as our conclusions concerning their legality and propriety, are spelled out at length in this Office's 3 April 1979 response to the IG (Attachment C). Essentially, the activity in question is a [less than 1 line not declassified] and managed by [less than 1 line not declassified] which distributes ([less than 1 line not declassified] four European locations) published, open-source literature (books, pamphlets, etc.) to individuals in the Soviet Union and several Eastern European countries. The materials disseminated have on occasion included foreign language tracts which have been published overseas with covert Agency support. Much of the annual distribution from [1 line not declassified] is accomplished by approximately [1½ lines not declassified] who initiate contact by writing the office or visiting its premises and asking for certain publications which [less than 1 line not declassified] provides to them at no charge for forwarding to contacts, colleagues, and friends of [less than 1 line not declassified] who reside in the Soviet Union and Eastern Europe. The questions raised by the IG concerning the legality and propriety of the [less than 1 line not declassified] activity were primarily based on the fact that none of these

¹ Source: Carter Library, National Security Affairs, Staff Material, President's Intelligence Oversight Board, Box 2, Meeting 5/16/79. Secret. Sent through the Deputy Director of Central Intelligence, Frank Carlucci, who did not initial the memorandum. Concurred in by the CIA Inspector General, John Waller, and the Deputy Director for Operations, John McMahon, on May 1.

² Attachments A-E were not found attached.

[*less than 1 line not declassified*] has ever been made official witting of CIA's sponsorship of the program, although [*less than 1 line not declassified*] Staff points out that many of these persons are aware of the program's previous connection with Radio Liberty and Radio Free Europe and thus presumably assume or suspect on their own a continuing U.S. Government and CIA involvement in the operation.

3. It should be emphasized that a Presidential finding of 7 June 1978³ formally approved this entire covert action activity based on information provided to the SCC which stated the expressed purpose of the program to be the infiltration of diverse types of literature into the Soviet Union and other Eastern European countries in order to generate publicity and otherwise support and encourage the citizens of those countries who favor liberalization and modernization of their countries' foreign and domestic policies. Nevertheless, in reviewing all of the available background memoranda and supporting documentation that were prepared for senior CIA management and the White House at that time, we have found no indication that the involvement of [*less than 1 line not declassified*] was ever explicitly spelled out.

4. *Supporting data.* Our 3 April 1979 response to the IG, after laying out a detailed factual recitation of the particulars of the [*less than 1 line not declassified*] reached the following basic conclusions:

a) The [*2 lines not declassified*] does not violate any existing Agency policies or Executive Order strictures since no "operational use" is being made of these individuals.

b) The occasional dissemination of materials covertly published by CIA similarly involves no illegality or impropriety since the materials are in a foreign language, are published overseas, and do not represent an attempt to influence U.S. public opinion.

5. A copy of our memorandum was furnished to the IOB, which had been previously alerted of this matter through an 8 March letter from the Acting IG (Attachment D). In a letter to me dated 13 April 1979 (Attachment E), IOB Counsel Gil Kujovich not only indicated satisfaction with our conclusions but also made note of his and the Board's approval of the manner in which this matter was raised and reviewed internally by OIG and this Office, stating it to be a "good example of how effective Executive Branch oversight should function." However, Mr. Kujovich went on to say that the Board believes that the [*less than 1 line not declassified*] is a factor which "should have been brought to the attention of the SCC, as well as the DCI, at the time

³ Reference is to the omnibus Presidential finding of June 7, 1978, which is in the National Security Council, Carter Intelligence Files, Presidential Findings/MONs and Background Material.

that the activity was reviewed." Thus, he stated that "the Board has determined to defer further action on this matter pending prompt consideration by both the DCI and the SCC."

6. Accordingly, pursuant to IOB's wishes, this memorandum and its attachments will serve to apprise you of the ongoing involvement of [less than 1 line not declassified] in the covert action activity [less than 1 line not declassified] (we should note that our 3 April memorandum to the IG had previously suggested that this matter be brought to your attention, particularly in view of your past interest and public statements on the subject of CIA [less than 1 line not declassified]). In addition, we have prepared a proposed memorandum from you to Dr. Brzezinski which similarly traces the facts and circumstances of this entire matter, including our correspondence with IOB. In light of IOB's apparent acceptance of the conclusions previously reached by this Office, it does not appear legally necessary at this time to initiate any changes in the current *modus operandi* [less than 1 line not declassified]. Thus, subject to any views to the contrary which you may have on policy grounds, your memorandum to Dr. Brzezinski presents this entire matter for his information only with no recommendation contained therein for any further action on the part of CIA or SCC.

7. *Recommendation:* Your signature on the attached memorandum to Dr. Brzezinski (Attachment A).

Anthony A. Lapham⁴
General Counsel

⁴ Printed from a copy that bears this typed signature.

96. Memorandum From the Chairman of the Intelligence Oversight Board (Farmer) to Vice President Mondale¹

Washington, May 14, 1979

SUBJECT

Presidential Standards for Review and Approval of Sensitive Collection and Counterintelligence Operations

The SCC agenda for Wednesday, May 16, includes consideration of Presidential standards for review and approval of sensitive collection operations pursuant to sections 1–303 and 1–306 of Executive Order 12036 and counterintelligence operations pursuant to section 1–304 of the Order. For the past six months, staff efforts to obtain agreement on the standards, or even basic principles, have been unsuccessful. The basic split has been between CIA on the one hand and Justice and State on the other.

I. *BACKGROUND*

During the latter stages of SCC consideration of what became Executive Order 12036, the SCC approved a provision requiring that sensitive collection operations be treated in a manner similar to that used for special activities (SCC approval or recommendations to the President on each proposed operation). On January 7, 1978, just prior to the signing of the Order, the Director of Central Intelligence sent a memorandum to the President recommending that the sensitive collection provision be changed to limit the role of the SCC in the approval process.² The memorandum was not coordinated with or even provided to the members of the SCC. The DCI's justifications for limited SCC review were the security problems raised by revealing sensitive operations to all SCC members and a concern that a procedure for SCC approval of all operations would lead to legislation requiring congressional approval as well. Up to and including the present time, the DCI's 1978 memorandum to the President has not been formally revealed to all the SCC members. The Secretary of State first learned of the existence of the memorandum in April 1979.

The President did not adopt the DCI's suggested language for the Order. Instead, he informed the DCI and the SCC Chairman that he agreed with the suggested approach but preferred to include the details in Presidential standards rather than in the Executive Order. As an

¹ Source: Carter Library, National Security Affairs, Staff Material, President's Intelligence Oversight Board, Box 2, Meeting 5/16/79. Secret.

² See Document 72.

apparent consequence of the President's decision, the Executive Order was rewritten into its current form:

1-303. *Sensitive Foreign Intelligence Operations*. Under standards established by the President, proposals for sensitive foreign intelligence collection operations shall be reported to the Chairman [of the SCC]³ by the Director of Central Intelligence for appropriate review and approval.

In June of 1978, the NSC asked the Attorney General for an opinion on the sensitive collection review procedures for the purpose of conducting an annual review. The resulting opinion discussed the history of the Executive Order, including the DCI's January memorandum to the President (which was provided "in confidence" only to the Attorney General). The opinion concluded that the President had not adopted the limited approval and review procedure proposed by the DCI and that he was free, under the Executive Order, to either adopt the procedure or to establish a different procedure as he saw fit. A copy of the opinion is attached at Tab A.⁴

For more than six months after the Order had been signed, there was no apparent effort to draft the standards, despite the Executive Order requirement for Presidential standards and the President's decision to include the details of the review and approval process in standards issued by him. In August 1978, the IOB met with the President and informed him that, in the absence of standards under the Order, sensitive collection operations were being approved by an informal procedure that did not necessarily include SCC consultation.⁵ We also indicated that while we had not found any abuse in this procedure, we felt that the procedure raised serious institutional problems. The President expressed surprise and invited the Board to draft the standards, but we deferred to the Intelligence Community.

Subsequently, CIA and Justice circulated a series of draft standards, but the staffs at State, Justice and CIA were unable to reach agreement. In March of this year, the Secretary of State circulated to the SCC members a memorandum calling for an SCC meeting on the matter and setting out certain principles that he believed should govern the Presidential standards. This memorandum was followed by a State Department draft of the standards which was circulated in April to the SCC members with a memorandum from the Secretary of State

³ Brackets are in the original.

⁴ Not found attached.

⁵ See Document 88.

again calling for an SCC meeting. The State Department circulations are attached at Tab B.⁶

Throughout this period, there were also staff level discussions of Presidential standards for SCC approval of counterintelligence operations, pursuant to section 1–304(e) of the Executive Order. For your convenience, copies of the relevant Executive Order provision and the latest draft of the counterintelligence standards issues paper are attached at Tab C.⁷

II. SENSITIVE COLLECTION STANDARDS

The basic issue to be decided is the institutional role of the SCC in the review and approval of proposals for sensitive collection operations. Two different approaches for the SCC role have emerged from the staff discussions. The first, supported by the CIA, treats the SCC as a resource to be used in the review and approval process at the discretion of the SCC Chairman (Assistant for National Security Affairs). Under this approach, the Chairman would approve sensitive collection proposals and consult the SCC as he deems necessary. The second approach, supported by the State Department, gives the SCC control over the review and approval process. Under this approach, the SCC would approve all sensitive collection proposals except certain categories of “routine” operations, as determined by the SCC, which could be approved by the Chairman and reviewed quarterly by the SCC.

The first approach would establish a procedure similar to that now in effect. The current procedure, as it has been described to us by Stan and Zbig, bears an unfortunate resemblance to the practice of the Forty Committee that was criticized by the Senate Select Committee on Intelligence.⁸ With the exception of certain technical collection operations, sensitive collection proposals are reported to the SCC Chairman at the sole discretion of the Director of Central Intelligence. The DCI’s reports are usually oral rather than written. The Chairman then determines whether the Secretary of State should be informed (again orally) and whether the proposal should be referred to the SCC or whether to inform the President. As far as we can tell, there are no existing

⁶ Not found attached. Neither the CIA/Justice draft nor the March State Department memorandum was found.

⁷ Not found attached.

⁸ The 40 Committee, named after National Security Decision Memorandum 40, February 17, 1970, reviewed and approved covert action proposals. For the text of NSDM 40, see *Foreign Relations, 1969–1976*, vol. II, Organization and Management of U.S. Foreign Policy, 1969–1972, Document 203. According to the Church Committee Final Report (see footnote 5, Document 41), the 40 Committee considered only about 25 percent of the CIA’s individual covert action projects, and Congress received briefings on only a few proposed projects.

guidelines or standard for determining when the DCI consults with the SCC Chairman or when the Chairman consults with some or all of the members of the SCC. Last year, the SCC conducted an annual review of sensitive collection operations.⁹ Brief written summaries were distributed at the outset of the meeting and collected at the end. Without any prior consideration or staff support, the SCC was asked to review and approve the current operations. At least some of the members present at the meeting were concerned that they did not really know what they had approved.

The Intelligence Oversight Board feels very strongly that the current process should not be perpetuated in the Presidential standards. Under the Executive Order, the members of the SCC, when meeting for the purpose of considering sensitive collection proposals, are the Secretary of State, the Secretary of Defense and the Attorney General, as well as the President's Assistant for National Security Affairs and the DCI. We believe that the potential for embarrassment to the United States and the other considerations that determine the sensitivity of certain collection operations require the considered judgment and approval of the President's senior advisers on foreign policy, national security and law. The DCI, and to a lesser extent, the President's Assistant for National Security Affairs are expected to act as advocates for collection activities that they perceive as necessary to meet the Nation's needs for reliable foreign intelligence. The responsibilities assigned to each generate institutional pressures to undertake collection activities. In order to assure that factors other than the need for foreign intelligence are given full and careful consideration, proposals for sensitive collection operations should be presented to and approved by the SCC.

The specific issues that should be decided by the SCC are as follows:

1. *Determination of Which Collection Operations Qualify as Sensitive:* There is general agreement that the DCI's discretion to report proposals for collection operations should be guided by general considerations tending to define sensitive operations. The State Department and the CIA disagree, however, on whether the Presidential standards should also include specific designations of types of proposed operations that are inherently sensitive and should always be reported. (One commonly cited example is an operation in which a head of state is a target or source.)

The Board believes that the DCI's discretion should be guided both by carefully defined criteria that will always require a report and by factors to be considered in determining whether to report operations not covered by the mandatory reporting criteria. In the staff discussions,

⁹ Not further identified.

the issue of mandatory reporting criteria has received more attention than is warranted, possibly because of a belief that such criteria imply a lack of faith in the judgment of the official responsible for reporting. We believe that the issue should be resolved in terms of the best method for structuring the decision-making process rather than in terms of the personalities currently involved in that process. Mandatory reporting criteria give some precision to an otherwise imprecise process and should therefore be included.

2. *Form of Reporting*: State and CIA disagree on whether sensitive collection proposals should be reported orally or in writing and on whether the DCI should be permitted to report categories of proposed operations rather than each specific proposal.

We strongly believe that the Presidential standards should include a requirement for reporting proposals in writing. Written proposals create a record of what was proposed and, therefore, of what was approved. A written record not only promotes careful consideration and establishes accountability, but also assists the DCI if it later becomes necessary for him to determine whether changed circumstances are consistent with an operation that has been approved. We are aware that a written document increases the risk of compromise of an operation and address that problem in the discussion of security procedures below.

Categorical reporting can be a useful device and should be permitted by the standards. If a group of operations are substantially similar (in terms of the type of target, risks of exposure, benefits to be derived, and potential effects of compromise) categorical reporting can permit careful consideration while at the same time avoid repetitive and time-consuming reporting and approval of specific operations. But categorical reporting should not inadvertently become a mechanism for obscuring differences among proposed operations or limiting the flow of relevant information to the Chairman and members of the SCC. The standards should therefore include a provision for the SCC to determine when categorical reporting will be permitted.

3. *Approval and Review by the SCC*: The issue here is whether the standards should require SCC approval of sensitive collection proposals or permit the Chairman of the SCC to approve proposals and consult the SCC as he deems necessary. For the reasons stated above, the Board believes that the SCC should be the approving authority. Although the issue has not been raised by either CIA or State, the Board believes that the standards should include a specific provision for advance distribution of written proposals to the SCC so that the SCC members will have both the time and staff support necessary to carry out their approval and review responsibilities.

The Board does not disagree with a procedure that permits delegation of limited approval authority to the SCC Chairman. Depending

upon the types of operations that are proposed and reported by the DCI, there may be categories of operations that are "routine" in that they are clearly consistent with established policy and do not involve high risk or especially serious consequences of exposure. To preserve flexibility and conserve the time of the SCC members, the Board believes that the standards should include a provision for the SCC to stipulate categories of proposals for "routine" operations that can be approved by the Chairman of the SCC. The Chairman's approval of "routine" operations should not, however, completely replace the SCC process. We believe that the SCC members should review, on a quarterly basis, all proposals that have not received advance SCC approval.

4. *Annual Review by the SCC*: Section 1–306 of the Executive Order includes a separate requirement for an annual review by the SCC and a report to the NSC. If the issues described above are resolved as recommended, it should not be necessary to include detailed requirements for the annual review. The Department of State believes that the annual review should include a sampling procedure to evaluate the DCI's characterization of operations as "sensitive." The Board agrees with the State Department on this issue.

5. *Security of Information Concerning Sensitive Collection Operations*: There is no dispute that strict security procedures are required because of the extreme sensitivity of the information involved. We support the inclusion of security procedures in the Presidential standards. Security procedures should not, however, undermine the SCC approval and review process. In prior Administrations, security concerns have been used as a rationalization for engaging in cursory consultation (either by telephone or in informal conversations), for limiting the information provided to concerned Cabinet officials or for entirely bypassing established approval and review procedures. We believe that any formulation of security procedures should be based on the principle of control, rather than elimination, of written documents and of control, rather than denial, of information to the SCC members.

III. COUNTERINTELLIGENCE STANDARDS

The issues for SCC review and approval of counterintelligence operations are similar to those described above for sensitive collection operations. The issues paper at Tab C adequately describes the issues and options.

The Board favors substantive standards that include a clear statement as to the types of counterintelligence operations that must be reported to and approved by the SCC. The Board also favors procedures for the reporting, review and approval of counterintelligence operations similar to the procedures that apply to sensitive collection operations.

97. Memorandum From the Chairman of the Intelligence Oversight Board (Farmer) to President Carter¹

Washington, July 3, 1979

SUBJECT

Use of Unwitting United States Persons in CIA Covert Action (S)

The Central Intelligence Agency has reported a question of propriety concerning the unwitting involvement of United States academics and other United States persons in a CIA operated covert system for distributing publications to the Soviet Union and Eastern Europe.² The United States persons are provided, at no cost, publications they request for the purpose of mailing or personally delivering the publications to friends and acquaintances in the target countries. The United States persons are not informed that the organization providing the publications is a CIA proprietary operating under commercial cover. (S)

Neither the Director of Central Intelligence nor the members of the SCC knew of the unwitting involvement of United States persons when this covert action was reviewed and approved in June 1978. At our request, the DCI and the Chairman of the SCC have been informed. The SCC Chairman and the DCI believe that it is not necessary to change the *modus operandi* of the publication distribution proprietary. (S)

The other members of the SCC have not been informed that the covert action includes the unwitting use of United States persons. Under section 1–302 of Executive Order 12036, the SCC is required to consider and submit to the President a recommendation on proposed covert actions. The Board believes that the unwitting use of United States persons is a fact directly relevant to the SCC's review of the covert action. That fact should have been brought to the attention of the SCC when the covert action proposal was first presented in 1978. (S)

The Board recommends that the matter be referred to the SCC for full consideration at this time. (U)³

¹ Source: National Security Council, Carter Intelligence Files, Intelligence Oversight Board, 3 Jun 1977–25 Jan 1979. Secret. Carter wrote at the top of the memorandum, "Zbig—Refer to SCC. J."

² See Document 95.

³ A covering memorandum from Brzezinski to Carter, July 16, outlines the conclusions of the SCC: "The IOB's memorandum to you of July 3, 1979 on the role of unwitting U.S. persons in the book and publication distribution program to Eastern Europe and the Soviet Union sponsored by CIA was presented to the SCC on July 13, 1979, as you instructed. The unanimous view of the Committee was that no change should be made in the manner in which this program is conducted." Carter wrote "OK. J" beneath the paragraph.

98. **Memorandum From Attorney General Bell to Secretary of Defense Brown and Director of Central Intelligence Turner¹**

Washington, August 15, 1979

SUBJECT

Intelligence Oversight Board Reporting Procedures

I have carefully reviewed the letter of July 28, 1979 which you proposed to send to the Assistant to the President for National Security Affairs on behalf of the three of us suggesting that the Chairman of the IOB be asked to forward to the Assistant to the President copies of anything that he sends to the President.

I cannot sign this letter and do not believe that this is a wise course of action. I know from my discussions with the Chairman of the IOB that the proposed letter is inaccurate in stating that the suggested procedure would not be objectionable to the Board from a policy viewpoint. Further, I disagree with the conclusion in the letter that the proposed procedure poses no risk to the Board's independence.

In accordance with these views, I am returning to you unsigned the draft letter of July 28, 1979.

While I dispute the wisdom of the procedure suggested in the draft letter, I share your view that it is important for the Intelligence Oversight Board to exercise great care to report to the President only those matters that are significant enough to deserve his attention and to ensure that these reports are fair and complete. At the same time, I am sure you recognize that an effective oversight system requires the IOB to maintain a healthy degree of independence. I have discussed these views with the Chairman of the IOB and found him to be quite receptive. If you perceive specific problems in the operations of the Board, I would urge you to discuss them with the Board and to seek counsel from my successor, Benjamin Civiletti.

Griffin B. Bell
Attorney General

¹ Source: Washington National Records Center, RG 330, OSD Files: FRC 330-82-0204B, 350.09 (Jun-Aug) 1979. No classification marking. Copies were also sent to Civiletti and Farmer.

Attachment

Draft Letter From Secretary of Defense Brown, Attorney General Bell, and Director of Central Intelligence Turner to the President's Assistant for National Security Affairs (Brzezinski)²

Washington, July 28, 1979

Dear Zbig:

There is an anomaly in the White House paper flow that we urge be corrected promptly. Reports on various matters from the Intelligence Oversight Board to the President appear to go directly from the Chairman of the Board to the President without a chance for you to examine them even to assure factual accuracy. We believe this is inappropriate in most cases.

We suggest that you request the Chairman to send you information copies of anything he sends forward to the President. This should not be objectionable to the Board from a policy viewpoint. There is no risk that the Board's independence would be jeopardized because its reports to the President would not be delayed or prevented from reaching the President. Moreover, there would be no automatic relaying of the reports to the agency which is its subject. The reports would merely be open to comment if you chose to submit additional views for the President to consider.

Sincerely,

**Harold Brown
Griffin Bell³
Stansfield Turner**

² No classification marking.

³ Attorney General Bell did not sign the letter.

99. **Memorandum From the Counsel of the Intelligence Oversight Board (Kujovich) to the Chairman of the Intelligence Oversight Board (Farmer)**¹

Washington, November 7, 1979

SUBJECT

IOB Briefings on Intelligence Activities

I have relayed your request that the DCI or his Deputy brief the full Board on November 16. My point of contact in the CIA General Counsel's office will convey the request to the DCI. Before I write a follow-up letter, I think that you should review the background of the briefings issue.

At its December 1977 meeting,² the Board decided to arrange for briefings for the IOB, through the Counsel in the first instance, on all covert actions and sensitive collection operations that had received Presidential or SCC approval. You raised the matter with Admiral Turner and he suggested that it be cleared with Dr. Brzezinski, as Chairman of the SCC.

In order to obtain the suggested SCC clearance, Counsel Burt Wides engaged in a preliminary discussion with Sam Hoskinson, the relevant NSC staffer. Wides informed Hoskinson that "the President had agreed with the Board when they met this summer that the Board should be kept aware of such operations."

Wides also discussed the proposed briefings with David Aaron.

Aaron agreed that the Board and Counsel should receive covert action briefings, but expressed reservations about sensitive collection briefings. Aaron also suggested that the IOB not have access to written project proposals and decision memoranda.

At the January 16, 1978 meeting³ the Board decided not to proceed with the briefings request until it had met with the President. On February 7, you sent a memorandum to the President setting out the issues the Board wished to discuss with him at a scheduled meeting.⁴ The memorandum included the following:

¹ Source: Carter Library, National Security Affairs, Staff Material, President's Intelligence Oversight Board, Box 2, Meeting 11/16/79. Secret.

² No minutes of the meeting were found. The agenda for the meeting is in the Carter Library, President's Intelligence Oversight Board, Box 1, Meeting 12/13/77.

³ No minutes of the meeting were found. The agenda for the meeting is in the Carter Library, President's Intelligence Oversight Board, Box 1, Meeting 1/16/78.

⁴ The memorandum is in the Carter Library, National Security Affairs, Brzezinski Material, Subject File, Box 29, Intelligence Oversight Board, 1/78-12/80.

Also, in order for the IOB to provide effective assistance, it needs to be fully aware of ongoing intelligence operations. In this connection, it was agreed at our June 8 meeting⁵ with you that the IOB would be kept apprised of current operations so that it would have sufficient background against which to evaluate and judge particular activities that have been called into question. The IOB has obtained the necessary clearances and orientation briefings on sensitive collection techniques, but to maximize security in view of an anticipated change in personnel, the IOB deferred comprehensive briefings until its new Staff Counsel was hired. This has now been accomplished, and the IOB is ready to receive regular briefings on current covert action and sensitive collection operations. The NSC has indicated, however, that it would like to have your explicit confirmation before the DCI is authorized to brief the IOB on sensitive collection matters.

We desire clarification on this point because we believe that such briefings are necessary for the IOB to provide you with informed judgment on the matters it reviews.

At the end of the second paragraph, the President indicated his agreement by writing "OK."

The meeting with the President took place on February 10.⁶ Burt Wides' memorandum for the record of that meeting shows that the President, Vice President, Bob Lipshutz, David Aaron, the Board and the Board's Counsel attended. The memorandum contains the following information about the proposed briefings:

Dave Aaron suggested that the Board receive briefings from the DCI, "like Admiral Turner's briefing of the Congressional Committee," so that the Board understands the structure and the techniques of the Community and the nature of our programs. Dave Aaron suggested reservation, however, about the Board getting into the identity of agents in extremely sensitive operations. The President indicated that was his view, and that if the Board felt it needed more information than the initial briefings provided, we could review the arrangements. Dave Aaron also questioned the IOB's seeing the proposal paper and decision memorandum.

. . . . Dave Aaron said that in the context of a particular inquiry, more specific questions about agents might be appropriate.

. . . . Mr. Farmer made clear that in the first instance the briefings would be provided to the IOB counsel for relay to the Board members and there was no objection.

It seems clear from your memorandum to the President and from the meeting that the President authorized briefings for the Board, and

⁵ June 8, 1977. No minutes of the meeting were found, but see Document 38.

⁶ According to the President's Daily Diary, the meeting was held on February 9, 1978, not February 10. (Carter Library, Presidential Materials, President's Daily Diary) While no minutes of the meeting were found, the briefing memoranda for the meeting are in the National Security Council, Carter Intelligence File, Intelligence Oversight Board, 3 Jun 1977–25 Jan 1979.

for the Counsel in the first instance, on both sensitive collection and covert actions. The only qualification was that the Board would not be given specific identities on sensitive collection unless such identities were required for a specific investigation being undertaken by the Board. This conclusion is so stated in a Wides memorandum to the Board at the March meeting:⁷

At our meeting with the President, he confirmed the IOB should receive background briefings on current intelligence operations. They can be divided into three categories: covert action, sensitive intelligence collection and counterespionage. The understanding was that the Board would be fully briefed on covert action. As to sensitive collection on foreign intelligence, we were to be briefed on specific kinds of operations and judgments made regarding the risk-benefit considerations, but those briefings would not, for the time being, actually identify or permit identification, of the sensitive agent in each operation. It is not fully clear what kinds of briefings we will be able to get on counterintelligence, but they would presumably follow the pattern for sensitive collection.

Subsequent to the meeting with the President, you contacted Admiral Turner and arranged for Wides to receive the first briefings. Over the next couple of months Wides received briefings on specific covert actions and much less specific briefings on sensitive collection operations. These briefings were given by CIA staff. (The question of counterintelligence briefings was apparently never pursued.)

On April 28, 1978, you sent a letter to Admiral Turner requesting that either he or Frank Carlucci brief the Board on sensitive collection operations at the Board's May meeting.⁸ You stated in your letter that the Board would arrange for a covert action briefing in the near future.

It appears that Turner and his staff gave a sensitive collection briefing at the May 11 meeting.⁹ On May 25, you wrote Admiral Turner thanking him for "the briefings you provided on sensitive collection matters."¹⁰ You also requested that he arrange for a briefing (at the Board's June meeting) on covert actions and the procedures for SCC approval of covert actions.

Despite David Aaron's agreement with the proposed briefing on covert actions and the President's approval of such a briefing, new problems arose. The difficulty seems to have been with your request

⁷ Wides' minutes of the March 16, 1978, IOB meeting are in the Carter Library, National Security Affairs, Staff Material, President's Intelligence Oversight Board, Box 1, Meeting 3/16/78.

⁸ Not found.

⁹ Minutes of the meeting are in the Carter Library, National Security Affairs, Staff Material, President's Intelligence Oversight Board, Box 1, Meeting 5/11/78.

¹⁰ Not found.

that the briefing include the procedures for approving covert actions. The CIA DDO advised Wides that he should again clear the briefing request with the NSC. In June, Sam Hoskinson informed Wides that Dr. Brzezinski believed that the IOB should not be looking into the approval procedures unless there was a particular allegation of illegality or impropriety about the way the NSC did its work. The issue was not resolved between Wides and Hoskinson in the June discussion.

After June of 1978, I can find no further record of follow-up on the covert action briefing request. As you may recall, the Board immersed itself in the Shadrin case¹¹ and the charters legislation of that time. Apparently, the covert action briefing request was lost in the shuffle.

There was, however, a revival of the sensitive collection briefing issue. On August 15, the Board met with the President to discuss Board access to information,¹² including sensitive collection operations and Attorney General opinions. We have no written record of that meeting. On August 17, you sent a memorandum to the President¹³ responding to his request:

for a written summary of the principal categories of information and the degree of access to sensitive data which the Board considers essential in order to perform effectively the functions you have assigned to it.

The summary covered sensitive collection (but not covert action) and indicated that the Board required regular detailed briefings on individual operations identified by nationality and functional category but not by name. The President responded on the memorandum as follows:

too specific. Each quarter Zbig will go over report with Chairman of IOB.

Your memorandum also indicated that the Board required information on the process by which projects are initiated. Although the President did not make any comment on the memorandum concerning this matter, at the August 15 meeting he suggested that the Board draft sensitive collection approval procedures. It therefore appears that the President agreed that the Board should have access to information on the procedures by which intelligence activities are approved by the SCC, SCC Chairman, and the President.

¹¹ A reference to Nicholas George Shadrin, a Soviet defector and double agent, who disappeared after his December 20, 1975, meeting with the KGB in Vienna.

¹² No minutes of the meeting were found.

¹³ See Document 88.

To summarize what has been approved by the President:

June 1977: The President orally agreed that the Board should be kept informed of ongoing intelligence operations.

February 1978: President agreed in writing that Board should receive briefings on covert action and sensitive collection operations.

President confirmed this decision at a meeting with the qualification that individual sensitive collection sources should not be revealed to the Board unless necessary for a specific Board investigation.

August 1978: President clarified in writing his instructions on sensitive collection briefings. He established a procedure for the Board Chairman to receive quarterly briefings from Dr. Brzezinski. The briefings were to be not so specific as to reveal the nationality and position of specific sources.

The President has not made any further pronouncements on the briefing issue.

At the end of 1978, you wrote Dr. Brzezinski¹⁴ requesting that he give the Board the first quarterly briefing. You renewed this request in a letter of January 9, 1979 and Dr. Brzezinski and the DCI met with the members of the Board on January 25.¹⁵ At that meeting (which did not include staff), the procedures for approving sensitive collection operations were discussed, but there was no discussion of the actual operations.

On March 5, you again wrote Dr. Brzezinski noting that the substantive briefing had not been given and requesting that it be conducted at the Board's March meeting.¹⁶ Subsequently Dr. Brzezinski suggested (through Sam Hoskinson that the briefings be given by Admiral Turner and his DDO.)¹⁷ At my request Hoskinson contacted the DDO and arranged for the Board to receive the same briefing on sensitive collection that is given at the SCC annual review. I told Hoskinson that the Board would receive this briefing and decide for itself whether it was an adequate substitute for the quarterly Brzezinski briefings that has been directed by the President.

Scheduling difficulties and the controversy over the Presidential standards on sensitive collection prevented the Board from actually scheduling a date for the briefing. The matter was not raised again until October.¹⁸ At that time I asked Dan Silver to schedule a briefing on sensitive collection and covert action for you and me. Subsequent

¹⁴ Not found.

¹⁵ Neither the letter nor minutes of the meeting was found.

¹⁶ Not found.

¹⁷ Hoskinson's memorandum of March 16 is in the Carter Library, National Security Affairs, Brzezinski Material, Brzezinski Office File, Box 98, Intelligence (IOB & NFIB Issues) 1978-1980.

¹⁸ Not further identified.

discussions led to the DCI's statement that he had provided the briefings ordered by the President but that he was willing to brief the Board once more. The DCI stipulated that the briefing be given to the full Board with no staff present. I relayed to him your message that the briefing should take place at the Board's meeting on November 16.

It seems clear that the President's decisions on the IOB briefings have not been followed with great care. On the one hand, the CIA and NSC staff have engaged in repeated delays and sought additional clarifications after the matter had been decided by the President. On the other hand, the Board has not exerted consistent pressure to have the President's decisions carried out and has at times requested briefings (on sensitive collection) that were inconsistent with those decisions.

I recommend that you choose one of the following two options:

(1) Write Admiral Turner a letter briefly setting out the President's decisions and requesting that he comply with those decisions by

(a) Briefing the Board and Counsel on covert action programs at the November 16 meeting.

(b) Arranging for staff briefings for the Counsel on procedures for developing and approving covert actions.

(c) Arranging for a briefing of the IOB Chairman on sensitive collection operations.

(2) Call Admiral Turner on the secure line to arrange for the above-described briefings. If arrangements cannot be made, include the matter in a memorandum to the President on the powers and authorities of the IOB.

100. Letter From the Chairman of the Senate Select Committee on Intelligence (Bayh), the Chairman of the Subcommittee on Charters and Guidelines (Huddleston), and the Vice Chairman of the Subcommittee on Charters and Guidelines (Mathias) to President Carter¹

Washington, January 24, 1980

Dear Mr. President

As we agreed at a meeting with you in the White House shortly after you took office as President,² the Senate Select Committee on Intelligence has been working with the Vice President, the Director of Central Intelligence, the Secretary of State, the Secretary of Defense, the Attorney General, and other officials whom you designated to arrive at an agreed upon charter for the governance of intelligence activities of the United States. At your direction, we assisted you in drafting an interim Executive Order, Executive Order 12036, which is serving as the principal legal authority for intelligence activities until a statutory charter is completed.

The Committee has worked carefully and has tried to test every proposition against constitutional requirements and practical necessity. We have held three sets of hearings on charters alone, and have had hundreds of meetings at the staff level on issues raised by particular provisions of an intelligence charter.

At the meeting with Vice President Mondale which took place on January 22, 1980,³ we were able to narrow the areas of disagreement to two issues. The first concerns the heart of an effective oversight system, namely full access to information, while the second remaining issue affects a prohibition on the paid operational use of persons who are members of certain historically protected institutions.

The first issue of possible disagreement is over the right of the oversight committees to have full and complete information. Since 1976, the Senate Select Committee on Intelligence has functioned under the provision in Executive Order 12036. (These provisions are included as an attachment⁴ and should be carefully reviewed along with the statutory provision we believe is required for effective oversight.)

¹ Source: Carter Library, National Security Council, Institutional Files, 1977-1981, Box 11, PD 17 [3]. No classification marking.

² Not further identified.

³ No minutes of this meeting were found.

⁴ Not found attached.

We all recognize that effective oversight requires timely and full information. Such necessary information should be available whenever it can be most useful. As a matter of practice, with your full support, the Committee has been able to work out with the Intelligence Community the kinds of information it believes it needs, the degree of detail it believes necessary, and when such information should be supplied. In some cases the information required is very general in nature, in other instances extremely detailed; in most instances the information is supplied on a timely and current basis, while in some instances, such as covert action, some collection programs and certain technical areas, we have asked for and received information prior to implementation. The process has worked very well, thus far, and we believe it is in the nation's interest to institutionalize this process in law. We fully support the view that the Hughes-Ryan Amendment⁵ should be amended to limit notifications of Presidential approvals of covert action to the Intelligence Committees of the House and Senate, provided that the two Intelligence Committees are fully and currently informed, including notification of covert action prior to implementation.

As to sensitive sources and methods, the Committee has worked very hard to create a secure environment for the protection of extremely sensitive information. We have had occasion to examine, when required, sensitive sources and methods, names of agents, details of technical systems, the precise nature of liaison relationships and are proud to say that we have done so in a way that protects this sensitive information. At the same time, the Committee has been restrained. We have not generally sought information about the precise names of agents or the details of extremely sensitive systems unless we believed it was necessary to do so. Where there were disputes, we have been able, thus far, to work them out. But the Committee believes it is necessary to have it clearly stated in a statute that there is a right to any and all information concerning intelligence activities, including prior notice of significant activities.

We recognize, however, that the President has duties and prerogatives conferred by the Constitution and we have taken account of this in the opening phrase of Section 152 of the charter, which states:

Consistent with all applicable authorities and duties, including those conferred by the Constitution upon the executive and legislative branches,

⁵ See footnote 3, Document 80.

Further, we recognize that the President should have the right to decide in what ways information should be given to the oversight committees, and whether the President wants to give them directly himself, through the Director of Central Intelligence or through some other means. We have provided for this in Section 152(e), which reads as follows:

The President may establish such procedures as the President determines may be necessary to carry out the provisions of this section.

The Committee is unanimous in its belief that it must have the right of full access to information if there is to be effective oversight. The necessity to engage in secret activities poses special problems for an open, democratic society. We all agree that secret activities are necessary. The protection necessary to assure that secret activities will be conducted in accord with the Constitution is effective oversight. Full access to timely information and prior notice of significant activities are the sine qua non. Without it there can be no assurance that careful scrutiny of intelligence activities will be given by the Legislative branch.

The second issue concerns a prohibition on the use of academics, clerics and the media. The Committee's provision would prohibit certain paid or operational relationships between members of these professions and the agencies of the Intelligence Community. It would not prohibit voluntary relationships. A number of members of the Committee believe that these professions deserve special protection because of their close symbolic and institutional identification with rights of free expression protected by the First Amendment.

The issue is whether the need for paid operational use of clergymen, academics and journalists outweighs the need to protect the integrity of their professions. If, in your opinion, it does, we would be prepared to consider the drafting of a waiver provision permitting an exception in situations where a vital national interest is at stake.

We would like to discuss these issues with you personally before you come to a decision. You have already very generously invited us to come to you directly whenever we felt there was an issue of crucial importance with regard to the drafting of a charter governing the intelligence activities of the United States. We believe that the importance of these issues requires such a discussion with you.

We want to thank you for the firm support that you personally have provided in furthering the completion of this effort. We are appreciative of the cooperation that Vice President Mondale, his chief aides, Admiral Turner, Secretary Vance, Secretary Brown, Attorney General Bell and now Attorney General Civiletti and their associates have shown in working with the Senate Select Committee on Intelligence to arrive at a consensus on how the intelligence activities of the United

States should be governed. The effort to place these vital activities within a constitutional framework has not been easy. With a little more effort, we believe that we can come to agreement on legislation that will serve the country well.

With kind regards,

Birch Bayh
Chairman

Walter D. Huddleston
Chairman, Subcommittee on Charters and Guidelines

Charles McC. Mathias, Jr.
Vice Chairman, Subcommittee on Charters and Guidelines

101. Memorandum for the Record¹

Washington, January 30, 1980, 9:30–11:00 a.m.

SUBJECT

Meeting with President on Intelligence Charter January 30, 1980

PARTICIPANTS

President Jimmy Carter
Senator Walter Huddleston
Senator Birch Bayh
Senator Charles McC. Mathias
Senator Edwin Garn
Attorney General Benjamin Civiletti
Zbigniew Brzezinski, Assistant to the President for National Security Affairs
David Aaron, Deputy Assistant to the President for National Security Affairs
William Miller, Staff Chief, Senate Select Committee on Intelligence
Denis Clift, Assistant to the Vice President for National Security Affairs
Madeleine Albright, NSC Staff Member, Congressional
Donald Gregg, NSC Staff Member, Intelligence
The Director of Central Intelligence, Stansfield Turner

The President opened the meeting by thanking the Senate Committee for its good work on charters. He said he had noted that foreign governments were now less reserved about sharing information as

¹ Source: Carter Library, National Security Council, Institutional Files, 1977–1981, Box 11, PD 17 [3]. Secret; Sensitive. The meeting was held in the Cabinet Room.

they have seen intelligence oversight procedures worked out. The President said that he wants a charter passed, and that he also wants the Hughes-Ryan act² modified, some relief from the FOIA act, and a protection of identities provision. (S)

Senator Bayh replied by saying that his committee wants to move rapidly to pass the charter. He said there is a strong feeling in the Senate to remove "unneeded bureaucratic entanglements" from the charter. He praised the DCI for working well with the Committee. Bayh said that if the three provisions mentioned by the President were removed from charters, reporting procedures would have to be institutionalized. He wants a charter that will endure, and will keep future administrations from repeating some of the mistakes of the past. The President said that he was pleased that mutual trust had developed. He said "I think that the basic integrity of CIA and the oversight process has been restored." (S)

The President then moved to discuss areas where there still are differences between the Administration and the Committee. He said he opposed a flat prohibition against use of clerics, academics and press reporters. He feels that the intelligence community needs to be able to use individuals from these groups in special cases when either he or the DCI decides. (S)

The President then said that prior notification of anticipated significant actions was overly restrictive. He said there are times where actions must be carried out where very few know. He cited the very recent case of the six US hostages who had been smuggled out of Iran with the aid of the Canadian Embassy. He said that many plans had been developed and assessed, and many changes made. The President added that if he had been forced by a charter to share such information with a larger group, he would have been reluctant to "jeopardize lives," and the viability of the Canadian Government in the Arab World.³ Of the two issues, the President said, the second is far more significant. He said that he would not want to be required by law to have to inform even his five closest advisors of all he plans to do. (S)

Senator Huddleston said that the Committee was trying to "temper theory with reality." He said much progress had been made on the charter, but that (speaking to the first issue) there would be heavy criticism if it were seen that paid, sustained and covert use of clerics, academics and pressmen was to be permitted. Huddleston said that restrictive guidelines, limiting such use, might be all right. (S)

² See footnote 3, Document 80.

³ See Bernard Gwertzman, "Six U.S. Diplomats, Hidden By Canada, Leave Iran Safely," *New York Times*, January 30, 1980, p. A1.

The President reiterated that he did not want a prohibition. He noted that we have growing problems in the Moslem world, and that covert use of [*less than 1 line not declassified*] is becoming much more necessary if we are to deal with the problems we face. (S)

Senator Garn spoke up as a Mormon, and said that the 30,000 missionaries sent overseas by his church have been damaged by charges of use by CIA. Garn also suggested that guidelines be written to limit use of these groups. The DCI spoke and said that he had no objection to guidelines, adding that the general policy was that such people would not be used, but that there would be exceptions. (S)

Bayh noted that the press will be looking at this provision in the charter very hard, and that there would be an outcry if it were perceived that general use of the press was to be permitted. (S)

The President hoped that the question might be finessed, or left as it is. He noted that it is often very hard to rewrite something without calling additional attention to it. (C)

Huddleston said that the issue of prior reporting was more crucial to the oversight process. Huddleston felt that prior reporting of anticipated significant events was a needed balance to the narrowing of the reporting requirements in Hughes Ryan. The President interjected that it was that specific provision that gave him problems. (C)

Huddleston said that the Senate was not asking for any approval provision, nor did they wish to infringe on the President's Constitutional rights. Huddleston said that Frank Church, Chairman of the Senate Foreign Relations Committee wants prior reporting if his Committee is no longer to be reported to under the Hughes-Ryan amendment. Huddleston supported this contention. (C)

The President said that he has tried to keep the Congress fully and currently informed. He said that in the case of a long term covert action, he would see no problem in informing the Congress prior to its implementation. (He cited the example of trying to develop a more stable government in an unspecified country.) The President said, however, that there have to be exceptions. Referring again to the recent Iran case (six hostages) the President said that the Senate charter, as written would have forced him to "risk lives, break the law or drop the option." He said that he did not think that Prime Minister Clark of Canada would have cooperated as fully as he did had he known that Congress was being told of what was going on. (S)

Senator Garn supported the President on this point, and hoped that a joint intelligence committee could be formed. (C)

Huddleston said that some exceptions from prior reporting should be permitted, such as a plan to mount a military strike designed to free the remaining hostages in Iran. (C)

The President said that both sides seemed close to agreement. As another reason not to be required to give prior reporting to the Congress, the President cited several long letters he has received from the House intelligence committee on very sensitive covert actions.⁴ Such letters give the President pause, as he does not know who typed them, or who saw them. (C)

David Aaron suggested that language in the charter be kept as it is in Executive Order 12036, with the DCI making clear in testimony that this normally means prior reporting. Aaron commented that the SSCI has strong control over the intelligence community as a whole via the oversight process, and any misuse of such a system would quickly be noted and rectified. (C)

Senator Mathias said that the intelligence community has been “put through a wringer” over the past five years, and a good charter will ensure that the process will not have to be repeated. (C)

The President again referred to the recent case in Iran as the clearest example he could think of to demonstrate why he should *not* be required to give prior notification in all cases. (S)

Dr. Brzezinski noted that there appeared to be a clear cut distinction between long-range and short-range covert actions, and that the exceptions should apply to short-range operations of high sensitivity, designed to save lives. Senator Bayh said he thought that this distinction was a useful one around which to construct a waiver. (S)

The President reiterated his interest in getting a charter bill submitted quickly. He said that once the Senate and the Administration had reached agreement, he would try to “arouse some enthusiasm” for the charter in the House of Representatives. The President left the meeting at that point. (C)

Bill Miller said that he favored a “tight waiver” to allow the President the needed flexibility in reporting to the intelligence committees. (C)

The Attorney General said that the purpose of prior notification is “to chill bad acts, and to deter or change others.” He said that the President should have flexibility, and that he ought not to be limited by others trying to define specifically the kinds of exceptions he should not have to report in advance. He said that a “broad” or “simple” phrase would be best. (C)

Although the President had not mentioned it, both David Aaron and the DCI indicated that the current language of the charter, which set no limits on the nature and amount of detail which would have to

⁴ Not further identified.

be reported to the SSCI was not acceptable. Some limitation, clearly indicating the DCI's responsibility, and that of the President, to protect sources and methods, needs to be in the charter. (C)

The meeting ended at that point.

102. Paper Prepared by the Working Group on Intelligence Charter Legislation¹

Washington, February 12, 1980

WORKING GROUP REPORT ON INTELLIGENCE CHARTER LEGISLATION

On February 8, 1980 Senators Huddleston, Bayh, Mathias and Goldwater, on behalf of the Senate Select Committee on Intelligence (SSCI), introduced a new comprehensive intelligence Charter bill, "The National Intelligence Act of 1980."² Although the bill was not introduced as a joint Administration-SSCI product, in very large measure it reflects compromises and agreements reached between the SSCI staff and the Intelligence Charter Working Group (represented by its chairman).

The purpose of this report is to list what appear to the Working Group to be significant differences between the bill and the draft the Working Group would have recommended. A list of the key issues is set out in Section A, together with the Working Group's recommendations. If the President approves the Working Group recommendations, these points will be transmitted to the SSCI as Administration positions, and the Administration will seek appropriate modification of the bill in the course of the legislative process.

In addition, a small number of points are still the subject of disagreement within the Executive Branch. These points are set forth in Section B of this report for resolution by the President. An issue paper on each of the issues within the Executive Branch is attached at Tab A.³

¹ Source: Carter Library, National Security Council, Institutional Files, 1977–1981, Box 11, PD 17 [4]. No classification marking.

² S. 2284 was introduced in the Senate on February 8 and referred to the Senate Select Committee on Intelligence.

³ Not found attached.

The discussions between the Working Group Chairman and the SSCI staff have been fast-moving in recent weeks. While the Working Group members have been kept fully informed of the evolution of the agreed provisions found in the SSCI bill, there has not been an opportunity for review of the draft by the Special Coordination Committee of the NSC. Nor has there been time for a thorough review of the draft in the light of last-minute compromises reached in order to reduce the number of issues requiring Presidential resolution. Consequently, even after determination of the Administration position on the issues presented in this report, a certain number of changes, largely technical in nature, may have to be made in the course of the legislative process. It is not anticipated that these changes would require further decisions by the President or that they would give rise to major disputes between the SSCI and the Administration.

A. *REMAINING DIFFERENCES BETWEEN THE ADMINISTRATION AND THE SSCI*

Set forth below are a series of points on which the Working Group feels that the Administration should take exception to provisions of the SSCI bill.

1. *Prior Reporting to Congress of Special Activities*

The bill requires (section 142) that the two congressional intelligence committees be kept “fully and currently informed” of all intelligence activities, including “any significant anticipated intelligence activities.” It also provides (section 125) that each high-risk special activity and each category of lower-risk special activity covered by a Presidential finding shall be considered a “significant anticipated intelligence activity,” thus requiring prior notice, except that for a period of forty-eight hours such prior notice may be limited to the chairmen and ranking minority members of the two oversight committees and the majority and minority leaders of the two Houses of Congress.

The Working Group recommends that the Administration take a firm position against any prior reporting requirement for special activities. The Working Group recommends that any accommodation of the congressional desire for prior notification of certain categories of major or long-term special activities be accomplished through legislative history and not through statutory language. The concepts of timely notification and the obligation to keep the committees “currently” informed should suffice to ensure that prompt notice of significant activities (ordinarily before the event) is given while retaining necessary Presidential flexibility to preserve security in exigent circumstances, especially when human lives are at stake.

2. *Prior Reporting of Other Significant Intelligence Activities*

As the bill is formulated, it would require prior reporting to the two intelligence committees of significant anticipated intelligence collection activities, in addition to special activities. This requirement, while found in Executive Order 12036, is not at present embodied in statutory law. The Working Group recommends that the Administration position be opposed to the inclusion of such a provision in the Charter bill, even were some form of prior reporting to be accepted for special activities. Foreign intelligence collection is a vital aspect of the President's exercise of his responsibility for the conduct of foreign affairs and protection of the national security. In contrast to special activities, intelligence collection is more clearly within the ambit of exclusive Executive Branch authority. Furthermore, a statutory requirement to report sensitive collection activities in advance to the oversight committees would significantly restrict the flexibility now available to the President with regard to the collection of intelligence. It is, in our view, unnecessary to appropriate oversight, given the extensive oversight powers elsewhere provided to the two intelligence committees. As with special activities, a requirement to keep the Congress fully and currently informed would suffice without excessively impairing flexibility.

3. *Absence of Intelligence Source and Method Protection in the Oversight Process*

The bill does not include in the congressional oversight section (section 142) a key phrase that the Working Group considers it essential to insert as a condition to the Executive Branch's obligation to keep the oversight committees informed. This is that such obligation should be "consistent with all applicable authority and duties, including those conferred by the Constitution upon the Executive and Legislative Branches and *by law to protect sources and methods.*" The underlined words are not included in the SSCI bill. The function of this phrase is to provide authority for withholding from the oversight committees extremely sensitive information, such as the true identities of agents or information furnished by foreign liaison services who do not wish it shared with the Legislative Branch of our government. Without a clear statutory basis for protecting such information, the ability of the intelligence agencies to deal with sources and foreign governments would be impaired. The information in question is not of the kind required for proper oversight. Moreover, the phrase at issue is included in section 3-4 of E.O. 12036. Failure to include it in the Charter bill, therefore, would be a retreat for the Executive Branch from present oversight arrangements.

4. *Prohibition on Cover Use of Certain Institutions*

The Working Group understands that in the President's meeting with Senator Huddleston it was agreed that restrictions on the use of

academics, clerics and journalists would be replaced with hortatory language requiring regulations to protect the integrity of professions in general.⁴ The SSCI bill, however, continues (in section 132(b)) to contain detailed restrictions on the cover use of United States religious, media and academic institutions and exchange programs; the hortatory language applies only to operational use of members of the various professions. The Working Group feels that the general approach requiring regulations to preserve the integrity of all professions would take care sufficiently of both cover and operational use, and accordingly recommends that the Administration support deletion of the SSCI bill's detailed restrictions on the cover use of certain institutions.

While cover use should be kept to an absolute minimum, circumstances are conceivable in which such use would be the only plausible cover available in a situation of the highest urgency and national importance. A blanket prohibition in such circumstances would either lead to the loss of essential intelligence or require the government to engage in unlawful activity. The Working Group recommends that the Administration seek deletion of section 132(b) of the SSCI bill.

5. *Wartime Waiver*

The SSCI bill contains no general provision permitting the President to waive restrictions on intelligence activities in time of war, although there is a limited war-time waiver provision with respect to the prohibition on cover use of certain institutions. The Working Group recommends that the Administration support the inclusion of a general war-time waiver provision to read as follows:

“(a) The President may waive any or all of the restrictions on intelligence activities set forth in this Act during any period—

(1) in which the United States is engaged in war declared by Act of Congress; or

(2) covered by a report from the President to the Congress under the War Powers Resolution, 87 Stat. 555, to the extent necessary to carry out the activity that is the subject of the report.

(b) When the President utilizes the waiver authority under this section, the President shall notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate in a timely manner and inform those committees of the facts and circumstances requiring the waiver.”

Although considerably improved over S. 2525, the SSCI bill still contains a variety of restrictions and requirements, both procedural and substantive, whose full impact cannot be anticipated or fully understood. In time of war, these restrictions and procedures may prove to

⁴ See Document 101.

impede necessary action, forcing the President to choose between danger to the national security and deliberate violation of the law. The limited waiver proposed by the Working Group would deal with these exigent circumstances, while at the same time preventing any potential abuse by requiring notification to the two oversight committees.

6. *FOIA Amendment*

The SSCI bill provides (section 421(d)) an exemption from the Freedom of Information Act for certain CIA operational and technical files, except in the case of “first person” requests by United States persons. This provision, while acceptable to CIA, fails to provide any relief for the NSA and other Intelligence Community components that also have confronted serious problems under the FOIA. The Working Group prefers the formulation proposed by the Director of Central Intelligence, under which the DCI would be empowered to designate operational and technical files not only within the CIA but in any component of the Intelligence Community, and thereby exempt such files from the FOIA except in the case of first person requests. Language for this purpose is set forth at Tab B.⁵ The Working Group recommends that the Administration support modification of the SSCI bill to accomplish this broader FOIA relief.

7. *Protection of Identities*

The SSCI bill contains a provision establishing criminal penalties for disclosure of the identity of an undercover intelligence officer or agent (Title VII). The provision, however, would apply only to a person who had authorized access to classified information and would not cover aiders, abettors, accomplices or conspirators who knowingly assisted in the commission of the offense. The Working Group considers this provision inadequate and recommends that the Administration support a more extensive provision. There is disagreement, however, between CIA and the Department of Justice as to the scope of the substitute provision the Administration should support. An issue paper on this point is included in Tab A. The Working Group proposes that the Administration advance whichever of the alternate formulations is chosen by the President.

8. *Foreign Intelligence Surveillance Act*⁶

The SSCI bill contains amendments to the Foreign Intelligence Surveillance Act (FISA) for purposes of including physical searches in its scope. The Working Group feels that the Administration should not

⁵ Not found attached.

⁶ P.L. 95–511.

support a legislative proposal dealing with the FISA without at the same time taking account of significant inadequacies in the FISA that have become apparent since its enactment. The changes required to remedy these problems are:

a. Modification of the targeting standards to permit targeting of dual nationals who occupy senior positions in the government or military forces of foreign governments, while at the same time retaining United States citizenship. Frequently the activity of such persons when they visit the United States on official business is not such as to bring them under the quasi-criminal targeting standard now found in the FISA.

b. Modification of the targeting standards to permit targeting of former senior foreign government officials even if they are not acting in the United States as members of a foreign government or faction. Again, this problem was not anticipated at the time the FISA was passed, but various situations have arisen in which it is clear that a former foreign government official (such as a deposed head of state) who is present in the United States may have significant foreign intelligence information. Under present law such an official can be targeted only if a member of a foreign faction or government.

c. Clarification of the FISA to make it clear that the Attorney General, in authorizing the limited category of surveillances not subject to court order, has the same power as the court to authorize non-consensual entry of premises to effectuate the surveillance.

d. Extension of the emergency surveillance period from twenty-four to forty-eight hours. Recent experience indicates that the twenty-four-hour period is inadequate, leading to the necessity of delaying implementation of emergency surveillances.

A classified memorandum from the National Security Agency setting forth reasons for these changes to the FISA is attached at Tab C.⁷

B. DIFFERENCES REQUIRING RESOLUTION WITHIN THE EXECUTIVE BRANCH

Attached at Tab A are seven issues papers describing issues that require resolution by the President and as to which there is not unanimity among the departments and agencies represented on the Working Group. These issues are:

1. Should the provisions imposing criminal penalties for unauthorized disclosure of identities of intelligence personnel follow the Justice Department or the CIA version.

⁷ Not found attached.

2. Should positive foreign intelligence collection directed against United States persons by extraordinary techniques be authorized only if the court finds that the intelligence sought is “significant” foreign intelligence.

3. Should CIA and NSA employees serving overseas receive benefits comparable to State Department employees.

4. Should NSA overseas employees be provided special retirement benefits equivalent to the CIA retirement system.

5. Should the Intelligence Oversight Board be given express authority to review the internal practices, procedures and guidelines of the intelligence agencies.

6. Should the bill contain a requirement that entity heads report to the Intelligence Oversight Board intelligence matters specified by the President.

7. Should the Central Intelligence Agency have statutory authority to obtain data collected by other entities of the Intelligence Community, including data obtained by technical collection systems, for purposes of processing and analysis.

In closing, it should be again emphasized that this report and the agreed portions of the SSCI bill have undergone numerous last-minute changes. Consequently, there may be further issues internal to the Executive Branch or between the Administration and the SSCI. In addition, there is the unavoidable risk that compromises reached under some time pressure will appear unacceptable to the parties upon later reflection.

Daniel B. Silver

General Counsel, CIA

Chairman, Intelligence Charter Working Group

103. Memorandum for the Record¹

Washington, March 3, 1980

SUBJECT

Meeting with Admiral Turner, February 28, 1980

On February 28, 1980, from 3:30 until 4:10 pm, Thomas Farmer and Senator Gore met with Admiral Turner at the DCI's office to discuss his annual report to the IOB, dated January 31, 1980.² Governor Scranton was unable to attend because of illness. Staff was not present at the meeting. The following summary is based on a debriefing by Mr. Farmer and Senator Gore shortly afterwards.

The main purpose of the meeting was to determine whether or not any intelligence activities had been withheld from the IOB under Admiral Turner's expressed interpretation of his reporting obligation, i.e., that he need not report any activity about which he is "persuaded" the President has knowledge and has "manifested a desire" not to disseminate further. Admiral Turner cited two instances in which information had been withheld from the Board.

The first instance involved an operation, apparently on-going, which was proposed to the President at a meeting about two years ago. Turner, Brzezinski, and Vice President Mondale were present when the proposal was discussed with the President. The President asked who knew of the proposal, to which the participants responded that only they had knowledge. The President then said not to tell anyone else. A question was raised whether a certain other Cabinet officer should be informed. (Turner did not specify who this Cabinet officer was, but from the context of his statement it was probably Secretary Vance or Judge Bell). The President stated that this Cabinet officer should not be informed. No reference was made to the IOB in the course of this meeting.

Attorney General Bell was subsequently asked for a legal opinion on this proposed operation, but it was presented to him in hypothetical form only. The proposal was implemented. It was never described to Congress, although the Intelligence Committees were apparently informed that an operation existed about which they could not be given any details.

¹ Source: Carter Library, National Security Affairs, Staff Material, President's Intelligence Oversight Board, Box 3, Meeting 5/19/80. Secret. Prepared by James V. Dick, IOB Counsel.

² Not found.

The second instance which Turner cited involved a more recent proposal for a very sensitive activity which was felt to require a finding before it could be implemented. The proposed activity was so sensitive, however, that neither Turner nor Brzezinski wanted to go through the SCC to obtain a finding because too many people would have become aware of it if that procedure had been followed. Brzezinski informed Turner that he would ask the President if the President would authorize this activity under his "war powers" authority, thus by-passing the SCC. Turner subsequently received a letter from Brzezinski stating that the President had in fact approved this proposed activity under his "war powers" authority. It is unclear whether or not the Attorney General was consulted about this proposal but it appeared that he was not.

Although the President apparently approved the proposal for this sensitive operation, it was never implemented under the "war powers" authority. The SCC subsequently approved a finding that covered this particular activity, as well as others, but it was couched in language sufficiently broad that this activity could not be identified from the finding itself.

Admiral Turner said that he feels the questions of legality and propriety surrounding the second activity are raised not by the nature of the activity itself but by the initial approval procedure.

Senator Gore told Admiral Turner that his interpretation of the reporting obligation, as expressed in the annual report, suggested that he would withhold an activity even on the basis of an instruction from someone other than the President. Turner at first expressed surprise that his language was susceptible to that interpretation, but then confirmed that there could be situations where he might not report an activity on the basis of an intermediary's instruction.

Admiral Turner also stated during the course of the meeting that the President has become much more concerned about security than he was in the early years of his Administration. Turner personally believes that the President is overly concerned because the security precautions are making it difficult for the CIA to coordinate effectively with the State Department.

Admiral Turner apologized about the tone of his annual report letter. With respect to the reporting standard he set forth in the letter, he stated that he was not at all committed to that formulation. Mr. Farmer suggested that the CIA General Counsel and the IOB Counsel could come to a common understanding about the appropriate standard. Adm. Turner also agreed that the IOB should be advised of all legal opinions by the CIA General Counsel's office if the opinions involve "close questions."

With respect to his failure to specify the subordinate officials with whom he consulted in preparing his annual report, he was more ada-

mant. He believes that the IOB's insistence that he specify these officials infringes on his prerogative as a manager. He noted that the Executive Order contains no explicit requirement for annual reports by senior officials in any event. He is willing to accede to the IOB's request for a report on an annual basis but does not intend to detail in his report the manner in which he conducts his review of CIA intelligence activities.

104. Memorandum From the Chairman of the Intelligence Oversight Board (Farmer) to President Carter¹

Washington, March 13, 1980

SUBJECT

Senior Officials' Reporting Obligation Under Executive Order 12036

A situation has arisen which, if not resolved, could impair the ability of the Intelligence Oversight Board to serve you in accordance with your personal instructions and the terms of Executive Order 12036.

The Executive Order requires senior intelligence agency officials to report to the Intelligence Oversight Board any intelligence activities of their agencies which raise questions of legality or propriety. Yet, in a recent report to the Board, the Director of Central Intelligence informed the Intelligence Oversight Board;

"I do not interpret the Order as requiring that I report to the Board matters that I am persuaded have been brought to the personal attention of the President and that the President has manifested a desire not to disseminate any further. Consequently, this report does not apply to such matters."

In a subsequent meeting with the Board, Admiral Turner confirmed that, on the basis of this interpretation, he did not report two activities which raise questions of legality or propriety.² According to Admiral Turner, you approved one of these activities about two years ago at a meeting attended by the Vice President, your National Security Adviser, and the DCI, and instructed that knowledge of the activity be limited to those officials. Admiral Turner stated that there was no reference to the

¹ Source: Carter Library, National Security Affairs, Brzezinski Material, Subject File, Box 29, Intelligence Oversight Board, 1/78-12/80. Secret. Carter wrote at the top of the memorandum, "Zbig—Talk to Stan—Give me expeditious advice. J."

² See Document 103.

IOB at this meeting but he assumed your instruction precluded reporting the matter to the Board.

However understandable Admiral Turner's assumption might have been, the rationale for his decision not to report this activity had previously been rejected by you in connection with an FBI operation. Early in your Administration then FBI-Director Kelley notified the Board that he was not reporting an activity raising questions of legality and propriety for identical reasons: because you had approved the activity and limited its dissemination to the Attorney General and your National Security Adviser. Nevertheless, you advised the Board that neither of these facts exempted the activity from the reporting requirement and directed that the Board be briefed.

On two occasions you explained to the Board in connection with this FBI activity that you wanted its advice on the serious questions of legality or propriety raised by intelligence activities without regard to prior approval by you.

The Board believes that the considerations underlying your prior decision on the reporting obligation, of which Admiral Turner is presumably unaware, apply equally to the situation he describes. Reporting to the Board does not delay the implementation of intelligence activities, since the IOB is not a part of the approval process, but it ensures that you are provided with a timely opportunity for reassessment in light of questions which may not have been presented by the operational elements of the Intelligence Community. Not reporting such activities, on the other hand, denies you the staffing of the only White House element with oversight but not operational responsibilities for intelligence activities.

The Board's informed yet detached perspective is especially valuable when applied to very closely held activities, since these are the very activities most likely to raise questions of legality and propriety.

Recommendation

We recommend that the Intelligence Oversight Board be briefed about any intelligence activities raising questions of legality or propriety which Admiral Turner has not already reported to the Board.

Approve _____ Disapprove _____³

In addition, the Board requests a meeting with you (a) to discuss the incomplete implementation of Executive Order 12036; and (b) to seek your views on the role of Executive Branch oversight as unwarranted restraints on intelligence activities are removed to permit greater operational flexibility.

³ Neither option was selected by Carter.

Significant progress has been made toward implementation of your Order in the two years since you signed it, but important procedures required under the Order have yet to be promulgated. In the absence of new procedures, some intelligence activities are still governed by procedures implemented under President Ford's Executive Order 11905, which was superseded by your Executive Order 12036. This condition has resulted in continuing uncertainty and confusion within the Intelligence Community as well as the undue impairment of operational effectiveness. The continuing failure to approve all procedures under your Order could also adversely affect the Administration's efforts to persuade the Congress to enact acceptable intelligence charters legislation.

With regard to the Executive Branch system of oversight, there are indications that some (though not all) agencies within the Intelligence Community interpret your desire to remove unwarranted restraints on intelligence activities, and your opposition to unqualified Congressional scrutiny of these activities, as evidence of decreased Presidential support for intelligence oversight within the Executive Branch.

The relaxation of substantive restrictions on intelligence activities, however, in no way diminishes the need for effective Executive Branch oversight. As operational restraints are removed, intelligence agents are necessarily required to exercise a wider range of discretion in implementing greater numbers of intelligence operations, thereby increasing the possibility of questionable conduct. Oversight by a staff element without operational responsibility is essential if you are to be kept advised fully of the questions of legality and propriety that such activities raise. Effective oversight within the Executive Branch is also a strong argument for resisting detailed Congressional oversight of intelligence operations.

The Board believes it is important to discuss with you its role in light of the changing perceptions of Executive Branch oversight which have occurred during the 18 months since we last met with you.⁴

Approve _____ Disapprove _____⁵

⁴ Carter met with the IOB on February 9, 1978 (see footnote 2, Document 85); no record of a later meeting was found.

⁵ Neither option was selected by Carter.

105. Memorandum From Director of Central Intelligence Turner to President Carter¹

Washington, March 14, 1980

SUBJECT

Senior Officials' Reporting Obligation under Executive Order 12036

REFERENCE

Chairman, IOB, Memorandum to the President, dated 13 March 1980²

The IOB's memorandum sets forth three concerns which are addressed in order:

1. The first centers on a basic issue of whether those intelligence activities for which the President manifests a desire for restricted dissemination in fact apply to the Intelligence Oversight Board.

Since the issuance of Executive Order 12036, the IOB has not been informed of only two activities. While there is no question that it is to the President's advantage for the IOB to examine the legality and propriety of intelligence activities, at the same time it must be recognized that there may be occasions when the level of operational risk demands that the President keep his own counsel.

Recommendation. While I am prepared to meet with you to remind you of the circumstances involved in the two activities and to make a determination on whether the IOB can now be briefed, it is my strong opinion that both activities remain extremely sensitive and that further disclosure would be inappropriate at this time.

I propose that in the future when you direct restricted access to intelligence activity that a determination be made on IOB access.

2. The second IOB concern centers on unimplemented Executive Order 12036 procedures. It is well-founded and comes as a result of our prodding. Of the eleven procedures, eight have been implemented and the remaining three—electronic surveillance, FI collection in the U.S., and CI in the U.S.—have been awaiting Justice Department approval since December 1979.

3. Finally, the IOB infers that some agencies perceive your support for oversight within the Executive Branch as decreased. This is based upon the Administration's current effort to remove unwarranted restraints on intelligence activities. The inference is unfounded.

¹ Source: Carter Library, National Security Affairs, Brzezinski Material, Brzezinski Office File, Box 98, Intelligence (IOB & NFIB Issues), 1978–1980. Secret.

² See Document 104.

On the contrary, the Administration's ability to foster relief and a reduction of reporting constraints is now confidently pursued in large part because of the success of the internal Executive Branch oversight system. Intelligence oversight has not, to the best of my knowledge, nor should be, relaxed if we hope to function effectively.

Stansfield Turner³

³ Turner signed "Stan Turner" above this typed signature.

106. Memorandum From the President's Assistant for National Security Affairs (Brzezinski) to President Carter¹

Washington, March 20, 1980

SUBJECT

Intelligence Oversight Board (U)

Pursuant to your note,² I have contacted the DCI with regard to Tom Farmer's memo of March 13 (Tab A).³ The DCI's reactions to that memorandum are attached at Tab B. (C)⁴

I support the DCI's position on all major issues:

—While the IOB's concerns are understandable, I believe that the DCI should be able to take directly to you particularly sensitive questions of legality or propriety, and that your decisions on the further disposition of such issues should be final. It is important not to have the IOB stand between you and the DCI on highly sensitive matters and your prerogative to resolve such issues in any way you choose should not be impaired.

—The IOB refers to "incomplete implementation of EO 12036 procedures." Three procedures, raising some difficult substantive problems,

¹ Source: Carter Library, National Security Affairs, Brzezinski Material, Brzezinski Office File, Box 98, Intelligence (IOB & NFIB Issues), 1978–1980. Secret. Sent for action. Carter wrote at the top of the memorandum, "Zbig. J."

² See footnote 1, Document 104.

³ Not attached, but printed as Document 104.

⁴ Not attached, but printed as Document 105.

have been awaiting final clearance from the Attorney General's office for some time. The IOB paper stresses, perhaps overly so, the negative impacts of not having had three procedures formally promulgated. The Attorney General's office indicates that quick action will be taken on the procedures.⁵

—I support the DCI's contention that progress with Congress in modifying reporting procedures for the intelligence community does not imply the need for an intensification of the IOB's role. Executive Branch Oversight is not directly influenced by anything that may or may not be done by Congress. The IOB apparently wishes to expand its oversight functions. There is no need for this, present executive branch oversight systems, including the IOB, are working well. (S)

RECOMMENDATIONS

1. That you meet with the DCI to review the two cases at issue.

APPROVE _____⁶ DISAPPROVE _____

2. That the IOB be briefed or not briefed on these cases, depending on your review.

APPROVE _____⁷ DISAPPROVE _____

3. That IOB be informed that your decision on such matters is final, but that they have been and will continue to be, fully informed of all but the most exceptional cases which you will adjudicate, often with the aid of the Attorney General.⁸

4. That the Attorney General be instructed to promulgate the unimplemented procedures immediately.

APPROVE _____ DISAPPROVE _____

5. That you tell the IOB that Executive Branch oversight systems, including the IOB, are working well, and need not be modified in reaction to what Congress may, or may not, do.

APPROVE _____⁹ DISAPPROVE _____

⁵ Adjacent to this paragraph, Carter wrote a notation for Brzezinski, "Tell Ben [Civiletti] I want this done this week—by 3/28/80."

⁶ Carter checked the "APPROVE" line. Adjacent to this recommendation, Carter wrote, "at next regular meeting w/ Stan."

⁷ Carter checked the "APPROVE" line.

⁸ Carter wrote "ok" under recommendation 3.

⁹ Carter checked the "APPROVE" line under recommendations 4 and 5.

107. Memorandum From the President's Assistant for National Security Affairs (Brzezinski) to the Chairman of the Intelligence Oversight Board (Farmer)¹

Washington, March 24, 1980

SUBJECT

Intelligence Oversight Board Procedures (U)

The President has reviewed your March 13, 1980 memo² and has reached the following decisions:

—After review with the DCI of the two cases you cite, a decision will be made as to whether or not the IOB should be briefed.

—The IOB has been and will continue to be fully informed of all but the most exceptional cases, which will be decided by the President, often with the aid of the Attorney General. The President's decision will be final in such cases.

—The Attorney General has been instructed to promulgate the unimplemented EO 12036 procedures without delay.

—Executive Branch oversight systems, including the IOB, are working well. These procedures are independent of initiatives to modify Congressional reporting procedures, and should remain so. The IOB should continue to focus on its important role, which is unaffected by what may be accomplished with the Congress. (S)

Zbigniew Brzezinski

¹ Source: National Security Council, Carter Intelligence Files, IOB, 19 March 1979–5 Dec 1980. Secret. Copies were sent to the Director of Central Intelligence and the Attorney General.

² See Document 104.

108. Memorandum From the Chairman of the Intelligence Oversight Board (Farmer) to President Carter¹

Washington, May 15, 1980

SUBJECT

Issues for IOB Meeting with the President, May 19, 1980

On March 24, 1980, the Intelligence Oversight Board received a memorandum from Dr. Brzezinski (Tab A)² in response to the Board's letter to you of March 13, 1980 (Tab B).³ Dr. Brzezinski's memorandum, copies of which were circulated by the NSC to the CIA and the Justice Department, fundamentally changes the intelligence oversight procedures established by Executive Order 12036.

Under the second paragraph of the NSC memorandum, intelligence activities which intelligence officials believe raise questions of legality or propriety would not be reported to the IOB, as the Executive Order requires, if they fall within the category of "the most exceptional cases." This new category of "exceptional cases" is not defined, although the memorandum indicates that the decision not to report to the Board will "often," but not always, be made with the advice of the Attorney General. The role of the Attorney General is also not defined or described.

We wish to discuss with you the serious damage to the oversight system which, in our view, results from the NSC memorandum, including:

—the serious injury to the Executive Branch oversight system that we believe an exception to the Executive Order reporting requirements would cause;

—the potential embarrassment to the Administration which could result from a secret document that alters reporting procedures mandated by Executive Order; and⁴

—the memorandum's suggestion to the Intelligence Community that the Board no longer enjoys an independent, direct relationship with you.

*I. Damage Resulting from the March 24 NSC Memorandum**A. Serious Injury to the Executive Branch Oversight System*

Executive Order 12036 includes no exceptions to the unambiguous requirement that Intelligence Community officials report to the IOB "any

¹ Source: Carter Library, National Security Affairs, Brzezinski Material, Subject File, Box 29, Intelligence Oversight Board, 1/78–12/80. Secret.

² Not found attached, but printed as Document 107.

³ Not found attached, but printed as Document 104.

⁴ Adjacent to this paragraph, an unknown hand wrote, "Legal point?"

intelligence activities of their organizations which raise questions of legality or propriety." A procedure permitting exceptions to the Order's reporting requirement would prevent the Board from assisting you in a meaningful way. Under such a procedure, the IOB would be unable to ascertain the extent to which agencies are not reporting intelligence activities that raise questions of legality or propriety, thereby compounding the severe difficulties the Board has already experienced with some agencies in attempting to serve you.⁵

If activities raising questions of legality or propriety are not reported to the IOB, you may be denied the assurance that these questions are fully explored and, if serious, presented to you. Members of the NSC as well as the Intelligence Community are under very real institutional pressures to implement intelligence operations they believe are necessary to meet national security requirements. They may neither recognize nor appreciate the significance of the underlying questions of legality or propriety. The members of the Board, on the other hand, are free from such institutional pressures; indeed, the Board's charter requires that Board members have no operational or employment relationship with the Intelligence Community.

An exception to the reporting requirement would also permit intelligence agencies to control the Board's access to information the Board deems necessary to carry out its oversight functions. If questionable intelligence activities are excepted from the reporting requirement, requests by the Board for information could be blocked by the assertion that the requested information relates to an excepted activity. The Board would have to accept the agency's assertion without the independent examination contemplated by the Executive Order since it could not review the denied information in order to determine the validity of the agency's refusal. Furthermore, because intelligence operations are often inter-connected, information concerning non-excepted activities may be denied by agency operators who feel justified in interpreting the operational scope of the exception more broadly than you intended.⁶

In addition to its effect on the Board's oversight function, an exception to the reporting requirement of E.O. 12036 would undermine the oversight function of Inspectors General and General Counsel within the intelligence agencies. The Order requires Inspectors General and General Counsel to report any intelligence activities they believe raise a question of legality or propriety.

⁵ An unknown hand underlined the portion of this sentence beginning with "the severe difficulties" to the end. A question mark was written adjacent to the sentence.

⁶ An unknown hand wrote "WORST CASE SCENARIO" adjacent to the final sentence of this paragraph.

A system that includes exceptions to the general reporting obligation would require agency oversight officials to report first to their agency head to satisfy themselves that they were not inadvertently reporting an excepted activity.⁷ A General Counsel or Inspector General who is instructed not to report an excepted activity would be placed in the position of ignoring the Order's unambiguous reporting obligations without direct knowledge of the operational scope of the exception.⁸

Oversight officials in the agencies could also encounter denials of access to information essential to their oversight responsibilities. Operational personnel within an intelligence agency could limit the access of an Inspector General or General Counsel by claiming that the requested information concerned an excepted activity. There would therefore be no independent examination, by officials outside the operating components, of excepted intelligence activities.

We are convinced that the alteration of the Executive Order reporting requirements, if permitted to stand, would confuse and complicate, if not entirely defeat, the already difficult task of providing effective Executive Branch oversight of intelligence activities, and would create an environment favorable to abuse. Moreover, we question the apparent assumption that such an exception would significantly improve security, citing the record of the Board in this respect.

B. Variance Between Public and Congressional Expectations and the Actual Operation of the Executive Branch Oversight System

Dr. Brzezinski's March 24 memorandum modifies Executive Order 12036 by curtailing the reporting obligations the Order imposes on intelligence officials. The Board believes that a secret, internal Executive Branch memorandum from the Assistant for National Security Affairs is an inappropriate method of amending the Order. Neither the Congress nor the public is informed, nor has any reason to assume, that the system of Executive Branch oversight operates in other than strict accordance with the Order's published terms.

The existence of a memorandum which secretly modifies the oversight provisions of E.O. 12036 is therefore a potential source of embarrassment to the Administration. Circulation of the memorandum to

⁷ An unknown hand underlined the portion of this sentence beginning with "require agency oversight" to the end. In the adjacent margin, written in an unknown hand is the notation, "what do they do now?"

⁸ Written at the top of the page above this paragraph in an unknown hand are these notations: "'IOB is focused on the past not the future.'" "CIA-IG—On ad hoc matters—may or may not inform DCI—the more obvious the case, the more likely it would be that DCI would be told 'a non-issue.'" "Annual & quarterly reports are sent to DCI by IG on drop-copy basis."

the CIA and the Department of Justice increases the risk of an embarrassing disclosure.

C. IOB Relationship with the President

In both public statements and in statements made privately to the IOB, you have emphasized that the Board reports directly, confidentially, and exclusively to you. A direct channel of communication between the Board and the President, independent of the Intelligence Community or the NSC, is central to the integrity of the oversight function of the Board. Specific experience has proven that the agencies' appreciation of the Board's direct and confidential relationship with you is the keystone of the IOB's ability to gain access to information required to serve you effectively.

We believe that the NSC's issuance and circulation of its March 24 memorandum, unless corrected, will undermine the Intelligence Community's perception of the IOB's relationship with you and, consequently, the capacity of the Board to discharge its oversight responsibilities. The NSC memorandum, written in response to the Board's request for a meeting with you, raised for the first time the fundamental issue of a revision of the Executive Order reporting procedures. However, the staffing did not include the IOB's views on proposed changes to the reporting system or even consultation with the IOB about the consequences of these changes.

The use of the NSC, without IOB involvement, as the staffing mechanism and as an intermediary for communications between you and the Board compromises the independence of the Board from the Intelligence Community and the NSC.⁹ Moreover, the failure of the pre-decisional staff memoranda to consider the effect that a modified reporting system would have on oversight officials below the level of the IOB, as noted above, illustrates the problems that will arise if the Board is by-passed and therefore prevented from giving you full and confidential advice on oversight matters, as required by Executive Order 12036.

II. Possible Means to Remedy the Damage Resulting from the Dissemination of the March 24 NSC Memorandum

A. Retain and Reaffirm the Executive Order Reporting Requirements

One option for remedying the damage resulting from the March 24 NSC memorandum is to retain and reaffirm, without exceptions,

⁹ Adjacent to this sentence in the left margin is written in an unknown hand, "President asked for this." The same hand underlined "independence of the Board from" and "the NSC" and wrote adjacent to the sentence in the right margin, "EO puts it subordinate to NSC."

the existing requirements in Executive Order 12036 that intelligence officials report to the IOB *any* intelligence activities raising questions of legality or propriety. This is the only course of action which avoids all of the serious problems discussed above.

Because the NSC memorandum establishing an exception to the reporting requirement has already been circulated, it would be necessary to disavow that memorandum. For this purpose, we have attached a draft letter from you to the heads of intelligence agencies (Tab C)¹⁰ which reaffirms your support of the Executive Branch oversight system, including the Executive Order reporting requirements, without directly referring to the NSC memorandum. Circulation of such a letter would also permit you to disclaim the suggestion of a secret modification of the Executive Order in the event that Congress learns of the NSC memorandum.

B. Amend Executive Order 12036 to Make the IOB an Advisory Rather than Oversight Board

Another option would be formal amendment of Executive Order 12036 transforming the Board into an advisory body which considers only matters referred to it by you on an *ad hoc* basis.

While this would reconcile public and Congressional understanding of the Board's role and its actual responsibilities, we do not feel that an IOB with an advisory role would serve a purpose useful to you. It is our firm belief that without an IOB possessing the authorities conferred on it by the Executive Order and the operating prerogatives presently granted by you to the Board, such as direct and confidential access to the President, an effective Executive Branch oversight system will cease to exist.

Recommendation

We strongly recommend option A as the only course which would preserve an effective Executive Branch system of intelligence oversight.¹¹

¹⁰ Not found attached.

¹¹ Carter met with the Intelligence Oversight Board on May 19 from 1:34 to 2:06 p.m. (Carter Library, Presidential Materials, President's Daily Diary) No minutes of the meeting were found.

109. Memorandum From the Counsel of the Intelligence Oversight Board (DICK) to the Intelligence Oversight Board¹

Washington, September 17, 1980

SUBJECT

IOB Meeting with Admiral Turner

Admiral Turner is scheduled to meet with the Board from 9:30 to 10:30 A.M. today.² Admiral Turner requested John McMahon, the Deputy Director for Operations, to attend as well. This meeting was arranged primarily to provide an opportunity for an exchange of views on intelligence and oversight issues generally, rather than as a briefing on any particular topic. The only specific matter which he was advised the Board wanted to discuss with him concerns covert action review and approval procedures. Background information concerning this subject, and other possible subjects of discussion, is set forth below.

I. Covert Action Review and Approval Procedures

A. Deficiencies in Current Practice

In its discussions with officials from the agencies involved during the past months, the Board has identified several deficiencies in the current covert action review and approval procedures. These include:

—*Inadequate Inter-Agency Staffing of Covert Action Proposals before SCC Consideration.* Under the Ford Administration's OAG Guidelines,³ a Special Activities Working Group (SAWG) consisting of senior representatives of SCC principals met to consider all covert action proposals before consideration by the SCC. During the past 18 months, the SAWG has generally been abandoned as unnecessary and too cumbersome. A group consisting of David Aaron, Frank Carlucci, Robert Komer, and David Newsom has been meeting regularly for the past few months to review on-going SCC-approved activities, but they apparently do not consider covert action proposals. Lower level, "technical" inter-agency groups are sometimes called to consider particular covert action proposals on an *ad hoc* basis, but there is no regular inter-agency group that meets to consider all such proposals.

¹ Source: Carter Library, National Security Affairs, Staff Material, President's Intelligence Oversight Board, Box 3, Meeting 9/17/80. Secret.

² No minutes of this meeting were found.

³ The OAG Guidelines were sent under a July 19, 1976, covering memorandum from Scowcroft to Secretary of State Kissinger, Secretary of Defense Rumsfeld, JCS Chairman General Brown, and DCI Bush. (National Security Council, Ford Administration Intelligence Files, Operations Advisory Group (OAG), 30 Jun 1976–Jan 1977)

—*Lack of Timely Distribution of Covert Action Proposals.* The OAG Guidelines required that covert action proposals be distributed to SCC members at least 48 hours in advance of SCC meetings to permit adequate staffing within the member agencies. However, according to several sources (including, recently, Robert Komer) proposals have often been distributed one day or less before SCC meetings. At times they are distributed at the meetings themselves, which provides no opportunity for thoughtful consideration of the proposals by the SCC members.

—*Inability of SCC Members to Review Covert Action Papers Before Submission to the President.* After the SCC has recommended that a proposed covert action be approved, the proposal (or an NSC summary of it), the proposed finding, and the minutes of the SCC meeting recommending approval are submitted to the President. Both State Department and Justice Department officials have indicated that SCC members do not have an opportunity to review the proposal “package” before it is submitted to the President to ensure that the individual views of the members are reflected accurately or that the proposal itself is adequately characterized in accordance with the SCC’s discussion.

—*Inability of SCC Members and Agencies to Review All Covert Action Papers After Approval by the President.* After the President has approved a covert action, SCC principals do have access to the approved finding and minutes at NSC offices. They are not, however, provided with copies to retain in their departments. (One exception is the CIA, which receives copies of signed findings, but even the CIA has had difficulty obtaining copies of the minutes). According to one Justice Department official, the President’s marginal comments on proposal papers are sometimes read back to SCC members by Dr. Brzezinski, but they are not permitted to review the comments themselves.

The Board should explore with Admiral Turner: (a) the current practice with regard to each of the above-described areas; and (b) his views as to whether these areas constitute significant problems for SCC members generally and the CIA specifically. [NOTE: To my knowledge the CIA is not aware of the recent effort made within the State Department to formulate a new set of procedures governing covert action review and approval. This effort is described in a separate memorandum.⁴ Unless he indicates that he is aware of it, it may not be advisable to raise it with him, at least with respect to the IOB’s role.]

According to other CIA officials, the inability to review all covert action papers is of particular concern to the Agency. For example, the language of findings originally proposed by the CIA’s Covert Action Staff is sometimes changed by the SCC or the President. If the finding

⁴ Not found. Brackets are in the original.

is changed, it may not track the underlying proposal papers that went forward from the CIA. The Covert Action Staff may therefore be in the position of being asked to implement an activity that differs from the one it originally proposed. Without access to the minutes, however, the Staff cannot adequately determine the basis for the changes. In addition, the CIA General Counsel needs a clear record of what the President actually approved in signing the covert action findings in order to advise operational personnel whether particular actions are permissible under existing findings, or whether a new finding is necessary.

The CIA General Counsel stated that until recently the CIA received only the signed Presidential finding and the proposal papers that originated in the Covert Action Staff but may have been altered by the SCC or President. Beyond these documents, he had to rely on the post-meeting notes of CIA officials who attended the meetings at which the findings were approved, and occasional access to portions of SCC minutes in order to determine whether a particular activity falls within the scope of an existing finding.

In order to more precisely define the limits of the proposed activity, the CIA began a few months ago to prepare "scope papers" to accompany the proposal papers reviewed by the SCC and the President. This paper summarizes the actual operations the CIA plans to undertake if the finding is approved by the President, and describes the projected costs, risks, and other factors which were required to be included in proposal papers under the OAG Guidelines.

In July, I was informed that only one scope paper had actually been seen by the President. The CIA had prepared others, but these had been "intercepted" by the NSC Staff before reaching the President. Unless the papers are seen by the President, they cannot help to define the scope of the activity he actually approved. When the CIA discussed these "interceptions" with the NSC Staff, the staff gave its assurance that it would begin to distribute SCC minutes to the Agency.

One particular matter that could be discussed with Admiral Turner, therefore, is the current status of the "scope paper" procedure. He could also be asked whether the Covert Action Staff and General Counsel have been regularly provided with necessary SCC minutes since the NSC assurance to do so on a regular basis.

In general, the Board should keep in mind that the problems with current covert action review and approval practices have been identified as originating in the NSC Staff, not the CIA. At the staff level, the CIA has attempted to cooperate with other agencies to the maximum extent possible, and has shown considerable sensitivity to complying with SCC and Presidential instructions.

B. State-CIA Agreement on Proposal Coordination

At the last Board meeting, it was reported that the State Department and the CIA had recently reached an agreement concerning coordination of covert action proposals between those two agencies during the development stage of the proposals.⁵ A copy of this agreement, called "Guidelines for Covert Action Proposals," is attached for reference at Tab A.⁶ These guidelines have now been issued internally within CIA and communicated to Ambassadors by the State Department.

The new Guidelines state that it is CIA's "intent to engage in maximum consultation with all interested parties during the development of the proposal, including consultations with the Department of State and the NSC and, as appropriate, other agencies. . . ." With respect to the State Department, these consultations will include the State regional bureau, INR, the Under Secretary for Political Affairs, and (except in "time-urgent situations") Ambassadors. The Guidelines also require CIA to submit covert action proposals and draft findings to the SCC Chairman (the National Security Advisor) at least two business days prior to the SCC meeting at which it will be considered.

These Guidelines should help to remedy most of the State-CIA coordination problems that have arisen in the past. In addition to complimenting Admiral Turner on the guidelines, the Board may wish to ask him how they are working thus far (it may be too early to tell); how they will apply to "appropriate" consultations with agencies other than State; and whether they have been endorsed by the NSC or full SCC.

The Board should also be aware that these new Guidelines do not address such areas of central concern as the inability of SCC members to review covert action papers before or after submission to the President. With respect to the advance distribution of covert action proposals papers before SCC meetings, moreover, these procedures may actually augment the current problem rather than cure it.

C. Adoption of OAG Guidelines by the SCC

For the Board's information, a document was recently located in the files of the CIA's Covert Action Staff which I believe confirms the SCC's adoption of the Ford Administration OAG Guidelines. It is a

⁵ Presumably the IOB meeting on June 13. No minutes of this meeting were found. However, the covert action briefing paper distributed prior to the meeting by James Dick to the Intelligence Oversight Board, June 13, is in the Carter Library, National Security Affairs, Staff Material, President's Intelligence Oversight Board, Box 3, Meeting 12/15/1980.

⁶ Not found attached.

memorandum, dated January 28, 1977, from Dr. Brzezinski to the DCI,⁷ Subject: "SCC Meeting of 26 January 1977." It reads in relevant part:

"The following records for the official record the decisions of the NSC Special Coordination Committee on 26 January 1977 for which you are responsible for implementation."

"The full responsibilities, functions, and procedures of the predecessor Operations Advisory Group (OAG), including provisions that principals are expected to attend meetings, are to be assumed by the SCC. The Attorney General advised that he would report at the next meeting on proposed revisions of E.O. 11905 to implement this decision."

The OAG Guidelines were originally adopted in July 1976 to govern the conduct of OAG business. As noted above, they provided for an inter-agency working group to consider covert action proposals before full SCC consideration; require that proposals be disseminated at least 48 hours before meetings; specify the information which must be included in proposals submitted both to the OAG and to the President, and provide for temporary retention of documents to meet "current needs." They do not address the questions of review of proposal documents before submission to the President, or review of Presidential documents after his approval. These guidelines were supplemented by a separate document entitled "Special Activity Review and Approval Criteria,"⁸ which describes the covert activities that must be reviewed by the OAG because they require a Presidential finding or because they involve significant changes in previously approved activities.

The OAG Guidelines and supplemental criteria have been incorporated in internal CIA procedures. It is my understanding that John McMahon is prepared to brief the Board on these and other internal CIA regulations pertaining to covert actions. (Copies of the OAG Guidelines are not included as tabs but will be available for your review at the meeting.)

II. *Sensitive Collection Review and Approval Procedures*

John McMahon is also apparently prepared to brief the Board on current sensitive collection review and approval procedures. Even if the Board does not wish to re-open this matter at this time, it may be valuable to get an up-date on review and approval practices.

As decided in part by the President last year, the current procedure is as follows: the DCI reports sensitive collection proposals to the SCC Chairman (Dr. Brzezinski) either orally or in writing; the SCC Chairman

⁷ Not found.

⁸ See Document 80 in *Foreign Relations, 1969-1976*, vol. XXXVIII, Part 2, Organization and Management of Foreign Policy; Public Diplomacy, 1973-1976.

consults with the Secretaries of State and Defense before exercising his discretion to approve the proposals or refer them to the SCC, any SCC member, or to the President for review and approval; and the DCI briefs the SCC annually on ongoing activities which he regards as politically sensitive, with the scope of the review determined by the SCC Chairman.

The Board may wish to ask how many sensitive collection proposals have been submitted in writing rather than orally; how often sensitive collection proposals are referred to the SCC or an SCC member rather than the President; and how long and detailed the annual briefings have been. (According to one account, the entire annual briefing for both on-going covert actions and sensitive collections lasted twenty minutes.)

III. *E.O. 12036 Procedures*

All of the Attorney General-approved procedures mandated by E.O. 12036 that apply to the CIA have now been implemented. The CIA General Counsel's Office is sponsoring a continuing series of three-day training sessions with operational personnel to educate CIA employees in the requirements of the new procedures. In addition, the General Counsel's office recently completed a handbook for employees on the 12036 procedures which is both comprehensive and comprehensible. I feel it would be appropriate for the Board to support and encourage activities such as these in its meeting with Admiral Turner.

One question that the Board may wish to pose to Admiral Turner is whether, in his view, any of the 12036 procedures have unduly interfered with operational requirements. If the Board does want to explore this area, it should be aware that the CIA General Counsel's Office recently submitted to the Justice Department a set of proposed revisions to the 12036 procedures. (These are summarized in Item 9 of the Board's briefing book.)⁹ These proposed revisions are relatively minor in nature; none would result in a structural change of the current procedures.

IV. *IOB–CIA "Relations"*

In general, I have found the CIA officials with whom I have dealt to be very cooperative in terms of providing information, access to information, and copies of documents necessary for the Board's review of particular activities or internal procedures. The primary unresolved issue concerns the reporting of activities raising questions of legality or propriety that also fit the "most exceptional cases" exception contained in Dr. Brzezinski's March 24 memorandum, a copy of which

⁹ Not found.

was sent to the DCI.¹⁰ Even though the resolution of this issue is essentially an internal White House issue, the Board may wish to ask Admiral Turner whether there have been any additional activities that he has not reported to the Board under this exception.

It may also be recalled that Admiral Turner's January 31, 1980, annual report to the Board (Tab B)¹¹ further interpreted his reporting obligation under E.O. 12036 as limited to activities that he considered to be illegal or improper, and to "any *significant* intelligence activity that raises *serious* issues of legality or propriety. . . ." He also declined to specify the senior officials with whom he consulted in preparing his request.

A clarification of the correct Executive Order reporting standard was contained in a letter sent to Admiral Turner by the IOB Chairman in April (Tab C).¹² As noted in the letter, the CIA General Counsel expressed his agreement with this clarification on Admiral Turner's behalf. (No agreement was reached with respect to the specification of senior officials with whom he consulted in connection with the annual report.) Because the reporting standard clarification was not discussed directly with Admiral Turner, I believe it would not be inappropriate for the Board to reiterate its understanding of the Executive Order standard and confirm that Admiral Turner in fact agrees with the Board's clarification.

V. APEX/ROYAL

Over the past two years, the CIA and NSC Staff have developed a new security classification program known as "APEX." The APEX system has four components by which access to compartmented intelligence information is controlled. Of these, the highest compartment is labelled "Royal." According to a classified brochure issued by the DCI, Royal material consists of extremely sensitive substantive intelligence information. The brochure states that:

"The highly sensitive and critical nature of the material included in ROYAL dictates that its distribution be severely limited, distinctly selective, and tightly controlled. Departments and agencies originating ROYAL materials will disseminate such material only to specific individuals by name. Personnel authorized to receive ROYAL material will be determined by NFIB Principals or their designated representatives."

¹⁰ See Document 107.

¹¹ Not found attached, but see Document 103.

¹² Not found attached.

Contrary to some recent press accounts, this system has not yet been implemented. The current target date is January 1981, but it is likely to be pushed back even further.

The Board may wish to discuss with Admiral Turner what consideration was given to the needs of intelligence oversight in developing this system, and specifically, what procedures will exist to ensure that the Board's access to ROYAL-designated documents will not be curtailed.

110. Editorial Note

On October 14, 1980, President Jimmy Carter signed the Intelligence Authorization Act for Fiscal Year 1981 (S. 2597) into law (P.L. 96-450). The law authorized the appropriation of funds for the intelligence community for the 1981 fiscal year. Additionally, it codified the interaction between the executive branch and Congress regarding covert actions by outlining congressional oversight and reducing the number of congressional committees to receive covert action information from eight to two—the House and Senate intelligence committees.

At the time of signing S. 2597 into law, Carter stated, "In addition to providing funds for a strong intelligence service, S. 2597 also contains legislation that modifies the so-called Hughes-Ryan amendment and establishes, for the first time in statute, a comprehensive system for congressional oversight of intelligence activities. This legislation, which will help to ensure that U.S. intelligence activities are carried out effectively and in a manner that respects individual rights and liberties, was an important part of the comprehensive intelligence charter on which this administration and the Congress have worked for over 2 years. Unfortunately, the press of other legislative matters prevented passage of the charter thus far in this session.

"The oversight legislation that was passed does not seek to alter the respective authorities and responsibilities of the executive and legislative branches, but rather codifies the current practice and relationship that has developed between this administration and the Senate and House intelligence committees over the past 3 years. This intent is evidenced by the language of the bill itself and the legislative history that stands behind it.

"It is noteworthy that in capturing the current practice and relationship, the legislation preserves an important measure of flexibility for the President and the executive branch. It does so not only by recog-

nizing the inherent constitutional authorities of both branches, but by recognizing that there are circumstances in which sensitive information may have to be shared only with a very limited number of executive branch officials, even though the congressional oversight committees are authorized recipients of classified information. Circumstances of this nature have been rare in the past; I would expect them to be rare in the future. The legislation creates the expectation that a sense of care and a spirit of accommodation will continue to prevail in such cases." (*Public Papers: Carter, 1980–81*, Book III, pages 2232–2233)

111. Memorandum From President Carter to the Chairman of the Intelligence Oversight Board (Farmer)¹

Washington, December 8, 1980

The first conclusion I draw from your report² is that the IOB has functioned effectively during my term of office. I am grateful to you and the other members of the Board for all that you have done.

The recommendations in your report in some cases deal with sensitive and complex issues about which opinions are sharply divided. I believe that decisions on these issues should be reserved for the incoming administration to make for itself. I favor continuation of the IOB, and I have been very satisfied with the way it has worked. Whether additional procedures are required is a question that I will leave to my successor.³

Jimmy Carter

¹ Source: Carter Library, National Security Affairs, Subject File, Box 29, Intelligence Oversight Board, 1/78–12/80. No classification marking.

² The IOB's report to the President, 1977–1980, is in the Carter Library, National Security Affairs, Staff Material, President's Intelligence Oversight Board, Box 3, Matting 11/19/80.

³ At the bottom of the memorandum, Carter wrote, "Tom—Please express my personal thanks and admiration to other members & staff for their superb work—J."