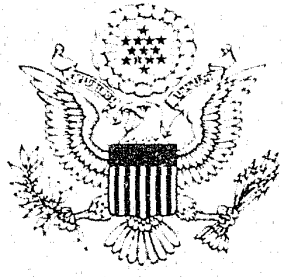
June 1975

Report to the President
by the
COMMISSION ON CIA ACTIVITIES WITHIN THE UNITED STATES



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COMMISSION ON CIA ACTIVITIES WITHIN THE UNITED STATES
Washington, DC 20500

June 6, 1975

The President
The White House
Washington, D.C.

Dear Mr. President:

Your Commission to Investigate CIA Activities within the United States, having completed its assignment in accordance with Executive Order No. 11828 of January 4, 1975, herewith submits its final report.

Respectfully,

Nelson A. Rockefeller, Chairman

John T. Connor

C. Douglas Dillon

Erwin N. Griswold

Lane Kirkland

Lyman L. Lemnitzer

Ronald Reagan

Edgar F. Shannon, Jr.

COMMISSION ON CIA ACTIVITIES WITHIN THE UNITED STATES

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Preface

President Gerald R. Ford created the Commission on CIA Activities within the United States on January 4, 1975. He directed the Commission to determine whether any domestic CIA activities exceeded the Agency's statutory authority and to make appropriate recommendations. The findings, conclusions and recommendations of the Commission are summarized in Chapter 3 and detailed with full background in subsequent chapters.

A. Charges on CIA Domestic Activities

Charges that the CIA has conducted illegal activities within the United States violating the rights of private citizens have aroused concern:

—Because of the number and seriousness of alleged violations of law; and

—Because many of the Agency's activities are necessarily secret and therefore are not well understood by the American people.

At the same time, many persons have voiced alarm that public controversy and exposure would seriously impair the CIA's ability to function—which in turn could seriously undermine the national security. Therefore, the President took steps designed to ensure that the charges would be fully and impartially investigated and that necessary corrective actions would be taken.

B. The President's Order

The President requested a report on many of the charges from the Director of Central Intelligence and received it in late December 1974. On January 4, 1975, he issued Executive Order No. 11828 establishing a Commission on CIA Activities within the United States.[1] He assigned this Commission three tasks:

[1] The Order is reprinted in full in Appendix I.

(1) Ascertain and evaluate any facts relating to activities conducted within the United States by the Central Intelligence Agency which give rise to questions of compliance with the provisions of 50 U.S.C. 403;[2]

(2) Determine whether existing safeguards are adequate to prevent any activities which violate the provisions of 50 U.S.C. 403;

(3) Make such recommendations to the President and to the Director of Central Intelligence as the Commission deems appropriate.

President Ford appointed the members of the Commission and designated Nelson A. Rockefeller, the Vice President of the United States and former Governor of New York, who has held various posts in the Federal Government since 1940, as Chairman. The other members, all from private life, brought widely varied experience to the Commission:

John T. Connor, Chairman of the Board and Chief Executive Officer of Allied Chemical Corporation and former Secretary of Commerce (under President Johnson);

C. Douglas Dillon, a Managing Director of Dillon, Read & Co., Inc., an investment banking firm, former Secretary of the Treasury (under Presidents Kennedy and Johnson) and former Ambassador to France and Undersecretary of State (under President Eisenhower);

Erwin N. Griswold, lawyer, former Solicitor General (under Presidents Johnson and Nixon) and former Dean of the Harvard Law School;

Lane Kirkland, Secretary-Treasurer of the AFL-CIO;

Lyman L. Lemnitzer, General, U.S. Army (Retired) and former Chairman of the Joint Chiefs of Staff;

Ronald Reagan, political commentator, former President of the Screen Actors' Guild, and former Governor of California;

Edgar F. Shannon, Jr., Commonwealth Professor of English and former President of the University of Virginia.

The President named David W. Belin, a lawyer from Des Moines, Iowa, as the Commission's Executive Director. A staff of eleven lawyers was recruited, primarily from the private practice of law and with substantial investigative experience.

C. Conduct of the Investigation

The Commission has been determined from its inception to make a thorough and vigorous investigation. Because of the sensitivity of the CIA's intelligence and counterintelligence activities, and their

[2] This statute established the CIA in 1947. It is reprinted in full in Appendix III.

critical relationship to national security, the Commission recognized that it must close its sessions to the public. But as a consequence it has felt all the more an obligation to conduct a diligent investigation, assuring the American people that all serious questions of legality and propriety within the area of responsibility assigned to the Commission have been carefully investigated and analyzed.

The CIA and other agencies were directed by the President to cooperate with the Commission. Much of the evidence the Commission examined has come from CIA files and personnel. But the Commission has sought wherever possible to verify the evidence independently, using available outside sources rather than relying solely on summaries or analyses of materials supplied by the CIA or other divisions of the federal government.

The Commission began weekly hearings within eight days after its appointment and even before a full staff was available.

The Commission recognizes that no investigation of any governmental intelligence agency can be certain of uncovering every relevant fact. Nevertheless, the Commission believes that its investigation has disclosed the principal categories of CIA activities within the United States which might exceed its statutory authority or might adversely affect the rights of American citizens.

D. Alleged Plans to Assassinate Certain Foreign Leaders

Allegations that the CIA had been involved in plans to assassinate certain leaders of foreign countries came to the Commission's attention shortly after its inquiry was under way. Although it was unclear whether or not those allegations fell within the scope of the Commission's authority, the Commission directed that an inquiry be undertaken. The President concurred in this approach.

The Commission's staff began the required inquiry, but time did not permit a full investigation before this report was due. The President therefore requested that the materials in the possession of the Commission which bear on these allegations be turned over to him. This has been done.

Part I

Summary of the Investigation

Chapter 1

The Fundamental Issues

In announcing the formation of this Commission, the President noted that an effective intelligence and counterintelligence capability is essential to provide "the safeguards that protect our national interest and help avert armed conflicts."

While it is vital that security requirements be met, the President continued, it is equally important that intelligence activities be conducted without "impairing our democratic institutions and fundamental freedoms."

The Commission's assessment of the CIA's activities within the United States reflects the members' deep concern for both individual rights and national security.

A. Individual Rights

The Bill of Rights in the Constitution protects individual liberties against encroachment by government. Many statutes and the common law also reflect this protection.

The First Amendment protects the freedoms of speech and of the press, the right of the people to assemble peaceably, and the right to petition the government for redress of grievances. It has been construed to protect freedom of peaceable political association. In addition, the Fourth Amendment declares:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated . . . .

In accordance with the objectives enunciated in these and other Constitutional amendments, the Supreme Court has outlined the following basic Constitutional doctrines:

1. Any intrusive investigation of an American citizen by the government must have a sufficient basis to warrant the invasion caused by the particular investigative practices which are utilized;

2. Government monitoring of a citizen's political activities requires even greater justification;

3. The scope of any resulting intrusion on personal privacy must not exceed the degree reasonably believed necessary;

4. With certain exceptions, the scope of which are not sharply defined, these conditions must be met, at least for significant investigative intrusions, to the satisfaction of an uninvolved governmental body such as a court.

These Constitutional standards give content to an accepted principle of our society—the right of each person to a high degree of individual privacy.

In recognition of this right, President Truman and the Congress—in enacting the law creating the CIA in 1947—included a clause providing that the CIA should have no police, subpoena, law-enforcement powers or internal security functions.

Since then, Congress has further outlined citizen rights in statutes limiting electronic surveillance and granting individuals access to certain information in government files,[1] underscoring the general concern of Congress and the Executive Branch in this area.

B. Government Must Obey the Law

The individual liberties of American citizens depend on government observance of the law.

Under our form of Constitutional government, authority can be exercised only if it has been properly delegated to a particular department or agency by the Constitution or Congress.

Most delegations come from Congress; some are implied from the allocation of responsibility to the President. Wherever the basic authority resides, however, it is fundamental in our scheme of Constitutional government that agencies—including the CIA—shall exercise only those powers properly assigned to them by Congress or the President.

Whenever the activities of a government agency exceed its authority, individual liberty may be impaired.

C. National Security

Individual liberties likewise depend on maintaining public order at home and in protecting the country against infiltration from abroad

[1] Omnibus Crime Control and Safe Streets Act of 1968 (18 U.S.C. Secs. 2510–20) and Privacy Act of 1974 (5 U.S.C. Sec. 552a).

and armed attack. Ensuring domestic tranquility and providing for a common defense are not only Constitutional goals but necessary preconditions for a free, democratic system. The process of orderly and lawful change is the essence of democracy. Violent change, or forcing a change of government by the stealthy action of "enemies, foreign or domestic," is contrary to our Constitutional system.

The government has both the right and the obligation within Constitutional limits to use its available power to protect the people and their established form of government. Nevertheless, the mere invocation of the "national security" does not grant unlimited power to the government. The degree of the danger and the type of action contemplated to meet that danger require careful evaluation, to ensure that the danger is sufficient to justify the action and that fundamental rights are respected.

D. Resolving the Issues

Individual freedoms and privacy are fundamental in our society. Constitutional government must be maintained. An effective and efficient intelligence system is necessary; and to be effective, many of its activities must be conducted in secrecy.

Satisfying these objectives presents considerable opportunity for conflict. The vigorous pursuit of intelligence by certain methods can lead to invasions of individual rights. The preservation of the United States requires an effective intelligence capability, but the preservation of individual liberties within the United States requires limitations or restrictions on gathering of intelligence. The drawing of reasonable lines—where legitimate intelligence needs end and erosion of Constitutional government begins—is difficult.

In seeking to draw such lines, we have been guided in the first instance by the commands of the Constitution as they have been interpreted by the Supreme Court, the laws as written by Congress, the values we believe are reflected in the democratic process, and the faith we have in a free society. We have also sought to be fully cognizant of the needs of national security, the requirements of a strong national defense against external aggression and internal subversion, and the duty of the government to protect its citizens.

In the final analysis, public safety and individual liberty sustain each other.

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Chapter 2

The Need for Intelligence

During the period of the Commission's inquiry, there have been public allegations that a democracy does not need an intelligence apparatus. The Commission does not share this view. Intelligence is information gathered for policymakers in government which illuminates the range of choices available to them and enables them to exercise judgment. Good intelligence will not necessarily lead to wise policy choices. But without sound intelligence, national policy decisions and actions cannot effectively respond to actual conditions and reflect the best national interest or adequately protect our national security.

Intelligence gathering involves collecting information about other countries' military capabilities, subversive activities, economic conditions, political developments, scientific and technological progress, and social activities and conditions. The raw information must be evaluated to determine its reliability and relevance, and must then be analyzed. The final products—called "finished intelligence"—are distributed to the President and the political, military and other governmental leaders according to their needs.

Intelligence gathering has changed rapidly and radically since the advent of the CIA in 1947.[1] The increased complexity of international political, economic, and military arrangements, the increased destructiveness of the weapons of modern warfare, and the advent of electronic methods of surveillance have altered and enlarged the needs for sophisticated intelligence. Intelligence agencies have had to rely more and more on scientific and technological developments to help meet these needs.

Despite the increasing complexity and significance of intelligence in national policymaking, it is also important to understand its limits. Not all information is reliable, even when the most highly refined

[1] The CIA is only one of several foreign intelligence agencies in the federal government. Others include the National Security Agency, the Defense Intelligence Agency, the intelligence branches of the three military services and the State Department's Bureau of Intelligence and Research.

intelligence methods are used to collect it. Nor can any intelligence system ensure that its current estimates of another country's intentions or future capacities are accurate or will not be outrun by unforeseen events. There are limits to accurate forecasting, and the use of deception by our adversaries or the penetration of our intelligence services increases the possibility that intelligence predictions may prove to be wrong. Nevertheless, informed decision-making is impossible without an intelligence system adequately protected from penetration.

Therefore, a vital part of any intelligence service is an effective counterintelligence program, directed toward protecting our own intelligence system and ascertaining the activities of foreign intelligence services, such as espionage, sabotage, and subversion, and toward minimizing or counteracting the effectiveness of these activities.

Foreign Invasions of United States Privacy

This Commission is devoted to analyzing the domestic activities of the CIA in the interest of protecting the privacy and security rights of American citizens. But we cannot ignore the invasion of the privacy and security rights of Americans by foreign countries or their agents. This is the other side of the coin—and it merits attention here in the interest of perspective.

Witnesses with responsibilities for counterintelligence have told the Commission that the United States remains the principal intelligence target of the communist bloc.

The communists invest large sums of money, personnel and sophisticated technology in collecting information—within the United States—on our military capabilities, our weapons systems, our defense structure and our social divisions. The communists seek to penetrate our intelligence services, to compromise our law enforcement agencies and to recruit as their agents United States citizens holding sensitive government and industry jobs. In addition, it is a common practice in communist bloc countries to inspect and open mail coming from or going to the United States.

In an open society such as ours, the intelligence opportunities for our adversaries are immeasurably greater than they are for us in their closed societies. Our society must remain an open one, with our traditional freedoms unimpaired. But when the intelligence activities of other countries are flourishing in the free environment we afford them, it is all the more essential that the foreign intelligence activities of the CIA and our other intelligence agencies, as well as the domestic counterintelligence activities of the FBI, be given the support neces-

sary to protect our national security and to shield the privacy and rights of American citizens from foreign intrusion.

The Commission has received estimates that communist bloc intelligence forces currently number well over 500,000 worldwide.

The number of communist government officials in the United States has tripled since 1960, and is still increasing. Nearly 2,000 of them are now in this country—and a significant percentage of them have been identified as members of intelligence or security agencies. Conservative estimates for the number of unidentified intelligence officers among the remaining officials raise the level to over 40 percent.

In addition to sending increasing numbers of their citizens to this country openly, many of whom have been trained in espionage, communist bloc countries also place considerable emphasis on the training, provision of false identification and dispatching of "illegal" agents—that is, operatives for whom an alias identity has been systematically developed which enables them to live in the United States as American citizens or resident aliens without our knowledge of their true origins.

While making large-scale use of human intelligence sources, the communist countries also appear to have developed electronic collection of intelligence to an extraordinary degree of technology and sophistication for use in the United States and elsewhere throughout the world, and we believe that these countries can monitor and record thousands of private telephone conversations. Americans have a right to be uneasy if not seriously disturbed at the real possibility that their personal and business activities which they discuss freely over the telephone could be recorded and analyzed by agents of foreign powers.

This raises the real specter that selected American users of telephones are potentially subject to blackmail that can seriously affect their actions, or even lead in some cases to recruitment as espionage agents.

Chapter 3

Summary of Findings, Conclusions, and Recommendations

As directed by the President, the Commission has investigated the role and authority of the CIA, the adequacy of the internal controls and external supervision of the Agency, and its significant domestic activities that raise questions of compliance with the limits on its statutory authority. This chapter summarizes the findings and conclusions of the Commission and sets forth its recommendations.

A. Summary of Charges and Findings

The initial public charges were that the CIA's domestic activities had involved:

1. Large-scale spying on American citizens in the United States by the CIA, whose responsibility is foreign intelligence.
2. Keeping dossiers on large numbers of American citizens.
3. Aiming these activities at Americans who have expressed their disagreement with various government policies.

These initial charges were subsequently supplemented by others including allegations that the CIA:

—Had intercepted and opened personal mail in the United States for 20 years;

—Had infiltrated domestic dissident groups and otherwise intervened in domestic politics;

—Had engaged in illegal wiretaps and break-ins; and,

—Had improperly assisted other government agencies.

In addition, assertions have been made ostensibly linking the CIA to the assassination of President John F. Kennedy.

It became clear from the public reaction to these charges that the secrecy in which the Agency nesessarily operates, combined with the allegations of wrongdoing, had contributed to widespread public misunderstanding of the Agency's actual practices.

A detailed analysis of the facts has convinced the Commission that the great majority of the CIA's domestic activities comply with its statutory authority.

Nevertheless, over the 28 years of its history, the CIA has engaged in some activities that should be criticized and not permitted to happen again—both in light of the limits imposed on the Agency by law and as a matter of public policy.

Some of these activities were initiated or ordered by Presidents, either directly or indirectly.

Some of them fall within the doubtful area between responsibilities delegated to the CIA by Congress and the National Security Council on the one hand and activities specifically prohibited to the Agency on the other.

Some of them were plainly unlawful and constituted improper invasions upon the rights of Americans.

The Agency's own recent actions, undertaken for the most part in 1973 and 1974, have gone far to terminate the activities upon which this investigation has focused. The recommendations of the Commission are designed to clarify areas of doubt concerning the Agency's authority, to strengthen the Agency's structure, and to guard against recurrences of these improprieties.

B. The CIA's Role and Authority (Chapters 4–6)

Findings

The Central Intelligence Agency was established by the National Security Act of 1947 as the nation's first comprehensive peacetime foreign intelligence service. The objective was to provide the President with coordinated intelligence, which the country lacked prior to the attack on Pearl Harbor.

The Director of Central Intelligence reports directly to the President. The CIA receives its policy direction and guidance from the National Security Council, composed of the President, the Vice President, and the Secretaries of State and Defense.

The statute directs the CIA to correlate, evaluate, and disseminate intelligence obtained from United States intelligence agencies, and to perform such other functions related to intelligence as the National Security Council directs. Recognizing that the CIA would be dealing with sensitive, secret materials, Congress made the Director of Central Intelligence responsible for protecting intelligence sources and methods from unauthorized disclosure.

At the same time, Congress sought to assure the American public

that it was not establishing a secret police which would threaten the civil liberties of Americans. It specifically forbade the CIA from exercising "police, subpoena, or law-enforcement powers or internal security functions." The CIA was not to replace the Federal Bureau of Investigation in conducting domestic activities to investigate crime or internal subversion.

Although Congress contemplated that the focus of the CIA would be on foreign intelligence, it understood that some of its activities would be conducted within the United States. The CIA necessarily maintains its headquarters here, procures logistical support, recruits and trains employees, tests equipment, and conducts other domestic activities in support of its foreign intelligence mission. It makes necessary investigations in the United States to maintain the security of its facilities and personnel.

Additionally, it has been understood from the beginning that the CIA is permitted to collect foreign intelligence—that is, information concerning foreign capabilities, intentions, and activities—from American citizens within this country by overt means.

Determining the legal propriety of domestic activities of the CIA requires the application of the law to the particular facts involved. This task involves consideration of more than the National Security Act and the directives of the National Security Council; Constitutional and other statutory provisions also circumscribe the domestic activities of the CIA. Among the applicable Constitutional provisions are the First Amendment, protecting freedom of speech, of the press, and of peaceable assembly; and the Fourth Amendment, prohibiting unreasonable searches and seizures. Among the statutory provisions are those which limit such activities as electronic eavesdropping and interception of the mails.

The precise scope of many of these statutory and Constitutional provisions is not easily stated. The National Security Act in particular was drafted in broad terms in order to provide flexibility for the CIA to adapt to changing intelligence needs. Such critical phrases as "internal security functions" are left undefined. The meaning of the Director's responsibility to protect intelligence sources and methods from unauthorized disclosure has also been a subject of uncertainty.

The word "foreign" appears nowhere in the statutory grant of authority, though it has always been understood that the CIA's mission is limited to matters related to foreign intelligence. This apparent statutory ambiguity, although not posing problems in practice, has troubled members of the public who read the statute without having the benefit of the legislative history and the instructions to the CIA from the National Security Council.

Conclusions

The evidence within the scope of this inquiry does not indicate that fundamental rewriting of the National Security Act is either necessary or appropriate.

The evidence does demonstrate the need for some statutory and administrative clarification of the role and function of the Agency.

Ambiguities have been partially responsible for some, though not all, of the Agency's deviations within the United States from its assigned mission. In some cases, reasonable persons will differ as to the lawfulness of the activity; in others, the absence of clear guidelines as to its authority deprived the Agency of a means of resisting pressures to engage in activities which now appear to us improper.

Greater public awareness of the limits of the CIA's domestic authority would do much to reassure the American people.

The requisite clarification can best be accomplished (*a*) through a specific amendment clarifying the National Security Act provision which delineates the permissible scope of CIA activities, as set forth in Recommendation 1, and (*b*) through issuance of an Executive Order further limiting domestic activities of the CIA, as set forth in Recommendation 2.

Recommendation (1)

Section 403 of the National Security Act of 1947 should be amended in the form set forth in Appendix VI to this Report. These amendments, in summary, would:

***a.* Make explicit that the CIA's activities must be related to *foreign* intelligence.**

***b.* Clarify the responsibility of the CIA to protect intelligence sources and methods from unauthorized disclosure. (The Agency would be responsible for protecting against unauthorized disclosures within the CIA, and it would be responsible for providing guidance and technical assistance to other agency and department heads in protecting against unauthorized disclosures within their own agencies and departments.)**

***c.* Confirm publicly the CIA's existing authority to collect foreign intelligence from willing sources within the United States, and, except as specified by the President in a published Executive Order,[1] prohibit the CIA from collection efforts within the United States directed at securing foreign intelligence from unknowing American citizens.**

[1] The Executive Order authorized by this statute should recognize that when the collection of foreign intelligence from persons who are not United States citizens results in the incidental acquisition of information from unknowing citizens, the Agency should be permitted to make appropriate use or disposition of such information. Such collection activities must be directed at foreign intelligence sources, and the involvement of American citizens must be incidental.

Recommendation (2)

The President should by Executive Order prohibit the CIA from the collection of information about the domestic activities of United States citizens (whether by overt or covert means), the evaluation, correlation, and dissemination of analyses or reports about such activities, and the storage of such information, with exceptions for the following categories of persons or activities:

a. Persons presently or formerly affiliated, or being considered for affiliation, with the CIA, directly or indirectly, or others who require clearance by the CIA to receive classified information;

b. Persons or activities that pose a clear threat to CIA facilities or personnel, provided that proper coordination with the FBI is accomplished;

c. Persons suspected of espionage or other illegal activities relating to foreign intelligence, provided that proper coordination with the FBI is accomplished.

d. Information which is received incidental to appropriate CIA activities may be transmitted to an agency with appropriate jurisdiction, including law enforcement agencies.

Collection of information from normal library sources such as newspapers, books, magazines and other such documents is not to be affected by this order.

Information currently being maintained which is inconsistent with the order should be destroyed at the conclusion of the current congressional investigations or as soon thereafter as permitted by law.

The CIA should periodically screen its files and eliminate all material inconsistent with the order.

The order should be issued after consultation with the National Security Council, the Attorney General, and the Director of Central Intelligence. Any modification of the order would be permitted only through published amendments.

C. Supervision and Control of the CIA

1. External Controls (Chapter 7)

Findings

The CIA is subject to supervision and control by various executive agencies and by the Congress.

Congress has established special procedures for review of the CIA and its secret budget within four small subcommittees.[2] Historically, these subcommittees have been composed of members of Congress with many other demands on their time. The CIA has not as a general rule received detailed scrutiny by the Congress.

The principal bodies within the Executive Branch performing a supervisory or control function are the National Security Council, which gives the CIA its policy direction and control; the Office of Management and Budget, which reviews the CIA's budget in much the same fashion as it reviews budgets of other government agencies; and the President's Foreign Intelligence Advisory Board, which is composed of distinguished citizens, serving part time in a general advisory function for the President on the quality of the gathering and interpretation of intelligence.

None of these agencies has the specific responsibility of overseeing the CIA to determine whether its activities are proper.

The Department of Justice also exercises an oversight role, through its power to initiate prosecutions for criminal misconduct. For a period of over 20 years, however, an agreement existed between the Department of Justice and the CIA providing that the Agency was to investigate allegations of crimes by CIA employees or agents which involved Government money or property or might involve operational security. If, following the investigation, the Agency determined that there was no reasonable basis to believe a crime had been committed, or that operational security aspects precluded prosecution, the case was not referred to the Department of Justice.

The Commission has found nothing to indicate that the CIA abused the function given it by the agreement. The agreement, however, involved the Agency directly in forbidden law enforcement activities, and represented an abdication by the Department of Justice of its statutory responsibilities.

Conclusions

Some improvement in the congressional oversight system would be helpful. The problem of providing adequate oversight and control while maintaining essential security is not easily resolved. Several knowledgeable witnesses pointed to the Joint Committee on Atomic Energy as an appropriate model for congressional oversight of the Agency. That Committee has had an excellent record of providing effective oversight while avoiding breaches of security in a highly sensitive area.

[2] Subcommittees of the Appropriations Committees and the Armed Services Committees of the two houses.

One of the underlying causes of the problems confronting the CIA arises out of the pervading atmosphere of secrecy in which its activities have been conducted in the past. One aspect of this has been the secrecy of the budget.

A new body is needed to provide oversight of the Agency within the Executive Branch. Because of the need to preserve security, the CIA is not subject to the usual constraints of audit, judicial review, publicity or open congressional budget review and oversight. Consequently, its operations require additional external control. The authority assigned the job of supervising the CIA must be given sufficient power and significance to assure the public of effective supervision.

The situation whereby the Agency determined whether its own employees would be prosecuted must not be permitted to recur.

Recommendation (3)

The President should recommend to Congress the establishment of a Joint Committee on Intelligence to assume the oversight role currently played by the Armed Services Committees.[3]

Recommendation (4)

Congress should give careful consideration to the question whether the budget of the CIA should not, at least to some extent, be made public, particularly in view of the provisions of Article I, Section 9, Clause 7 of the Constitution.[4]

Recommendation (5)

a. The functions of the President's Foreign Intelligence Advisory Board should be expanded to include oversight of the CIA. This expanded oversight board should be composed of distinguished citizens with varying backgrounds and experience. It should be headed by a full-time chairman and should have a full-time staff appropriate to its role. Its functions related to the CIA should include:

1. Assessing compliance by the CIA with its statutory authority.

2. Assessing the quality of foreign intelligence collection.

3. Assessing the quality of foreign intelligence estimates.

4. Assessing the quality of the organization of the CIA.

5. Assessing the quality of the management of the CIA.

6. Making recommendations with respect to the above subjects to the President and the Director of Central Intelligence, and, where appropriate, the Attorney General.

[3] See statement by Commissioner Griswold, Chapter 7.

[4] "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time."

b. The Board should have access to all information in the CIA. It should be authorized to audit and investigate CIA expenditures and activities on its own initiative.

c. The Inspector General of the CIA should be authorized to report directly to the Board, after having notified the Director of Central Intelligence, in cases he deems appropriate.

Recommendation (6)

The Department of Justice and the CIA should establish written guidelines for the handling of reports of criminal violations by employees of the Agency or relating to its affairs. These guidelines should require that the criminal investigation and the decision whether to prosecute be made by the Department of Justice, after consideration of Agency views regarding the impact of prosecution on the national security. The Agency should be permitted to conduct such investigations as it requires to determine whether its operations have been jeopardized. The Ageny should scrupulously avoid exercise of the prosecutorial function.

2. *Internal Controls (Chapter 8)*

Findings

The Director's duties in administering the intelligence community, handling relations with other components of the government, and passing on broad questions of policy leave him little time for day-to-day supervision of the Agency. Past studies have noted the need for the Director to delegate greater responsibility for the administration of the Agency to the Deputy Director of Central Intelligence.

In recent years, the position of Deputy Director has been occupied by a high-ranking military officer, with responsibilities for maintaining liaison with the Department of Defense, fostering the Agency's relationship with the military services, and providing top CIA management with necessary experience and skill in understanding particular intelligence requirements of the military. Generally speaking, the Deputy Directors of Central Intelligence have not been heavily engaged in administration of the Agency.

Each of the four directorates within the CIA—Operations, Intelligence, Administration, and Science and Technology—is headed by a deputy director who reports to the Director and Deputy Director of Central Intelligence. These four deputies, together with certain other top Agency officials such as the Comptroller, form the Agency Management Committee, which makes many of the administrative and management decisions affecting more than one directorate.

Outside the chain of command, the primary internal mechanism for keeping the Agency within bounds is the Inspector General. The size of this office was recently sharply reduced, and its previous practice of making regular reviews of various Agency departments was terminated. At the present time, the activities of the office are almost entirely concerned with coordinating Agency responses to the various investigating bodies, and with various types of employee grievances.

The Office of General Counsel has on occasion played an important role in preventing or terminating Agency activities in violation of law, but many of the questionable or unlawful activities discussed in this report were not brought to the attention of this office. A certain parochialism may have resulted from the fact that attorneys in the office have little or no legal experience outside the Agency. It is important that the Agency receive the best possible legal advice on the often difficult and unusual situations which confront it.

Conclusions

In the final analysis, the proper functioning of the Agency must depend in large part on the character of the Director of Central Intelligence.

The best assurance against misuse of the Agency lies in the appointment to that position of persons with the judgment, courage, and independence to resist improper pressure and importuning, whether from the White House, within the Agency or elsewhere.

Compartmentation within the Agency, although certainly appropriate for security reasons, has sometimes been carried to extremes which prevent proper supervision and control.

The Agency must rely on the discipline and integrity of the men and women it employs. Many of the activities we have found to be improper or unlawful were in fact questioned by lower-level employees. Bringing such situations to the attention of upper levels of management is one of the purposes of a system of internal controls.

Recommendation (7)

a. Persons appointed to the position of Director of Central Intelligence should be individuals of stature, independence, and integrity. In making this appointment, consideration should be given to individuals from outside the career service of the CIA, although promotion from within should not be barred. Experience in intelligence service is not necessarily a prerequisite for the position; management and administrative skills are at least as important as the technical expertise which can always be found in an able deputy.

b. Although the Director serves at the pleasure of the President, no Director should serve in that position for more than 10 years.

Recommendation (8)

a. The Office of Deputy Director of Central Intelligence should be reconstituted to provide for two such deputies, in addition to the four heads of the Agency's directorates. One deputy would act as the administrative officer, freeing the Director from day-to-day management duties. The other deputy should be a military officer, serving the functions of fostering relations with the military and providing the Agency with technical expertise on military intelligence requirements.

b. The advice and consent of the Senate should be required for the appointment of each Deputy Director of Central Intelligence.

Recommendation (9)

a. The Inspector General should be upgraded to a status equivalent to that of the deputy directors in charge of the four directorates within the CIA.

b. The Office of Inspector General should be staffed by outstanding, experienced officers from both inside and outside the CIA, with ability to understand the various branches of the Agency.

c. The Inspector General's duties with respect to domestic CIA activities should include periodic reviews of all offices within the United States. He should examine each office for compliance with CIA authority and regulations as well as for the effectiveness of their programs in implementing policy objectives.

d. The Inspector General should investigate all reports from employees concerning possible violations of the CIA statute.

e. The Inspector General should be given complete access to all information in the CIA relevant to his reviews.

f. An effective Inspector General's office will require a larger staff, more frequent reviews, and highly qualified personnel.

g. Inspector General reports should be provided to the National Security Council and the recommended executive oversight body. The Inspector General should have the authority, when he deems it appropriate, after notifying the Director of Central Intelligence, to consult with the executive oversight body on any CIA activity (see Recommendation 5).

Recommendation (10)

a. The Director should review the composition and operation of the Office of General Counsel and the degree to which this office is consulted to determine whether the Agency is receiving adequate legal assistance and representation in view of current requirements.

b. Consideration should be given to measures which would strengthen the office's professional capabilities and resources including, among other things, (1) occasionally departing from the existing practice of hiring lawyers from within the Agency to bring in seasoned lawyers from private practice as well as to hire law school graduates without prior CIA experience; (2) occasionally assigning Agency lawyers to serve a tour of duty elsewhere in the government to expand their experience; (3) encouraging lawyers to participate in outside professional activities.

Recommendation (11)

To a degree consistent with the need for security, the CIA should be encouraged to provide for increased lateral movement of personnel among the directorates and to bring persons with outside experience into the Agency at all levels.

Recommendation (12)

a. The Agency should issue detailed guidelines for its employees further specifying those activities within the United States which are permitted and those which are prohibited by statute, Executive Orders, and NSC and DCI directives.

b. These guidelines should also set forth the standards which govern CIA activities and the general types of activities which are permitted and prohibited. They should, among other things, specify that:

—Clandestine collection of intelligence directed against United States citizens is prohibited except as specifically permitted by law or published Executive Order.

—Unlawful methods or activities are prohibited.

—Prior approval of the DCI shall be required for any activities which may raise questions of compliance with the law or with Agency regulations.

c. The guidelines should also provide that employees with information on possibly improper activities are to bring it promptly to the attention of the Director of Central Intelligence or the Inspector General.

D. Significant Areas of Investigation

Introduction

Domestic activities of the CIA raising substantial questions of compliance with the law have been closely examined by the Commission to determine the context in which they were performed, the pressures of the times, the relationship of the activity to the Agency's foreign intelligence assignment and to other CIA activities, the procedures

used to authorize and conduct the activity, and the extent and effect of the activity.

In describing and assessing each such activity, it has been necessary to consider both that activity's relationship to the legitimate national security needs of the nation and the threat such activities might pose to individual rights of Americans and to a society founded on the need for government, as well as private citizens, to obey the law.

1. The CIA's Mail Intercepts (Chapter 9)

Findings

At the time the CIA came into being, one of the highest national intelligence priorities was to gain an understanding of the Soviet Union and its worldwide activities affecting our national security.

In this context, the CIA began in 1952 a program of surveying mail between the United States and the Soviet Union as it passed through a New York postal facility. In 1953 it began opening some of this mail. The program was expanded over the following two decades and ultimately involved the opening of many letters and the analysis of envelopes, or "covers," of a great many more letters.

The New York mail intercept was designed to attempt to identify persons within the United States who were cooperating with the Soviet Union and its intelligence forces to harm the United States. It was also intended to determine technical communications procedures and mail censorship techniques used by the Soviets.

The Director of the Central Intelligence Agency approved commencement of the New York mail intercept in 1952. During the ensuing years, so far as the record shows, Postmasters General Summerfield, Day, and Blount were informed of the program in varying degrees, as was Attorney General Mitchell. Since 1958, the FBI was aware of this program and received 57,000 items from it.

A 1962 CIA memorandum indicates the Agency was aware that the mail openings would be viewed as violating federal criminal laws prohibiting obstruction or delay of the mails.

In the last year before the termination of this program, out of 4,350,000 items of mail sent to and from the Soviet Union, the New York intercept examined the outside of 2,300,000 of these items, photographed 33,000 envelopes, and opened 8,700.

The mail intercept was terminated in 1973 when the Chief Postal Inspector refused to allow its continuation without an up-to-date high-level approval.

The CIA also ran much smaller mail intercepts for brief periods in San Francisco between 1969 and 1971 and in the territory of Hawaii during 1954 and 1955. For a short period in 1957, mail in transit between foreign countries was intercepted in New Orleans.

Conclusions

While in operation, the CIA's domestic mail opening programs were unlawful. United States statutes specifically forbid opening the mail.

The mail openings also raise Constitutional questions under the Fourth Amendment guarantees against unreasonable search, and the scope of the New York project poses possible difficulties with the First Amendment rights of speech and press.

Mail cover operations (examining and copying of envelopes only) are legal when carried out in compliance with postal regulations on a limited and selective basis involving matters of national security. The New York mail intercept did not meet these criteria.

The nature and degree of assistance given by the CIA to the FBI in the New York mail project indicate that the CIA's primary purpose eventually became participation with the FBI in internal security functions. Accordingly, the CIA's participation was prohibited under the National Security Act.

Recommendation (13)

a. The President should instruct the Director of Central Intelligence that the CIA is not to engage again in domestic *mail openings* except with express statutory authority in time of war. (See also Recommendation 23.)

b. The President should instruct the Director of Central Intelligence that *mail cover* examinations are to be in compliance with postal regulations; they are to be undertaken only in furtherance of the CIA's legitimate activities and then only on a limited and selected basis clearly involving matters of national security.

2. Intelligence Community Coordination (Chapter 10)

Findings

As a result of growing domestic disorder, the Department of Justice, starting in 1967 at the direction of Attorney General Ramsey Clark, coordinated a series of secret units and interagency groups in an effort to collate and evaluate intelligence relating to these events. These efforts continued until 1973.

The interagency committees were designed for analytic and not

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operational purposes. They were created as a result of White House pressure which began in 1967, because the FBI performed only limited evaluation and analysis of the information it collected on these events. The stated purpose of CIA's participation was to supply relevant foreign intelligence and to furnish advice on evaluation techniques.

The CIA was reluctant to become unduly involved in these committees, which had problems of domestic unrest as their principal focus. It repeatedly refused to assign full-time personnel to any of them.

The most active of the committees was the Intelligence Evaluation Staff, which met from January 1971 to May 1973. A CIA liaison officer [4] attended over 100 weekly meetings of the Staff, some of which concerned drafts of reports which had no foreign aspects. With the exception of one instance, there is no evidence that he acted in any capacity other than as an adviser on foreign intelligence, and, to some degree, as an editor.

On one occasion the CIA liaison officer appears to have caused a CIA agent to gather domestic information which was reported to the Intelligence Evaluation Staff.

The Commission found no evidence of other activities by the CIA that were conducted on behalf of the Department of Justice groups except for the supplying of appropriate foreign intelligence and advice on evaluation techniques.

Conclusions

The statutory prohibition on internal security functions does not preclude the CIA from providing foreign intelligence or advice on evaluation techniques to interdepartmental intelligence evaluation organizations having some domestic aspects. The statute was intended to promote coordination, not compartmentation of intelligence between governmental departments.

The attendance of the CIA liaison officer at over 100 meetings of the Intelligence Evaluation Staff, some of them concerned wholly with domestic matters, nevertheless created at least the appearance of impropriety. The Director of Central Intelligence was well advised to approach such participation reluctantly.

The liaison officer acted improperly in the one instance in which he directed an agent to gather domestic information within the United States which was reported to the Intelligence Evaluation Staff.

[4] The liaison officer was Chief of the CIA's Special Operations Group which ran Operation CHAOS, discussed in Chapter 11 of this Report.

Much of the problem stemmed from the absence in government of any organization capable of adequately analyzing intelligence collected by the FBI on matters outside the purview of CIA.

Recommendation (14)

a. A capability should be developed within the FBI, or elsewhere in the Department of Justice, to evaluate, analyze, and coordinate intelligence and counterintelligence collected by the FBI concerning espionage, terrorism, and other related matters of internal security.

b. The CIA should restrict its participation in any joint intelligence committees to foreign intelligence matters.

c. The FBI should be encouraged to continue to look to the CIA for such foreign intelligence and counter-intelligence as is relevant to FBI needs.

3. Special Operations Group—"Operation CHAOS" (Chapter 11)

Findings

The late 1960's and early 1970's were marked by widespread violence and civil disorders.[5] Demonstrations, marches and protest assemblies were frequent in a number of cities. Many universities and college campuses became places of disruption and unrest. Government facilities were picketed and sometimes invaded. Threats of bombing and bombing incidents occurred frequently. In Washington and other major cities, special security measures had to be instituted to control the access to public buildings.

Responding to Presidential requests made in the face of growing domestic disorder, the Director of Central Intelligence in August 1967 established a Special Operations Group within the CIA to collect, coordinate, evaluate and report on the extent of foreign influence on domestic dissidence.

The Group's activities, which later came to be known as Operation CHAOS, led the CIA to collect information on dissident Americans from CIA field stations overseas and from the FBI.

Although the stated purpose of the Operation was to determine whether there were any foreign contacts with American dissident groups, it resulted in the accumulation of considerable material on domestic dissidents and their activities.

During six years, the Operation compiled some 13,000 different files, including files on 7,200 American citizens. The documents in these files and related materials included the names of more than 300,000 persons and organizations, which were entered into a computerized index.

[5] See Appendix V.

This information was kept closely guarded within the CIA. Using this information, personnel of the Group prepared 3,500 memoranda for internal use; 3,000 memoranda for dissemination to the FBI; and 37 memoranda for distribution to White House and other top level officials in the government.

The staff assigned to the Operation was steadily enlarged in response to repeated Presidential requests for additional information, ultimately reaching a maximum of 52 in 1971. Because of excessive isolation, the Operation was substantially insulated from meaningful review within the Agency, including review by the Counterintelligence Staff—of which the Operation was technically a part.

Commencing in late 1969, Operation CHAOS used a number of agents to collect intelligence abroad on any foreign connections with American dissident groups. In order to have sufficient "cover" for these agents, the Operation recruited persons from domestic dissident groups or recruited others and instructed them to associate with such groups in this country.

Most of the Operation's recruits were not directed to collect information domestically on American dissidents. On a number of occasions, however, such information was reported by the recruits while they were developing dissident credentials in the United States, and the information was retained in the files of the Operation. On three occasions, an agent of the Operation was specifically directed to collect domestic intelligence.

No evidence was found that any Operation CHAOS agent used or was directed by the Agency to use electronic surveillance, wiretaps or break-ins in the United States against any dissident individual or group.

Activity of the Operation decreased substantially by mid-1972. The Operation was formally terminated in March 1974.

Conclusions

Some domestic activities of Operation CHAOS unlawfully exceeded the CIA's statutory authority, even though the declared mission of gathering intelligence abroad as to foreign influence on domestic dissident activities was proper.

Most significantly, the Operation became a repository for large quantities of information on the domestic activities of American citizens. This information was derived principally from FBI reports or from overt sources and not from clandestine collection by the CIA, and much of it was not directly related to the question of the existence of foreign connections.

It was probably necessary for the CIA to accumulate an information base on domestic dissident activities in order to assess fairly whether the activities had foreign connections. The FBI would collect information but would not evaluate it. But the accumulation of domestic data in the Operation exceeded what was reasonably required to make such an assessment and was thus improper.

The use of agents of the Operation on three occasions to gather information within the United States on strictly domestic matters was beyond the CIA's authority. In addition the intelligence dissemination and those portions of a major study prepared by the Agency which dealt with purely domestic matters were improper.

The isolation of Operation CHAOS within the CIA and its independence from supervision by the regular chain of command within the clandestine service made it possible for the activities of the Operation to stray over the bounds of the Agency's authority without the knowledge of senior officials. The absence of any regular review of these activities prevented timely correction of such missteps as did occur.

Recommendation (15)

a. Presidents should refrain from directing the CIA to perform what are essentially internal security tasks.

b. The CIA should resist any efforts, whatever their origin, to involve it again in such improper activities.

c. The Agency should guard against allowing any component (like the Special Operations Group) to become so self-contained and isolated from top leadership that regular supervision and review are lost.

d. The files of the CHAOS project which have no foreign intelligence value should be destroyed by the Agency at the conclusion of the current congressional investigations, or as soon thereafter as permitted by law.

4. Protection of the Agency Against Threats of Violence—Office of Security (Chapter 12)

Findings

The CIA was not immune from the threats of violence and disruption during the period of domestic unrest between 1967 and 1972. The Office of Security was charged throughout this period with the responsibility of ensuring the continued functioning of the CIA.

The Office therefore, from 1967 to 1970, had its field officers collect information from published materials, law enforcement authorities,

other agencies and college officials before recruiters were sent to some campuses. Monitoring and communications support was provided to recruiters when trouble was expected.

The Office was also responsible, with the approval of the Director of Central Intelligence, for a program from February 1967 to December 1968, which at first monitored, but later infiltrated, dissident organizations in the Washington, D.C., area to determine if the groups planned any activities against CIA or other government installations.

At no time were more than 12 persons performing these tasks, and they performed them on a part-time basis. The project was terminated when the Washington Metropolitan Police Department developed its own intelligence capability.

In December, 1967, the Office began a continuing study of dissident activity in the United States, using information from published and other voluntary knowledgeable sources. The Office produced weekly Situation Information Reports analyzing dissident activities and providing calendars of future events. Calendars were given to the Secret Service, but the CIA made no other disseminations outside the Agency. About 500 to 800 files were maintained on dissenting organizations and individuals. Thousands of names in the files were indexed. Report publication was ended in late 1972, and the entire project was ended in 1973.

Conclusions

The program under which the Office of Security rendered assistance to Agency recruiters on college campuses was justified as an exercise of the Agency's responsibility to protect its own personnel and operations. Such support activities were not undertaken for the purpose of protecting the facilities or operations of other governmental agencies, or to maintain public order or enforce laws.

The Agency should not infiltrate a dissident group for security purposes unless there is a clear danger to Agency installations, operations or personnel, and investigative coverage of the threat by the FBI and local law enforcement authorities is inadequate. The Agency's infiltration of dissident groups in the Washington area went far beyond steps necessary to protect the Agency's own facilities, personnel and operations, and therefore exceeded the CIA's statutory authority.

In addition, the Agency undertook to protect other government departments and agencies—a police function prohibited to it by statute.

Intelligence activity directed toward learning from what sources a domestic dissident group receives its financial support within the United States, and how much income it has, is no part of the authorized security operations of the Agency. Neither is it the function of the Agency to compile records on who attends peaceful meetings of such dissident groups, or what each speaker has to say (unless it relates to disruptive or violent activity which may be directed against the Agency).

The Agency's actions in contributing funds, photographing people, activities and cars, and following people home were unreasonable under the circumstances and therefore exceeded the CIA's authority.

With certain exceptions, the program under which the Office of Security (without infiltration) gathered, organized and analyzed information about dissident groups for purposes of security was within the CIA's authority.

The accumulation of reference files on dissident organizations and their leaders was appropriate both to evaluate the risks posed to the Agency and to develop an understanding of dissident groups and their differences for security clearance purposes. But the accumulation of information on domestic activities went beyond what was required by the Agency's legitimate security needs and therefore exceeded the CIA's authority.

Recommendation (16)

The CIA should not infiltrate dissident groups or other organizations of Americans in the absence of a written determination by the Director of Central Intelligence that such action is necessary to meet a clear danger to Agency facilities, operations, or personnel and that adequate coverage by law enforcement agencies is unavailable.

Recommendation (17)

All files on individuals accumulated by the Office of Security in the program relating to dissidents should be identified, and, except where necessary for a legitimate foreign intelligence activity, be destroyed at the conclusion of the current congressional investigations, or as soon thereafter as permitted by law.

5. Other Investigations by the Office of Security (Chapter 13)

A. Security Clearance Investigations of Prospective Employees and Operatives

Findings and Conclusions

The Office of Security routinely conducts standard security investigations of persons seeking affiliation with the Agency. In doing so, the

Office is performing the necessary function of screening persons to whom it will make available classified information. Such investigations are necessary, and no improprieties were found in connection with them.

B. Investigations of Possible Breaches of Security

1. Persons Investigated

Findings

The Office of Security has been called upon on a number of occasions to investigate specific allegations that intelligence sources and methods were threatened by unauthorized disclosures. The Commission's inquiry concentrated on those investigations which used investigative means intruding on the privacy of the subjects, including physical and electronic surveillance, unauthorized entry, mail covers and intercepts, and reviews of individual federal tax returns.

The large majority of these investigations were directed at persons affiliated with the Agency—such as employees, former employees, and defectors and other foreign nationals used by the Agency as intelligence sources.

A few investigations involving intrusions on personal privacy were directed at subjects with no relationship to the Agency. The Commission has found no evidence that any such investigations were directed against any congressman, judge, or other public official. Five were directed against newsmen, in an effort to determine their sources of leaked classified information, and nine were directed against other United States citizens.

The CIA's investigations of newsmen to determine their sources of classified information stemmed from pressures from the White House and were partly a result of the FBI's unwillingness to undertake such investigations. The FBI refused to proceed without an advance opinion that the Justice Department would prosecute if a case were developed.

Conclusions

Investigations of allegations against Agency employees and operatives are a reasonable exercise of the Director's statutory duty to protect intelligence sources and methods from unauthorized disclosure if the investigations are lawfully conducted. Such investigations also assist the Director in the exercise of his unreviewable authority to terminate the employment of any Agency employee. They are proper unless

their principal purpose becomes law-enforcement or the maintenance of internal security.

The Director's responsibility to protect intelligence sources and methods is not so broad as to permit investigations of persons having no relationship whatever with the Agency. The CIA has no authority to investigate newsmen simply because they have published leaked classified information. Investigations by the CIA should be limited to persons presently or formerly affiliated with the Agency, directly or indirectly.

Recommendation (18)

a. The Director of Central Intelligence should issue clear guidelines setting forth the situations in which the CIA is justified in conducting its own investigation of individuals presently or formerly affiliated with it.

b. The guidelines should permit the CIA to conduct investigations of such persons only when the Director of Central Intelligence first determines that the investigation is necessary to protect intelligence sources and methods the disclosure of which might endanger the national security.

c. Such investigations must be coordinated with the FBI whenever substantial evidence suggesting espionage or violation of a federal criminal statute is discovered.

Recommendation (19)

a. In cases involving serious or continuing security violations, as determined by the Security Committee of the United States Intelligence Board, the Committee should be authorized to recommend in writing to the Director of Central Intelligence (with a copy to the National Security Council) that the case be referred to the FBI for further investigation, under procedures to be developed by the Attorney General.

b. These procedures should include a requirement that the FBI accept such referrals without regard to whether a favorable prosecutive opinion is issued by the Justice Department. The CIA should not engage in such further investigations.

Recommendation (20)

The CIA and other components and agencies of the intelligence community should conduct periodic reviews of all classified material originating within those departments or agencies, with a view to declassifying as much of that material as possible. The purpose of such review would be to assure the public that it has access to all information that should properly be disclosed.

Recommendation (21)

The Commission endorses legislation, drafted with appropriate

safeguards of the constitutional rights of all affected individuals, which would make it a criminal offense for employees or former employees of the CIA wilfully to divulge to any unauthorized person classified information pertaining to foreign intelligence or the collection thereof obtained during the course of their employment.

2. *Investigative Techniques*

Findings

Even an investigation within the CIA's authority must be conducted by lawful means. Some of the past investigations by the Office of Security within the United States were conducted by means which were invalid at the time. Others might have been lawful when conducted, but would be impermissible today.

Some investigations involved physical surveillance of the individuals concerned, possibly in conjunction with other methods of investigation. The last instance of physical surveillance by the Agency within the United States occurred in 1973.

The investigation disclosed the domestic use of 32 wiretaps, the last in 1965; 32 instances of bugging, the last in 1968; and 12 break-ins, the last in 1971. None of these activities was conducted under a judicial warrant, and only one with the written approval of the Attorney General.

Information from the income tax records of 16 persons was obtained from the Internal Revenue Service by the CIA in order to help determine whether the taxpayer was a security risk with possible connections to foreign groups. The CIA did not employ the existing statutory and regulatory procedures for obtaining such records from the IRS.

In 91 instances, mail covers (the photographing of the front and back of an envelope) were employed, and in 12 instances letters were intercepted and opened.

The state of the CIA records on these activities is such that it is often difficult to determine why the investigation occurred in the first place, who authorized the special coverage, and what the results were. Although there was testimony that these activities were frequently known to the Director of Central Intelligence and sometimes to the Attorney General, the files often are insufficient to confirm such information.

Conclusions

The use of physical surveillance is not unlawful unless it reaches the point of harassment. The unauthorized entries described were

illegal when conducted and would be illegal if conducted today. Likewise, the review of individuals' federal tax returns and the interception and opening of mail violated specific statutes and regulations prohibiting such conduct.

Since the constitutional and statutory constraints applicable to the use of electronic eavesdropping (bugs and wiretaps) have been evolving over the years, the Commission deems it impractical to apply those changing standards on a case-by-case basis. The Commission does believe that while some of the instances of electronic eavesdropping were proper when conducted, many were not. To be lawful today, such activities would require at least the written approval of the Attorney General on the basis of a finding that the national security is involved and that the case has significant foreign connections.

Recommendation (22)

The CIA should not undertake physical surveillance (defined as systematic observation) of Agency employees, contractors or related personnel within the United States without first obtaining written approval of the Director of Central Intelligence.

Recommendation (23)

In the United States and its possessions, the CIA should not intercept wire or oral communications[6] or otherwise engage in activities that would require a warrant if conducted by a law enforcement agency. Responsibility for such activities belongs with the FBI.

Recommendation (24)

The CIA should strictly adhere to established legal procedures governing access to federal income tax information.

Recommendation (25)

CIA investigation records should show that each investigation was duly authorized, and by whom, and should clearly set forth the factual basis for undertaking the investigation and the results of the investigation.

C. Handling of Defectors

Findings

The Office of Security is charged with providing security for persons who have defected to the United States. Generally a defector

[6] As defined in the Omnibus Crime Control and Safe Streets Act, 18 U.S.C. Secs. 2510–20.

can be processed and placed into society in a few months, but one defector was involuntarily confined at a CIA installation for three years. He was held in solitary confinement under spartan living conditions. The CIA maintained the long confinement because of doubts about the bona fides of the defector. This confinement was approved by the Director of Central Intelligence; and the FBI, Attorney General, United States Intelligence Board and selected members of Congress were aware to some extent of the confinement. In one other case a defector was physically abused; the Director of Central Intelligence discharged the employee involved.

Conclusions

Such treatment of individuals by an agency of the United States is unlawful. The Director of Central Intelligence and the Inspector General must be alert to prevent repetitions.

6. Involvement of the CIA in Improper Activities for the White House (Chapter 14)

Findings

During 1971, at the request of various members of the White House staff, the CIA provided alias documents and disguise material, a tape recorder, camera, film and film processing to E. Howard Hunt. It also prepared a psychological profile of Dr. Daniel Ellsberg.

Some of this equipment was later used without the knowledge of the CIA in connection with various improper activities, including the entry into the office of Dr. Lewis Fielding, Ellsberg's psychiatrist.

Some members of the CIA's medical staff who participated in the preparation of the Ellsberg profile knew that one of its purposes was to support a public attack on Ellsberg. Except for this fact, the investigation has disclosed no evidence that the CIA knew or had reason to know that the assistance it gave would be used for improper purposes.

President Nixon and his staff also insisted in this period that the CIA turn over to the President highly classified files relating to the Lebanon landings, the Bay of Pigs, the Cuban missile crisis, and the Vietnam War. The request was made on the ground that these files were needed by the President in the performance of his duties, but the record shows the purpose, undisclosed to the CIA, was to serve the President's personal political ends.

The Commission has also investigated the response of the CIA

to the investigations following the Watergate arrests. Beginning in June 1972, the CIA received various requests for information and assistance in connection with these investigations. In a number of instances, its responses were either incomplete or delayed and some materials that may or may not have contained relevant information were destroyed. The Commission feels that this conduct reflects poor judgment on the part of the CIA, but it has found no evidence that the CIA participated in the Watergate break-in or in the post-Watergate cover-up by the White House.

Conclusions

Providing the assistance requested by the White House, including the alias and disguise materials, the camera and the psychological profile on Ellsberg, was not related to the performance by the Agency of its authorized intelligence functions and was therefore improper.

No evidence has been disclosed, however, except as noted in connection with the Ellsberg profile, that the CIA knew or had reason to know that its assistance would be used in connection with improper activities. Nor has any evidence been disclosed indicating that the CIA participated in the planning or carrying out of either the Fielding or Watergate break-ins. The CIA apparently was unaware of the break-ins until they were reported in the media.

The record does show, however, that individuals in the Agency failed to comply with the normal control procedures in providing assistance to E. Howard Hunt. It also shows that the Agency's failure to cooperate fully with ongoing investigations following Watergate was inconsistent with its obligations.

Finally, the Commission concludes that the requests for assistance by the White House reflect a pattern for actual and attempted misuse of the CIA by the Nixon administration.

Recommendation (26)

a. A single and exclusive high-level channel should be established for transmission of all White House staff requests to the CIA. This channel should run between an officer of the National Security Council staff designated by the President and the office of the Director or his Deputy.

b. All Agency officers and employees should be instructed that any direction or request reaching them directly and out of regularly established channels should be immediately reported to the Director of Central Intelligence.

7. *Domestic Activities of the Directorate of Operations (Chapter 15)*

Findings and Conclusions

In support of its responsibility for the collection of foreign intelligence and conduct of covert operations overseas, the CIA's Directorate of Operations engages in a variety of activities within the United States.

A. Overt Collection of Foreign Intelligence within the United States

One division of the Directorate of Operations collects foreign intelligence within the United States from residents, business firms, and other organizations willing to assist the Agency. This activity is conducted openly by officers who identify themselves as CIA employees. Such sources of information are not compensated.

In connection with these collection activities, the CIA maintains approximately 50,000 active files which include details of the CIA's relationships with these voluntary sources and the results of a federal agency name check.

The division's collection efforts have been almost exclusively confined to foreign economic, political, military, and operational topics.

Commencing in 1969, however, some activities of the division resulted in the collection of limited information with respect to American dissidents and dissident groups. Although the focus was on foreign contacts of these groups, background information on domestic dissidents was also collected. Between 1969 and 1974, when this activity was formally terminated, 400 reports were made to Operation CHAOS.

In 1972 and 1973, the division obtained and transmitted, to other parts of the CIA, information about telephone calls between the Western Hemisphere (including the United States) and two other countries. The information was limited to names, telephone numbers, and locations of callers and recipients. It did not include the content of the conversations.

This division also occasionally receives reports concerning criminal activity within the United States. Pursuant to written regulations, the source or a report of the information received is referred to the appropriate law enforcement agency.

The CIA's efforts to collect foreign intelligence from residents of the United States willing to assist the CIA are a valid and necessary element of its responsibility. Not only do these persons provide

a large reservoir of foreign intelligence; they are by far the most accessible source of such information.

The division's files on American citizens and firms representing actual or potential sources of information constitute a necessary part of its legitimate intelligence activities. They do not appear to be vehicles for the collection or communication of derogatory, embarrassing, or sensitive information about American citizens.

The division's efforts, with few exceptions, have been confined to legitimate topics.

The collection of information with respect to American dissident groups exceeded legitimate foreign intelligence collection and was beyond the proper scope of CIA activity. This impropriety was recognized in some of the division's own memoranda.

The Commission was unable to discover any specific purpose for the collection of telephone toll call information or any use of that information by the Agency. In the absence of a valid purpose, such collection is improper.

B. Provision and Control of Cover for CIA Personnel

CIA personnel engaged in clandestine foreign intelligence activities cannot travel, live or perform their duties openly as Agency employees. Accordingly, virtually all CIA personnel serving abroad and many in the United States assume a "cover" as employees of another government agency or of a commercial enterprise. CIA involvement in certain activities, such as research and development projects, are also sometimes conducted under cover.

CIA's cover arrangements are essential to the CIA's performance of its foreign intelligence mission. The investigation has disclosed no instances in which domestic aspects of the CIA's cover arrangements involved any violations of law.

By definition, however, cover necessitates an element of deception which must be practiced within the United States as well as within foreign countries. This creates a risk of conflict with various regulatory statutes and other legal requirements. The Agency recognizes this risk. It has installed controls under which cover arrangements are closely supervised to attempt to ensure compliance with applicable laws.

C. Operating Proprietary Companies

The CIA uses proprietary companies to provide cover and perform administrative tasks without attribution to the Agency. Most of the large operating proprietaries—primarily airlines—have been liqui-

dated, and the remainder engage in activities offering little or no competition to private enterprise.

The only remaining large proprietary activity is a complex of financial companies, with assets of approximately $20 million, that enable the Agency to administer certain sensitive trusts, annuities, escrows, insurance arrangements, and other benefits and payments provided to officers or contract employees without attribution to CIA. The remaining small operating proprietaries, generally having fewer than ten employees each, make nonattributable purchases of equipment and supplies.

Except as discussed in connection with the Office of Security (see Chapters 12 and 13), the Commission has found no evidence that any proprietaries have been used for operations against American citizens or investigation of their activities. All of them appear to be subject to close supervision and multiple financial controls within the Agency.

D. Development of Contacts With Foreign Nationals

In connection with the CIA's foreign intelligence responsibilities, it seeks to develop contacts with foreign nationals within the United States. American citizens voluntarily assist in developing these contacts. As far as the Commission can find, these activities have not involved coercive methods.

These activities appear to be directed entirely to the production of foreign intelligence and to be within the authority of the CIA. We found no evidence that any of these activities have been directed against American citizens.

E. Assistance in Narcotics Control

The Directorate of Operations provides foreign intelligence support to the government's efforts to control the flow of narcotics and other dangerous drugs into this country. The CIA coordinates clandestine intelligence collection overseas and provides other government agencies with foreign intelligence on drug traffic.

From the beginning of such efforts in 1969, the CIA Director and other officials have instructed employees to make no attempt to gather information on Americans allegedly trafficking in drugs. If such information is obtained incidentally, it is transmitted to law enforcement agencies.

Concerns that the CIA's narcotics-related intelligence activities may involve the Agency in law enforcement or other actions directed against American citizens thus appear unwarranted.

Beginning in the fall of 1973, the Directorate monitored conversations between the United States and Latin America in an effort to identify narcotics traffickers. Three months after the program began, the General Counsel of the CIA was consulted. He issued an opinion that the program was illegal, and it was immediately terminated.

This monitoring, although a source of valuable information for enforcement officials, was a violation of a statute of the United States. Continuation of the operation for over three months without the knowledge of the Office of the General Counsel demonstrates the need for improved internal consultation. (See Recommendation 10.)

8. Domestic Activities of the Directorate of Science and Technology (Chapter 16)

Findings and Conclusions

The CIA's Directorate of Science and Technology performs a variety of research and development and operational support functions for the Agency's foreign intelligence mission.

Many of these activities are performed in the United States and involve cooperation with private companies. A few of these activities were improper or questionable.

As part of a program to test the influence of drugs on humans, research included the administration of LSD to persons who were unaware that they were being tested. This was clearly illegal. One person died in 1953, apparently as a result. In 1963, following the Inspector General's discovery of these events, new stringent criteria were issued prohibiting drug testing by the CIA on unknowing persons. All drug testing programs were ended in 1967.

In the process of testing monitoring equipment for use overseas, the CIA has overheard conversations between Americans. The names of the speakers were not identified; the contents of the conversations were not disseminated. All recordings were destroyed when testing was concluded. Such testing should not be directed against unsuspecting persons in the United States. Most of the testing undertaken by the Agency could easily have been performed using only Agency personnel and with the full knowledge of those whose conversations were being recorded. This is the present Agency practice.

Other activities of this Directorate include the manufacture of alias credentials for use by CIA employees and agents. Alias credentials are necessary to facilitate CIA clandestine operations, but the strictest controls and accountability must be maintained over the use of such

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documents. Recent guidelines established by the Deputy Director for Operations to control the use of alias documentation appear adequate to prevent abuse in the future.

As part of another program, photographs taken by CIA aerial photography equipment are provided to civilian agencies of the government. Such photographs are used to assess natural disasters, conduct route surveys and forest inventories, and detect crop blight. Permitting civilian use of aerial photography systems is proper. The economy of operating but one aerial photography program dictates the use of these photographs for appropriate civilian purposes.

Recommendation (27)

In accordance with its present guidelines, the CIA should not again engage in the testing of drugs on unsuspecting persons.

Recommendation (28)

Testing of equipment for monitoring conversations should not involve unsuspecting persons living within the United States.

Recommendation (29)

A civilian agency committee should be reestablished to oversee the civilian uses of aerial intelligence photography in order to avoid any concerns over the improper domestic use of a CIA-developed system.

9. CIA Relationships With Other Federal, State, and Local Agencies (Chapter 17)

CIA operations touch the interest of many other agencies. The CIA, like other agencies of the government, frequently has occasion to give or receive assistance from other agencies. This investigation has concentrated on those relationships which raise substantial questions under the CIA's legislative mandate.

Findings and Conclusions

A. Federal Bureau of Investigation

The FBI counterintelligence operations often have positive intelligence ramifications. Likewise, legitimate domestic CIA activities occasionally cross the path of FBI investigations. Daily liaison is therefore necessary between the two agencies.

Much routine information is passed back and forth. Occasionally joint operations are conducted. The relationship between the agencies has, however, not been uniformly satisfactory over the years. Formal liaison was cut off from February 1970 to November 1972, but relationships have improved in recent years.

The relationship between the CIA and the FBI needs to be clarified and outlined in detail in order to ensure that the needs of national security are met without creating conflicts or gaps of jurisdiction.

Recommendation (30)

The Director of Central Intelligence and the Director of the FBI should prepare and submit for approval by the National Security Council a detailed agreement setting forth the jurisdiction of each agency and providing for effective liaison with respect to all matters of mutual concern. This agreement should be consistent with the provisions of law and with other applicable recommendations of this Report.

Findings and Conclusions

B. Narcotics Law Enforcement Agencies

Beginning in late 1970, the CIA assisted the Bureau of Narcotics and Dangerous Drugs (BNDD) to uncover possible corruption within that organization. The CIA used one of its proprietary companies to recruit agents for BNDD and gave them short instructional courses. Over two and one-half years, the CIA recruited 19 agents for the BNDD. The project was terminated in 1973.

The Director was correct in his written directive terminating the project. The CIA's participation in law enforcement activities in the course of these activties was forbidden by its statute. The Director and the Inspector General should be alert to prevent involvement of the Agency in similar enterprises in the future.

C. The Department of State

For more than 20 years, the CIA through a proprietary conducted a training school for foreign police and security officers in the United States under the auspices of the Agency for International Development of the Department of State. The proprietary also sold small amounts of licensed firearms and police equipment to the foreign officers and their departments.

The CIA's activities in providing educational programs for foreign police were not improper under the Agency's statute. Although the school was conducted within the United States through a CIA proprietary, it had no other significant domestic impact.

Engaging in the firearms business was a questionable activity for a government intelligence agency. It should not be repeated.

D. Funding Requests From Other Federal Agencies

In the spring of 1970, at the request of the White House, the CIA contributed $33,655.68 for payment of stationery and other costs for replies to persons who wrote the President after the invasion of Cambodia.

This use of CIA funds for a purpose unrelated to intelligence is improper. Steps should be taken to ensure against any repetition of such an incident.

E. State and Local Police

The CIA handles a variety of routine security matters through liaison with local police departments. In addition, it offered training courses from 1966 to 1973 to United States police officers on a variety of law enforcement techniques, and has frequently supplied equipment to state and local police.

In general, the coordination and cooperation between state and local law enforcement agencies and the CIA has been exemplary, based upon a desire to facilitate their respective legitimate aims and goals.

Most of the assistance rendered to state and local law enforcement agencies by the CIA has been no more than an effort to share with law enforcement authorities the benefits of new methods, techniques, and equipment developed or used by the Agency.

On a few occasions, however, the Agency has improperly become involved in actual police operations. Thus, despite a general rule against providing manpower to local police forces, the CIA has lent men, along with radio-equipped vehicles, to the Washington Metropolitan Police Department to help monitor anti-war demonstrations. It helped the same Department surveil a police informer. It also provided an interpreter to the Fairfax County (Virginia) Police Department to aid in a criminal investigation.

In compliance with the spirit of a recent Act of Congress, the CIA terminated all but routine assistance to state and local law enforcement agencies in 1973. Such assistance is now being provided state and local agencies by the FBI. There is no impropriety in the CIA's furnishing the FBI with information on new technical developments which may be useful to local law enforcement.

For several years the CIA has given gratuities to local police officers who had been helpful to the Agency. Any such practice should be terminated.

The CIA has also received assistance from local police forces. Aside from routine matters, officers from such forces have occasionally assisted the Office of Security in the conduct of investigations. The CIA has occasionally obtained police badges and other identification for use as cover for its agents.

Except for one occasion when some local police assisted the CIA in an unathorized entry, the assistance received by the CIA from state and local law enforcement authorities was proper. The use of police identification as a means of providing cover, while not strictly speaking a violation of the Agency's statutory authority as long as no police function is performed, is a practice subject to misunderstanding and should be avoided.

10. Indices and Files on American Citizens (Chapter 18)

Findings

Biographical information is a major resource of an intelligence agency. The CIA maintains a number of files and indices that include biographical information on Americans.

As a part of its normal process of indexing names and information of foreign intelligence interest, the Directorate of Operations has indexed some 7,000,000 names of all nationalities. An estimated 115,000 of these are believed to be American citizens.

Where a person is believed to be of possibly continuing intelligence interest, files to collect information as received are opened. An estimated 57,000 out of a total of 750,000 such files concern American citizens. For the most part, the names of Americans appear in indices and files as actual or potential sources of information or assistance to the CIA. In addition to these files, files on some 7,200 American citizens, relating primarily to their domestic activities, were, as already stated, compiled within the Directorate of Operations as part of Operation CHAOS.

The Directorate of Administration maintains a number of files on persons who have been associated with the CIA. These files are maintained for security, personnel, training, medical and payroll purposes. Very few are maintained on persons unaware that they have a relationship with the CIA. However, the Office of Security maintained files on American citizens associated with dissident groups who were never affiliated with the Agency because they were considered a threat to the physical security of Agency facilities and employees. These

files were also maintained, in part, for use in future security clearance determinations. Dissemination of security files is restricted to persons with an operational need for them.

The Office of Legislative Counsel maintains files concerning its relationships with congressmen.

Conclusions

Although maintenance of most of the indices, files, and records of the Agency has been necessary and proper, the standards applied by the Agency at some points during its history have permitted the accumulation and indexing of materials not needed for legitimate intelligence or security purposes. Included in this category are many of the files related to Operation CHAOS and the activities of the Office of Security concerning dissident groups.

Constant vigilance by the Agency is essential to prevent the collection of information on United States citizens which is not needed for proper intelligence activities. The Executive Order recommended by the Commission (Recommendation 2) will ensure purging of nonessential or improper materials from Agency files.

11. Allegations Concerning the Assassination of President Kennedy (Chapter 19)

Numerous allegations have been made that the CIA participated in the assassination of President John F. Kennedy. The Commission staff investigated these allegations. On the basis of the staff's investigation, the Commission concludes that there is no credible evidence of CIA involvement.

Part II

The CIA's Role and Authority

Introduction

The legal authority of the Central Intelligence Agency derives primarily from the National Security Act of 1947 and the implementing directives of the National Security Council.

The Act, written in broad terms, is properly understood only against the historical background. Chapter 4 discusses this background.

Chapter 5 sets forth the statutory language and describes the legislative history, the subsequent National Security Council directives, and the administrative practice.

Chapter 6 analyzes the scope of the CIA's legal authority for its activities within the United States.

Chapter 4

Intelligence and Related Activities by the United States before 1947

The United States, like other countries, has long collected intelligence. Until World War II, however, its activities were minimal. General Dwight D. Eisenhower described the prewar United States intelligence system as "a shocking deficiency that impeded all constructive planning." [1] It was not until the Office of Strategic Services (OSS) was established during the second World War that the organized collection of intelligence began on a substantial scale, although the FBI was active in Latin America in the late 1930's and during the war.

Even before Pearl Harbor, President Franklin D. Roosevelt was acutely aware of deficiencies in American intelligence. When calling on William J. Donovan, a New York lawyer who later headed OSS, to draft a plan for an intelligence service, he bluntly observed: "We have no intelligence service." [2] Donovan's study recommended that a central unit be established to coordinate intelligence activities and to process information for the President. As a result, OSS was created to operate in certain major theaters.

The function of OSS was to collect and analyze strategic information required by the Joint Chiefs of Staff and to conduct special operations not assigned to other agencies. Other intelligence services of the State Department and the military services were maintained to collect tactical intelligence directly related to their specific missions.

OSS relied primarily on three operating staffs: (1) the Secret Intelligence division, assigned to overseas collection, generally involving espionage; (2) the X–2 division, the counterespionage unit which protected the security of espionage agents; (3) the Research and Analysis division, which produced intelligence reports for policy makers. The OSS also performed other functions, varying from propaganda to paramilitary operations.

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[1] D. D. Eisenhower, *Crusade in Europe*, p. 32 (1948).
[2] H. H. Ransom, *The Intelligence Establishment*, p. 61 (1970).

By the end of the war, approximately 13,000 employees were engaged in the intelligence and special operations activities of the OSS. It supplied policymakers with essential facts and intelligence estimates. It also played an important role in directly aiding military campaigns. Nevertheless, OSS never received complete jurisdiction over all foreign intelligence activities. In the Southwest Pacific Theater, its activities were limited. Moreover, although the jurisdictional boundaries between the FBI and the military services were never made entirely clear, the FBI had been assigned responsibility for intelligence activities in Latin America. Friction inevitably developed among the FBI, the military and OSS during the war.

On October 1, 1945, following the end of the war, President Truman ordered that OSS be dissolved as an independent body. Several of the branches of OSS continued and were absorbed by other agencies. Research and intelligence evaluation was assigned to the State Department, and espionage and related special operations were transferred to the War Department.

Even before OSS was dismembered, however, proposals had been drawn up for a postwar centralized intelligence system. These early plans, and the discussions concerning them, led ultimately to the creation of the CIA. The participants in these early discussions all believed strongly that a postwar intelligence capability was necessary. They differed only in their views concerning the proper structure and role for a centralized agency.

The original plan General Donovan submitted to President Roosevelt in November 1944 called for separation of intelligence services from the Joint Chiefs of Staff. Direct Presidential supervision was recommended.

To avoid duplication and ensure effective coordination, Donovan proposed an "organization which will procure intelligence both by overt and covert methods and will at the same time provide intelligence guidance, determine national intelligence objectives, and correlate the intelligence material collected by all Government agencies."

Under this plan, a powerful centralized agency would have dominated the intelligence services of several departments. Donovan's memorandum also proposed that this agency have authority to conduct "subversive operations abroad" but "no police or law enforcement functions, either at home or abroad."

Several centralized approaches were offered in response as soon as Donovan's plan was distributed for comment. The Navy took the lead in opposing a complete merger of intelligence services. It asserted that the Donovan proposal was not feasible since each operating department had individual needs which required "operating intelligence peculiar to itself." It proposed a Central Intelligence Agency in name

only whose function would be to coordinate intelligence information, "as far as practicable, [to] unify all foreign intelligence activities, and to synthesize all intelligence developments abroad." The Army concurred in the Navy's opposition to a tightly centralized intelligence service.

The State Department preferred an interdepartmental committee organization chaired by the Secretary of State. The Department contended that, in peacetime, the Secretary of State should supervise all operations affecting foreign relations.

The Joint Chiefs also favored coordination but opposed tight centralization. Their opposition to intelligence collection by a central agency was placed on the narrower ground that collection of intelligence should generally by carried out by existing departments except when done by clandestine methods. They also objected to Donovan's proposal that the new agency engage in foreign covert operations (such as OSS propaganda and paramilitary actions) because "subversive operation abroad does not appear to be an appropriate function of a central intelligence service." This aspect of the original Donovan plan was not, thereafter, specifically included in any proposal.

The FBI also developed its own proposal for postwar intelligence. It would have assigned responsibility for "civilian" intelligence to the FBI on a world-wide basis and left "military" intelligence to the armed services.

On January 22, 1946, in response to this policy debate, President Truman issued a directive establishing the Central Intelligence Group (CIG). The final directive was developed by the Bureau of the Budget as a compromise. The CIG was directed to coordinate existing departmental intelligence and to perform those intelligence functions which the National Intelligence Authority (NIA), a forerunner of the National Security Council, concluded should be performed centrally. The CIG supplemented but did not supplant departmental intelligence services, although the FBI did abruptly withdraw its intelligence service from Latin America.

The NIA and CIG were replaced one and one-half years later by the National Security Council and the Central Intelligence Agency. The CIA's organization and role reflected the CIG compromise between competing concepts of tight centralization and loose confederation. The CIA was only one of several agencies assigned intelligence functions.

Most of the specific assignments given the CIA, as well as the prohibitions on police or internal security functions in its statute, closely follow the original 1944 Donovan plan and the Presidential directive creating the CIG.

Chapter 5

The Sources of CIA Authority

The National Security Act of 1947 charges the CIA with the duty of coordinating the intelligence activities of the federal government and correlating, evaluating and disseminating intelligence which affects national security. In addition, the Agency is to perform such other functions and duties related to intelligence as the National Security Council may direct. The statute makes the Director of Central Intelligence responsible for protecting intelligence sources and methods.

Congress contemplated that the CIA would be involved in all aspects of foreign intelligence, including collection. It understood that the Agency would engage in some activities, including some overt collection, within the United States.[1]

The statute expressly provides that the Agency shall have no law enforcement powers or internal security functions. This prohibition is an integral part of the definition of the CIA's authority. It reflects Congress' general understanding that CIA activities in the United States would be justified only to the extent they supported the CIA's basic foreign intelligence mission.

This understanding has been reflected in the National Security Council Intelligence Directives and the other documents which further define the Agency's jurisdiction.

Determining the scope of the Agency's authority within the United States is primarily a matter of drawing the line between the responsibility of the CIA and that of the FBI, while ensuring adequate coordination to avoid gaps in coverage. The areas posing the most substantial problems in this respect have involved counterintelligence and the preservation of the security of intelligence sources and methods.

[1] Three terms used in this report require definition:
(1) overt collection—intelligence collection activities which disclose the identity of the collecting agency to the source of the information.
(2) clandestine collection—secret collection activities where the source of the information is unaware of the identity or existence of the collector.
(3) covert activities—activities, including collection, that are secret, and deniable as having links to the United States government.

A. The Statutes

The National Security Act of 1947 replaced the National Intelligence Authority with the National Security Council, composed of the President, the Secretary of State, the Secretary of Defense, and other Secretaries and Under Secretaries when appointed by the President with the advice and consent of the Senate.[3] Subsequent legislation added the Vice President as a member. The Act also created the Central Intelligence Agency and placed it under the direction of the National Security Council.

The Agency's statutory authority is contained in Title 50 U.S.C. Sections 403 (d) and (e):

(d) For the purpose of coordinating the intelligence activities of the several government departments and agencies in the interest of national security, it shall be the duty of the [Central Intelligence] Agency, under the direction of the National Security Council—

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

(2) to make recommendations to the National Security Council for the coordination of such intelligence activities of the departments and agencies of the government as relate to the national security;

(3) to correlate and evaluate intelligence relating to the national security, and provide for the appropriate dissemination of such intelligence within the Government using where appropriate existing agencies and facilities:

Provided, That the Agency shall have no police, subpoena, law-enforcement powers, or internal security functions:

Provided further, That the departments and other agencies of the Government shall continue to collect, evaluate, correlate, and disseminate departmental intelligence:

And provided further, That the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure;

(4) to perform, for the benefit of the existing intelligence agencies, such additional services of common concern as the National Security Council determines can be more efficiently accomplished centrally;

(5) to perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct.

(e) To the extent recommended by the National Security Council and approved by the President, such intelligence of the departments and agencies of the Government, except as hereinafter provided, relating to the national security shall be open to the inspection of the Director of Central Intelligence, and such intelligence as relates to the national security and is possessed by such departments and other agencies of the Government, except as hereinafter provided, shall be made available to the Director of Central Intelligence for correlation, evaluation, and dissemination:

Provided, however, That upon the written request of the Director of Central

[3] Under the original statute, the Director for Mutual Security and the Chairman of the National Security Resources Board were included as members. Both these positions have since been abolished.

Intelligence, the Director of the Federal Bureau of Investigation shall make available to the Director of Central Intelligence such information for correlation, evaluation, and dissemination as may be essential to the national security.

The Director of Central Intelligence, who heads the CIA, is appointed by the President with the advice and consent of the Senate. The position of Deputy Director of Central Intelligence, added to the statute in 1953, is subject to similar appointment provisions. At no time may both positions be filled by military officers.

Other provisions of the 1947 Act give the Director of Central Intelligence complete authority over the employment of CIA personnel. He may, in his discretion, dismiss any employee whenever "he shall deem such termination necessary or advisable in the interests of the United States." His decision is not subject to judicial or Civil Service review.

In the 1949 CIA Act, Congress enacted additional provisions permitting the Agency to use confidential fiscal and administrative procedures. This Act exempts the CIA from all usual limitations on the expenditure of federal funds. It provides that CIA funds may be included in the budgets of other departments and then transferred to the Agency without regard to the restrictions placed on the initial appropriation. This Act is the statutory authority for the secrecy of the Agency's budget.

The 1949 Act also authorizes the Director to make expenditures for "objects of a confidential, extraordinary, or emergency nature" on his personal voucher and without further accounting. In order to protect intelligence sources and methods from disclosure, the 1949 Act further exempts the CIA from having to disclose its "organization, functions, names, official titles, salaries, or number of personnel employed."

B. The Legislative History

The 1947 Congressional hearings and debates reflect a dual concern. Congress accepted the need for a centralized intelligence agency that would supply the President with a complete and accurate picture of the capabilities, intentions, and activities of foreign countries. On the other hand, there was considerable congressional concern over possible misuses of this new agency. The comments of Representative Clarence Brown (Republican-Ohio) are illustrative:

> I am very much interested in seeing the United States have as fine a foreign military and naval intelligence as they can possibly have, but I am not interested in setting up here in the United States any particular central policy[*sic*] agency under any President, and I do not care what his name may be, and just allow him to have a gestapo of his own if he wants to have it.
>
> Every now and then you get a man that comes up in power and that has an imperialist idea.

The House, in the course of its deliberations, added language to the bill submitted to Congress by President Truman which detailed the specific functions given to the CIA. In doing so, it generally followed the language of the Presidential directive which had established the Central Intelligence Group, the CIA's predecessor. The inclusion in the 1947 Act of specific functions and prohibitions, therefore, was to ensure that a President could not alter the CIA's basic functions without first obtaining the approval of Congress.

1. Authority To Collect Intelligence

The statutory functions of the Agency include coordinating intelligence activities and correlating and evaluating intelligence. The statute itself does not expressly authorize the Agency to engage in intelligence collection. Congress left this matter to the National Security Council, which was authorized to direct the Agency to perform "other functions and duties related to intelligence" and "additional services of common concern," which are "for the benefit of the existing intelligence agencies."

It is clear from the legislative history that Congress expected the National Security Council to give the CIA responsibility and authority for overseas espionage. The National Intelligence Authority had given this responsibility to the predecessor Central Intelligence Group in 1946. Witnesses and congressmen were reluctant to discuss such matters publicly, but General Hoyt Vandenberg, Director of the CIG, told the Senate committee in secret session:

> If the United States is to be forced by conditions in the world today to enter clandestine operations abroad, then such operations should be centralized in one agency to avoid the mistakes indicated, and we should follow the experience of the intelligence organizations of other countries which have proven successful in this field.

Some witnesses during the congressional hearings opposed giving the CIA any responsibilities for collection of intelligence and urged that the authority of the National Security Council to assign additional functions to the CIA be deleted so that the CIA could not collect intelligence. Congress did not agree. Although two congressmen expressed disapproval of any CIA collection, the general provisions were not challenged during the floor debates. They remain in the statute as authority for the CIA to collect intelligence at the direction of the National Security Council.

2. The Meaning of "Intelligence"

The 1946 Presidential Directive expressly restricted the Central Intelligence Group to activities connected with foreign intelligence. Although the 1947 National Security Act does not contain this ex-

press restriction, there was a general understanding in and out of Congress that the CIA's activities would be similarly confined.

An exchange between General Vandenberg and Congressman Chet Holifield (Democrat-California), later the floor manager of the CIA statute, is indicative:

> General Vandenberg. The National Intelligence Authority and the Central Intelligence Group have nothing whatsoever to do with anything domestic; so when we talk about the Central Intelligence Group or the NIA, it always means foreign intelligence, because we have nothing to do with domestic intelligence.
>
> Representative Holifield. That was my understanding, and I wanted it confirmed.

In testifying before a House committee, Navy Secretary James Forrestal said:

> The purposes of the Central Intelligence Authority [*sic*] are limited definitely to purposes outside of this country, except the collation of information gathered by other government agencies.
>
> Regarding domestic operations, the Federal Bureau of Investigation is working at all times in collaboration with General Vandenberg. He relies upon them for domestic activities.

When Representative Brown asked whether additional limitations should be attached because the CIA "might possibly affect the rights and privileges of the people of the United States," General Vandenberg responded:

> No, sir; I do not think there is anything in the bill, since it is all foreign intelligence, that can possibly affect any of the privileges of the people of the United States. . . . I can see no real reason for limiting it at this time.

The agency has never disputed that its authority is restricted to foreign intelligence.

3. Activities Within the United States

The fact that the CIA is restricted to activities relating to "foreign intelligence" does not, of course, tell us what those activities are and whether they may be conducted within the United States. Allen Dulles, testifying before a House committee, made the point:

> They would have to exercise certain functions in the United States. They would have their headquarters in the United States.

More importantly, an exchange between Dulles and Congressman Manasco (Democrat-Alabama) during the closed House hearings indicates that Congress understood the Agency would have authority to collect foreign intelligence in this country from knowing sources:

> Representative Manasco. Limit it [collection] to foreign countries, of course.
>
> Mr. Dulles. There is one little problem there. It is a very important section of the thing, the point I raised there. In New York and Chicago and all through the country where we have these business organizations and philanthropic and other organizations who send their people throughout the world. They collect a tremendous amount of information. There ought to be a way of collecting that in the United States, and I imagine that would not be excluded by any terms of your bill.
>
> Representative Manasco. The fear of the committee as to collecting information on our own nationals, we do not want that done, but I do not think the committee has any objection to their going to any source of information that our nationals might have on foreign operations. Is that your understanding?
>
> Representative Wadsworth. (Republican-New York) Yes.
>
> Representative Manasco. They could go to Chicago and talk to the presidents of some of the machinery firms that have offices all over the world.
>
> Mr. Dulles. That must be done.

Less clear from the legislative history is whether Congress contemplated that the CIA would collect foreign intelligence within the United States by clandestine means, so that the source of the intelligence would be unaware that information was being provided to the CIA. As stated above, there was a general reluctance to discuss openly the subject of clandestine collection. Accordingly, the absence of discussion of the subject provides little guidance.

The 1946 Presidential directive to the predecessor CIG contained express authority only for clandestine collection "outside of the United States and its possessions," but there is no corresponding provision in the 1947 National Security Act.

Neither Dulles nor Vandenberg in their testimony (quoted in part above) referred to clandestine collection as an activity the Agency might be assigned within the United States. On the other hand, Congress failed to include this activity among the prohibitions expressly incorporated in the statute.

4. Protecting Intelligence Sources and Methods

The responsibility of the Director of Central Intelligence "for protecting intelligence sources and methods from unauthorized disclosure" reflects congressional recognition that the intelligence function necessarily involves sensitive materials and that secrecy is critical.

This language was originally inserted in the early drafts of the Act in response to the expressed concern of some military officials that a civilian agency might not properly respect the need for secrecy. Congress was also aware of the concern that United States espionage laws were ineffective in preventing unauthorized disclosure of classified information.

The statute does not provide the Director of Central Intelligence with guidance on the scope of this responsibility or on how it is to be performed; nor does it grant him additional authority to discharge this responsibility. The legislative debates did not focus on these issues.

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5. Prohibition Against the Exercise of Police and Law Enforcement Powers and Internal Security Functions

The 1947 Act explicitly limits the CIA's domestic role by prohibiting the Agency from exercising law enforcement or police powers or undertaking internal security functions. This prohibition was taken almost verbatim from the 1946 Presidential directive.

Although the wording of the prohibition was not specifically discussed in congressional hearings or debates, several congressmen and witnesses expressed their concern that the CIA neither invade the FBI's jurisdiction nor become a secret police.

Dr. Vannevar Bush, the Chairman of the Joint Research and Development Board, responding to a question about the CIA's exercise of domestic police and related activities, stated:

> I think there is no danger of that. The bill provides clearly that it is not concerned with intelligence on internal affairs, and I think this is a safeguard against its becoming an empire.
>
> We already have, of course, the FBI in this country, concerned with internal matters, and the collection of intelligence in connection with law enforcement internally. We have had that for a good many years. I think there are very few citizens who believe this arrangement will get beyond control so that it will be an improper affair.

Representative Brown questioned Secretary Forrestal closely about possible domestic activities of the CIA:

> Representative BROWN. This Chief of the Central Intelligence Agency, the Director, should he decide he wants to go into my income tax records, I presume he could do so, could he not?
>
> Secretary FORRESTAL. I do not assume he could.
>
> I think he would have a very short life—I am not referring to you, Mr. Brown, but I think he would have a very short life.

General Vandenberg spoke for many when he said:

> I very strongly advocate that it [the CIA] have no police, subpoena, law enforcement powers or internal security functions.

6. "Services of Common Concern" and "Other Functions and Duties Related to Intelligence"

The statute grants broad authority to the National Security Council to assign the CIA other responsibilities in the intelligence field, subject to the prohibition on law enforcement powers or internal security functions. The preceding discussion shows that Congress specifically expected that collection of intelligence would be among those responsibilities. Other such services of common concern were mentioned by General Vandenberg before the Senate Committee on the Armed Services:

> [I]t is necessary for a central intelligence agency to perform other [functions] of common concern to two or more agencies. These are projects which it is believed can be most efficiently or economically performed centrally. An example of such a service is the monitoring of foreign voice broadcasts. . . . Similarly, we have centralized the activities of the various foreign document branches which were operated by some of the services individually or jointly during the war.

Neither the congressional hearings nor the floor debates discussed the limits on the power of the NSC to assign particular activities to the CIA as "other functions and duties related to intelligence." The broad language reflected concerns that American experience with peacetime intelligence needs and requirements was extremely limited.

Several witnesses—cabinet officers, military leaders and intelligence experts—testified before Congress that the NSC should be allowed flexibility in its direction if the CIA was to be responsive to changing conditions and if the United States was to develop an effective intelligence service.

Under the authority of this "other functions" proviso, the National Security Council has assigned the CIA responsibility for foreign covert operations of a political or paramilitary nature.

C. Practice Under the National Security Act

The National Security Council provides the CIA and other intelligence agencies with guidance and direction through National Security Council Intelligence Directives (NSCID's) and other official memoranda.

By means of these documents, the NSC exercises its statutory authority to assign the CIA services of common concern and other functions and duties related to intelligence. The NSC has also given some greater specificity to the duties of correlation, evaluation, and dissemination which are specifically assigned in the statute. Only those directives which are pertinent to the Commission's inquiry are discussed below.

Since 1947, the CIA has had, under NSC directive, the responsibility for all espionage (that is, clandestine collection of foreign intelligence) and clandestine counterintelligence activities conducted outside the United States and its possessions. In 1948, the National Security Council added the responsibility for overt collection of foreign intelligence within the United States. However, the NSC has not assigned the CIA responsibility for clandestine collection of foreign intelligence in the United States.

The CIA has a number of miscellaneous responsibilities of an intelligence-gathering nature. Perhaps the most important for purposes of this Commission is the responsibility assigned it by the NSC for dealing with persons who defect to the United States overseas. (Defections within this country are the responsibility of the FBI.) The Director of

Central Intelligence has implemented this assignment by issuing directives which set forth the details for the defector program.

Under the National Security Council directives, the Director of Central Intelligence has primary responsibility for the identification of impending crises and the transmission of relevant intelligence to the appropriate officials. The Director also has the responsibility for national intelligence—information required for the formulation of security policy which transcends the exclusive competence of any one department. The CIA is responsible for the regular production of current intelligence to meet the day-to-day needs of the President and other high-level officials. While these directives do not expressly prohibit the production of intelligence on purely domestic matters, it is clear that their focus is on overseas events.

In connection with the statutory responsibility of the Director of Central Intelligence for the protection of intelligence sources and methods from unauthorized disclosure, the National Security Council has directed that each agency or department be responsible for the protection of its own sources and methods, and that the Director call upon these other bodies as appropriate to investigate any unauthorized disclosures and report to him. The Director, has in turn, delegated these responsibilities to the Security Committee of the United States Intelligence Board, a board composed of the heads of the various intelligence agencies.

A particularly difficult security problem is presented by "leaks" of classified information to the news media. Usually there is no way of determining which agency is the source for any particular disclosure. At present all "leak" cases are referred to the Security Committee for discussion and appropriate action. The Security Committee has been given the authority to consider the problems caused by the "leak," including the degree of harm to the national interest, and to make reports and recommendations for corrective action as appropriate. The Committee, however, has no authority to direct either the FBI or any member agency to investigate "leaks."

The position of the FBI during the 1960's and early 1970's was firm: the FBI would not handle "leak" cases unless directed to do so by the Attorney General. This was a reflection of the attitude of Director J. Edgar Hoover. He felt that investigation of news "leaks" was an inappropriate use of FBI resources, because, most of the time, the source of such a "leak" could not be discovered, and often when the source was discovered, it turned out to be a high-ranking official against whom no action would be taken. As a result, the CIA, under Presidential pressure, has occasionally investigated such "leaks" itself, relying on the "sources and methods" proviso for authority.

The FBI's internal security authority and the CIA's foreign intelligence responsibilities result in frequent contact, particularly in the area of counterintelligence. The FBI has responsibility for "investigative work in matters relating to espionage, sabotage, subversive activities and related matters" regarding the security of the United States. The CIA has the corresponding authority overseas. It also maintains central records and indices of foreign counterintelligence information. The NSC has assigned to the Director of Central Intelligence responsibility for establishing procedures to ensure the centralized direction and prior coordination of foreign and domestic counterintelligence activities.

Close coordination between the two agencies is required in many situations such as a visit by a foreign intelligence officer to this country to engage in espionage. The "transfer" of responsibility for counterintelligence requires constant cooperation between the CIA and FBI. Such coordination has not always existed, but the Commission was informed by representatives of both the CIA and the FBI that good relations and efficient liaison presently exist between the two agencies.

A formal memorandum between the CIA and the FBI in February 1966 provides the most detailed statement of the understanding by the two agencies of their respective authorities. For example, the FBI must be kept advised of clandestine CIA personnel in the United States. Where CIA handling of agents in this country is inadequate to protect the FBI's internal security interest, the FBI has unrestricted access to them.

The 1966 memorandum does not solve all problems. It does not outline or indicate in any specific degree the limits on CIA's activities related to foreign intelligence. No reference is made to the CIA's role within the United States to protect intelligence sources and methods, or to its power to conduct investigations for this purpose. This has been a troublesome area, as the FBI has declined to investigate the personnel of CIA or any other government agency suspected of a breach of security unless there is substantial evidence of espionage. Within the last year, work has begun to supplement and rewrite this memorandum to improve coordination and avoid future conflicts or gaps of jurisdiction.

Chapter 6
Legal Analysis

Introduction

The CIA, like every other agency of the federal government, possesses only that authority which the Constitution or duly enacted statutes confer on it. And, like every other agency, it is subject to any prohibitions or restraints which the Constitution and applicable statutes impose on it.

Congress vested broad powers in the CIA. Its purpose was to create an effective centralized foreign intelligence agency with sufficient authority and flexibility to meet new conditions as they arose.

But the Agency's authority under the Act is not unlimited. All its functions must relate in some way to foreign intelligence. The Agency is further restricted by the Act's prohibition on law enforcement powers and internal security functions, as well as by other Constitutional and statutory provisions.

Determining the lawfulness of particular Agency conduct requires analysis of its authority as well as any applicable restrictions. The process does not always produce clear and precise answers. Difficult questions of statutory and Constitutional interpretation are involved. There are few, if any, authoritative judicial decisions. The legislative history and the experience under the Act are an uncertain guide.

In many instances, the only appropriate test is one of reasonableness. Different persons are likely to hold different opinions as to what the statutes and Constitution authorize or prohibit in particular circumstances.

Legal questions are only the beginning of a complete analysis of the issues. A distinction must be drawn between what the law authorizes or prohibits and what may be desirable or undesirable as a matter of public policy. Activities which the law authorizes may, nonetheless, be undesirable as a matter of policy. Conversely, policy may create a compelling need for activities which have not been authorized; to the extent that no Constitutional restrictions pose an absolute barrier, authority for such activities may be sought if it does not now exist.

In the Commission's recommendations, both law and policy are considered. This chapter, however, is intended to deal only with the applicable law.

A. The Extent of the CIA's Authority

1. The Authority of the CIA as to Foreign Intelligence

Although the National Security Act does not expressly limit the CIA's intelligence activities to foreign intelligence, it appears from the legislative history as a whole and the consistent practice under the statute that the Agency's responsibility is so limited.

In deciding what constitutes "foreign intelligence," the subject matter of the information and not the location of its source is the principal factor that determines whether it is within the purview of the CIA.[1] This conclusion is supported by that portion of the legislative history which indicates the CIA may collect foreign intelligence in this country by overt means.

"Foreign intelligence" is a term with no settled meaning. It is used but not defined in National Security Council Intelligence Directives. Its scope is unclear where information has both foreign and domestic aspects.

The legislative history indicates general congressional concern that the Agency should not direct activities against United States citizens or accumulate information on them. However, Congress did not expressly prohibit any activities by the CIA except the exercise of law enforcement and internal security functions.

We believe the congressional concern is properly accommodated by construing "foreign intelligence" as information concerning the capabilities, intentions, and activities of foreign nations, individuals or entities, wherever that information can be found. It does not include information on domestic activities of United States citizens unless there is reason to suspect they are engaged in espionage or similar illegal activities on behalf of foreign powers.

The authority of the CIA to collect foreign intelligence in this country by clandestine means is also unclear. The Act neither expressly authorizes such collection nor expressly prohibits it. The National Security Council has never formally assigned this responsibility to the CIA. The Commission concludes that the CIA's authority in this area needs clarification.

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[1] See also *Heine* v. *Raus*, 261 F. Supp. 570 (D. Md. 1966), *vacated and remanded*, 399 F. 2d 785 (4th Cir. 1938).

2. Support Activities

In order to carry on its authorized intelligence functions within and without the United States, the CIA must necessarily engage in a variety of support activities. Such activities include the operation of its headquarters, the recruitment and training of employees, the procurement of supplies, communication with overseas stations, and the like.

The Commission finds that the authority to conduct foreign intelligence operations includes the authority to conduct such otherwise lawful domestic activities as are reasonably necessary and appropriate by way of support. This includes the authority to use those unusual cover and support devices required by the clandestine nature of the CIA.

3. Protection of Sources and Methods

The National Security Act requires the Director of Central Intelligence to protect intelligence sources and methods from unauthorized disclosure. The Commission believes that this provision and the inherent authority of the Director authorize the Agency to take reasonable measures not otherwise prohibited to protect the facilities and personnel of the Agency from outside threats and to ensure good security practices by persons affiliated with the Agency.

What measures are reasonable in a particular case depends on all the facts and circumstances. No general rule can be laid down, but some relevant factors can be suggested. Among them are:

—The degree of danger to the security of the Agency;

—The sensitivity of the activities involved;

—The extent and nature of the Agency's intrusions on individual privacy; and,

—The alternative means of protection available.

Because of the uncertainty inherent in a test of reasonableness, the Commission in the chapters which follow has recommended both statutory changes and a number of restrictions on the means which the Agency may employ to protect its sources and methods.

On rare occasions, the Agency has asserted that the Director's authority permits him to investigate any unauthorized disclosure that jeopardizes intelligence sources and methods. This claim has been made in cases where there was no reason to believe the disclosure came from a person in any way related to the Agency. Although the statutory language and legislative history are not precise, the Commission finds that such an interpretation is unwarranted, especially in light of the applicable NSCID that makes the CIA responsible only for unauthorized disclosures from the Agency.

In our judgment:

(a) The investigative authority of the Director is limited to persons affiliated with the Agency—that is, employees (including former employees and applicants for employment), contractors and their employees, knowing sources of intelligence, agents and similar persons used by the Agency in operations, and others who require clearance by the CIA for access to classified information. Such investigations must be conducted in a lawful manner consistent with the requirements of the Constitution and applicable statutes.

(b) Investigation of breaches of security by employees of other government agencies is the responsibility of the heads of those agencies or of the FBI.

(c) The CIA has no authority to investigate newsmen.

The Commission proposes statutory changes as well as an Executive Order to clarify these matters.

4. Other Authority

The CIA derives some authority from federal statutes of general application. The Economy Act of 1932 [2] authorizes government agencies to provide services and equipment to each other where that course would be in the best interest of the government. Public Law 90–331 requires all federal agencies to assist the Secret Service in the performance of its protective duties. The authority granted in these acts is often exercised by the CIA, but our investigation has disclosed no improprieties arising from that exercise.

The CIA may from time to time be delegated some of the President's inherent authority under the Constitution in matters affecting foreign relations. The scope of the President's inherent authority and the power of the Congress to control the manner of its exercise are difficult Constitutional issues not raised by the facts found by the Commission in carrying out its assignment.

B. The Restrictions on CIA's Authority

1. The Prohibition on Law Enforcement Powers or Internal Security Functions

The statutory proviso that "the Agency shall have no police, subpena, law-enforcement powers, or internal security functions" was initially designed to prevent the CIA from becoming a national secret police force. It was also intended to protect the domestic jurisdiction of the FBI. The statute does not define the terms used.

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[2] 31 U.S.C. sec. 686.

Many matters related to foreign intelligence or the security of the Agency also relate to law enforcement or internal security. For example, an unauthorized disclosure of classified information by an Agency employee may also violate the espionage acts or other criminal statutes. Additionally, the Agency in the ordinary course of its business has relationships of various types with law enforcement agencies. Some of these relationships may raise questions of compliance with the proviso.

The Commission finds that whether Agency activity is prohibited depends principally on the purpose for which it is conducted. If the principal purpose of the activity is the prosecution of crimes or protection against civil disorders or domestic insurrection, then the activity is prohibited. On the other hand, if the principal purpose relates to foreign intelligence or to protection of the security of the Agency, the activity is permissible, within limits, even though it might also be performed by a law enforcement agency.

For instance, the mere fact that the Agency has files on or containing the names of American citizens is not in itself a violation of the statutory prohibition on law enforcement or internal security functions. The test is always the purpose for which the files were accumulated and the use made of them thereafter.

The Commission does not construe the proviso to prohibit the CIA from evaluating and disseminating foreign intelligence which may be relevant and useful to law enforcement. Such a function is simply an exercise of the Agency's statutory responsibility "to correlate and evaluate intelligence relating to the national security." Nor do we believe that the CIA is barred from passing domestic information to interested agencies, including law enforcement agencies, where that information was incidentally acquired in the course of authorized foreign intelligence activities. Indeed, where the Agency has information directly relevant to an ongoing criminal investigation, as it did in connection with the Watergate investigation, the Agency is under a duty to bring its evidence to the attention of the appropriate authorities.

So long as the Agency does not actively participate in the activities of law enforcement agencies, we find that it is proper for it to furnish such agencies with the benefits of technical developments and expertise which may improve their effectiveness.

In the past, the Agency has conducted some technical training of members of state and local police forces through the Law Enforcement Assistance Administration. A 1973 statute prohibited this practice. The Agency has interpreted the statute to evidence congressional intent that it terminate furnishing such training directly to local law enforcement agencies as well. The Commission approves the Agency's

decision to leave to the FBI such training of state and local police officers.

2. Constitutional Prohibitions

The Central Intelligence Agency, like all organs of government, is required to obey the Constitution. The protections of the Constitution extend generally to all persons within the borders of the United States, even aliens who have entered the country illegally.

a. *The First Amendment.*—The First Amendment to the Constitution protects among other things freedom of speech, of the press, and of political association from abridgement by the government. These freedoms are not absolute. The Amendment, as Mr. Justice Holmes noted, does not "protect a man in falsely shouting fire in a theatre and causing a panic." Nevertheless, government conduct which inhibits the exercise of these Constitutional rights raises a substantial Constitutional question.

The interception of private communications and the undue accumulation of information on political views or activities of American citizens could have some inhibiting effect. Because the Commission has found these activities were improper for other reasons, it is unnecessary to explore the First Amendment questions in detail.

b. *The Fourth Amendment.*—The Fourth Amendment prohibits unreasonable searches and seizures. In ordinary criminal cases, law enforcement officers must obtain a judicial warrant before searching a person's residence, hotel room, or office, except in "exigent circumstances." When the Supreme Court held in 1967 that private conversations were protected by the Fourth Amendment, it made it clear that all wiretaps and other forms of surreptitious electronic surveillance were within the field of investigative activities that ordinarily require prior judicial approval.

It is unclear whether the President can act without such approval in some cases where the national security is involved. The Supreme Court recently held that a warrant is required in national security cases having "no significant connection with a foreign power, its agents or agencies." [3] However, the Court expressly reserved decision on whether a significant foreign connection would justify a different result. Some lower courts have held that no warrant is required in such cases.

Neither the Fourth Amendment nor any other Constitutional or statutory provision prohibits physical surveillance—the observation of the public comings and goings of an individual—unless such sur-

[3] *United States* v. *United States District Court*, 407 U.S. 297 (1972).

veillance reaches the point of harassment. The use of undercover agents or informers is also largely uncontrolled by legal standards.[4]

c. *Waiver and Consent*—Constitutional rights may be waived in certain circumstances. The Supreme Court has held that a valid waiver must be knowing and voluntary, and the evidence of such a waiver must be clear and unequivocal. The government cannot make waiver of Constitutional rights a condition of public employment, unless the demand for such a waiver is reasonably related to a proper governmental objective and the waiver is the least restrictive means available to achieve that objective. Whether a particular waiver is valid depends on all the facts of the case.

3. Statutory Prohibitions

a. *The Omnibus Crime Control and Safe Streets Act.*—Title III of the Omnibus Crime Control and Safe Streets Act [5] prohibits the interception of private conversations through wiretaps or other forms of electronic eavesdropping unless one party to the conversation consents or a judicial warrant is obtained. The statute expressly does not affect whatever power the President has to order warrantless wiretaps or eavesdropping in national security cases. An Executive Order, dated June 30, 1965, permits warrantless wiretaps so long as the written approval of the President or the Attorney General is obtained.

The statute defines "interception" to mean "the acquisition of the contents of any wire or oral communication through the use of any electronic, mechanical, or other device." A number of judicial decisions have held that the Act does not prohibit the collection of long-distance telephone billing records. These records show the telephone number called, the date and time of the call, and, in some cases, the names of the parties. They do not indicate the content of the call.

A different question is posed by the acquisition of communications incidental to the testing of interception equipment to be used abroad. On the face of the statute, such activities appear to be prohibited.

b. *Statutes Protecting the United States Mails.*—Opening first-class mail to examine its contents without a lawfully issued warrant is illegal.[6] The statutes set forth no exception for national security matters.

The examination of the exterior of first-class mail without opening it presents a different problem. Lower federal courts have held that these so-called "mail covers" are valid if they are conducted within the framework of the postal regulations and there is no unreasonable delay of the mail. The Supreme Court has not passed on this issue.

[4] *Hoffa v. United States*, 385 U.S. 293 (1966).
[5] 18 U.S.C. sec. 2510 et seq.
[6] 18 U.S.C. secs. 1701–1703.

c. *Disclosure of Income Tax Information.*—Federal statutes, Executive Orders, and Internal Revenue Service regulations prohibit disclosure of information from federal income tax returns except under carefully defined procedures. There is no exception to these requirements for the CIA. Indeed, CIA inspection of tax returns was one form of improper activity specifically mentioned in the 1947 Act's legislative history.

d. *Other Statutes.*—The Commission has not attempted to identify or analyze all statutes which might conceivably apply to activities by the CIA or on its behalf. Whether in any particular case a criminal or other prohibitory statute restricts the authority of the CIA within the United States is a question of interpretation of that statute in light of the National Security Act. The statute may contain an express or implied exception for activities required in the interest of national security; on the other hand, it may be an unqualified prohibition on certain conduct. Only an analysis of the language, any relevant legislative history, and the underlying policies can answer the question in a particular case.

Conclusions

The evidence within the scope of this inquiry does not indicate that fundamental rewriting of the National Security Act is either necessary or appropriate.

The evidence does demonstrate the need for some statutory and administrative clarification of the role and function of the Agency.

Ambiguities have been partially responsible for some, though not all, of the Agency's deviations within the United States from its assigned mission. In some cases, reasonable persons will differ as to the lawfulness of the activity; in others, the absence of clear guidelines as to its authority deprived the Agency of a means of resisting pressures to engage in activities which now appear to us improper.

Greater public awareness of the limits of the CIA's domestic authority would do much to reassure the American people.

The requisite clarification can best be accomplished (a) through a specific amendment clarifying the National Security Act provision which delineates the permissible scope of CIA activities, as set forth in Recommendation 1, and (b) through issuance of an Executive Order further limiting domestic activities of the CIA, as set forth in Recommendation 2.

Recommendation (1)

Section 403 of the National Security Act of 1947 should be amended in the form set forth in Appendix VI to this Report. These amendments, in summary, would:

a. Make explicit that the CIA's activities must be related to *foreign* intelligence.

b. Clarify the responsibility of the CIA to protect intelligence sources and methods from unauthorized disclosure. (The Agency would be responsible for protecting against unauthorized disclosures within the CIA, and it would be responsible for providing guidance and technical assistance to other agency and department heads in protecting against unauthorized disclosures within their own agencies and departments.)

c. Confirm publicly the CIA's existing authority to collect foreign intelligence from willing sources within the United States, and, except as specified by the President in a published Executive Order,[7] prohibit the CIA from collection efforts within the United States directed at securing foreign intelligence from unknowing American citizens.

Recommendation (2)

The President should by Executive Order prohibit the CIA from the collection of information about the domestic activities of U.S. citizens (whether by overt or covert means), the evaluation, correlation, and dissemination of analyses or reports about such activities, and the storage of such information, with exceptions for the following categories of persons or activities:

a. Persons presently or formerly affiliated, or being considered for affiliation, with the CIA, directly or indirectly, or others who require clearance by the CIA to receive classified information;

b. Persons or activities that pose a clear threat to CIA facilities or personnel, provided that proper coordination with the FBI is accomplished;

c. Persons suspected of espionage or other illegal activities relating to foreign intelligence, provided that proper coordination with the FBI is accomplished.

d. Information which is received incidental to appropriate CIA activities may be transmitted to an agency with appropriate jurisdiction, including law enforcement agencies.

Collection of information from normal library sources such as

[7] The Executive Order authorized by this statute should recognize that when the collection of foreign intelligence from persons who are not United States citizens results in the incidental acquisition of information from unknowing citizens, the Agency should be permitted to make appropriate use or disposition of such information. Such collection activities must be directed at foreign intelligence sources, and the involvement of American citizens must be incidental.

newspapers, books, magazines, and other such documents is not to be affected by this order.

Information currently being maintained which is inconsistent with the order should be destroyed at the conclusion of the current congressional investigations, or as soon thereafter as permitted by law.

The CIA should periodically screen its files and eliminate all material inconsistent with the order.

The order should be issued after consultation with the National Security Council, the Attorney General, and the Director of Central Intelligence. Any modification of the order would be permitted only through published amendments.

Part III

Supervision and Control of the CIA

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Introduction

The President has directed the Commission to determine whether existing safeguards are adequate to ensure that future domestic CIA activities do not exceed the Agency's authority. We have, therefore, examined CIA's external and internal controls.

Control over the CIA is exercised both within the Agency and externally by control of policy, resources and operations. First, policies are established, written into regulations and issued as guidelines. Second, resources such as money, property and personnel are allocated to activities consistent with this guidance. Third, direct supervision of CIA activities seeks to ensure that activities of the organization are consistent with policy guidance.

In this part of the report, we first examine the supervision of the CIA externally and then explain how the CIA has been controlled internally.

Chapter 7
External Controls

Because of the CIA's intelligence role and the resulting special need for secrecy, the Agency is subject to different external checks from other government agencies.

It does not fit within any regular pattern of executive supervision and control.

Its development during a period of "cold war," in which the needs for national security supported a broad construction of CIA's authority, limited control by Congress over its activities.

Until recently, there has been little public scrutiny of its activities.

Devices which have been utilized for external control of CIA are as follows:

A. Control by the Executive Branch

1. The National Security Council and Related Bodies

Primary executive control over CIA activities is exercised by the National Security Council (NSC), which by statute is responsible for supervising the CIA.

Despite its nominally supervisory position, the control exercised by the NSC relates almost entirely to basic policies and allocation of resources.

NSC determines where and how the CIA should undertake some activities and their scope. The NSC generally does not consider the desirability of specific operational methods, questions of administrative management, or whether particular projects are within the CIA's statutory authority.

The current members of the NSC are the President, Vice President, and Secretaries of State and Defense; although not members of the NSC, the Director of Central Intelligence and the Chairman of the Joint Chiefs of Staff attend all NSC meetings as observers and advisers.

The NSC establishes policy for the CIA primarily through National Security Council Intelligence Directives (NSCID's). Addressed to the entire intelligence community, they often assign responsibilities to the CIA in addition to those assigned explicitly by the 1947 National Security Act. Each is issued under authority of that Act.

In general, these directives are broad delegations of responsibility; they do not focus on particular methods for meeting the assignments. To some extent, NSCID's may also limit the activities of the CIA by assigning tasks to other agencies.

NSC authority over the CIA is also exercised through two committees: The NSC Intelligence Committee and the 40 Committee.

The NSC Intelligence Committee, created in 1971 following the recommendation of a report on the intelligence community by James R. Schlesinger (then of the Office of Management and Budget), represents the viewpoint of users of intelligence estimates and evaluations. Its members are subcabinet officials, including the President's Assistant for National Security Affairs and the Director of Central Intelligence. It meets infrequently.

The other NSC subcommittee, now named the 40 Committee,[1] reviews foreign covert operations and collection activities involving high risk and sensitivity. It has existed in some form since 1948, shortly after the NSC first authorized the CIA to engage in such activities. It is now chaired by the Assistant to the President for National Security Affairs; it includes the Chairman of the Joint Chiefs of Staff and the Director of Central Intelligence as members, and has representatives from the State and Defense Departments as well. The investigation disclosed no cases in which domestic activities—even those recognized by the Agency as highly sensitive—were submitted to the 40 Committee for approval.

In addition to the subordinate committees of the NSC, the President has, by Executive Order, established a Foreign Intelligence Advisory Board of private citizens to advise him on the objectives and management of the nation's intelligence effort and to conduct studies on specific topics of interest to him.

President Eisenhower first established the Board in 1956. President Kennedy reorganized it in 1961, and gave it the assignment of reviewing the events at the Bay of Pigs.

The Board has a staff of two but employs consultants and receives personnel on loan from intelligence agencies.

It meets for twelve days each year (two days each two months). Meetings frequently consist of briefings by intelligence services and policymakers.

[1] So called because its charter is contained in National Security Decision Memorandum 40—it does not have 40 members.

The Advisory Board does not exert control over the CIA. In fact, the CIA is the Board's only source of information about CIA activities. It has not considered domestic intelligence activities, except that in the early 1970's it explored the relationship between the CIA and the FBI in connection with foreign intelligence activities which could successfully be accomplished within the United States.

Thus in June 1972, the Board recommended to the President that the jurisdictional lines be clarified, either legislatively or administratively, so that some government agency might undertake certain specific intelligence activities within the United States.

2. Other Intelligence Committees

As one component of the federal government's foreign intelligence services—albeit the one with the widest authority—the CIA receives at least nominal direction and control from coordinating committees established by the NSC.

The independence of these committees as a means of external control is limited, however, by the fact that they are chaired by the Director of Central Intelligence in his role as coordinator of the intelligence community.

In this supervisory role over the entire intelligence community, the Director has issued directives (DCID's) addressed to all intelligence agencies including the CIA. These are similar to their NSC counterparts (NSCID's), but are more detailed. Their primary purpose is to allocate responsibility for intelligence-related activities among the several intelligence services. For example, one DCID spells out the procedures for treatment of foreign defectors within the United States and divides responsibilities in this area between the CIA and the FBI.

In performing this oversight function, the Director is assisted by a staff of about 50 professionals assigned to him from the various intelligence agencies (including the CIA), normally headed by a flag-rank military officer. This Intelligence Community Staff provides the Director with support to coordinate the various intelligence services.

In this role, the Director is also advised by two other organizations, the Intelligence Resources Advisory Committee and the United States Intelligence Board.

The Intelligence Resources Advisory Committee, formed at the recommendation of the 1971 Schlesinger Report, advises the Director on the preparation of a consolidated intelligence program budget.

The United States Intelligence Board, in existence since 1948, is composed of the heads of the principal foreign intelligence agencies. It advises the Director on the intelligence community's operating responsibilities. These include establishing intelligence needs and

priorities, producing intelligence evaluations and estimates, and supervising the distribution of intelligence material. Of the Intelligence Board's eleven standing committees, the Security Committee has the greatest relevance to this report. It advises the Director on the protection of intelligence sources and methods from unauthorized disclosure. For example, it has proposed uniform standards of physical and personnel security and recommended investigations of some security leaks.

3. Office of Management and Budget

The Office of Management and Budget (OMB), an agency in the Executive Branch, supervises the budget of the federal government. In this connection, it controls the CIA's budget and, therefore, its resources, in much the same manner as it does for other government agencies. The CIA's proposed budget and support materials are reviewed by one budget examiner and his supervisor (who is also responsible for all other intelligence agencies) of the Office of Management and Budget.

The impact of the OMB budgetary process on some CIA activities is limited by the information supplied to OMB by the CIA. For example, the proposed budget for the divisions of the Directorate of Operations lumps all personnel costs under a "Management Support" category rather than allocating them to functional areas within each division. Yet, personnel costs represent a large percentage of the directorate's budget. Budgets of other directorates reveal more detailed information.

OMB prepares a final CIA budget, with the President's approval, for submission to Congress. If the CIA disagrees with an OMB recommendation, it may, and frequently does, appeal to the President. In accordance with the 1949 Act, the CIA budget is not identified in the budget submitted to Congress, but is included in other appropriation accounts. Congressional oversight committees are informed which portions of the budget are intended for the CIA.

After Congress appropriates the funds, OMB transfers them to the CIA under the authority of the 1949 Act. Other transfers of funds to the CIA may take place without OMB approval under the Economy Act of 1932 (31 U.S.C. 686). Funds so transferred constitute significant portions of CIA expenditures. These funds are subject to OMB oversight, however, since it reviews them when they are first proposed for inclusion in the budget of the transferring agency.

OMB also reviews CIA requests to make expenditures from its contingency reserve fund. This fund, replenished by annual appropriations as well as unobligated funds from previous CIA appropriations, is available for unanticipated needs. Although the Director has statutory authority to spend reserve funds without consulting OMB, administrative practice requires that he first obtain the approval of OMB and the chairmen of the appropriations subcommittees of the Congress.

OMB exercises control over resources allocated to the CIA. It does not control the CIA's operational activities, it is not an audit agency, and the budget process is not designed to establish intelligence policy or to perform an oversight function. OMB is generally aware of the large-scale CIA activities, but their approval or disapproval is controlled by the National Security Council and its subordinate committees.

4. The Department of Justice

The Department of Justice is charged by statute with the responsibility of investigating and prosecuting criminal cases on behalf of the United States. In so doing, it exercises the President's Constitutional responsibility to take care that the laws are faithfully executed. Criminal prosecution is the most drastic form of external control of misconduct in official positions.

In most federal agencies, a report of possible criminal conduct is investigated on a preliminary basis to determine whether there is any basis for it. If it appears to have some substance, it is referred to the Department of Justice for investigation and for a decision on whether there will be prosecution.

In 1954, the CIA pointed out to the Department of Justice that, in many cases involving CIA, prosecution would require public disclosure of sensitive Agency operations and procedures.

Even investigation and prosecutive consideration by outsiders would disseminate this information more widely than the Agency believed appropriate.

The Department of Justice responded that the Agency should investigate such allegations affecting its operations. If, after investigation, it appeared that prosecution would be precluded by the need to reveal sensitive information, then the Agency should so indicate in its files and not refer the case to the Department of Justice.

In doing this, the Department of Justice abdicated its statutory duties and placed on the Director of Central Intelligence the responsibility for investigating criminal conduct and making the prosecutorial decision—clearly law enforcement powers. (There is, however, no evidence that these powers were ever abused by the Agency.)

This state of affairs continued until January 1975, when the Department of Justice directed that cases with a potential for criminal prosecution be referred to it for consideration.

B. Control by the Congress

1. Congressional Committee Oversight

The armed services committees of Congress have exclusive legislative jurisdiction over any bill, other than for appropriations, whose primary focus is on the CIA. These committees, therefore, exercise primary congressional policymaking control over the CIA. Each has delegated this authority over CIA matters to an intelligence subcommittee. The House subcommittee has seven members (and the approximate equivalent of one and one-half full-time professional staff members). The Senate subcommittee has five members (with a staff of similar size).

Although not involved in the appropriation process, these subcommittees also receive CIA budget information supplied to the appropriations subcommittees.

Since there has been no substantive CIA legislation since 1947, the role of these intelligence subcommittees has generally been to exert policy-making influence informally through personal discussions with the Director of Central Intelligence.

The appropriations committees also examine CIA activities in reviewing CIA budget requests. Both appropriations committees rely on subcommittees to perform this task. The information submitted to congressional oversight subcommittees on the CIA budget is identical to that submitted to OMB. It is considered in secret sessions of the subcommittees (whose chairmen are also chairmen of the parent committees) but is not revealed to the full committee membership or the Congress as a whole.

There has been little further discussion in Congress (outside of the oversight committees) of the CIA's budget or activities except when they otherwise become matters of public discussion. After the CIA appropriation is passed, the chairmen of the appropriations subcommittees retain limited de facto fiscal control over the CIA. Before any of its contingency reserve fund is spent, they are consulted. On the other hand, the CIA is not required to notify Congress before shifting appropriated funds from one program to another.

Neither the members of the oversight committees nor other members of Congress have generally received detailed information on CIA operations. Public hearings are not held. Although secret hearings are held, they are confined by the scope of the information made available. While it appears that the subcommittees or at least their leaders and the leaders of Congress have been informed of major

CIA activities,[2] the amount of information provided does not always correspond with that available to Congress in other sensitive areas.

In sum, congressional oversight of the CIA has been curtailed by the secrecy shrouding its activities and budget. At least until quite recently, Congress has not sought substantial amounts of information of a sensitive nature. Correspondingly, the CIA has not generally volunteered additional information.

There have been occasional efforts to extend congressional oversight of CIA activities. Since 1967, three members of the Senate Foreign Relations Committee have been invited to attend intelligence briefings given to the Senate oversight subcommittees, but these briefings do not identify specific CIA operations.

In addition, certain members of Congress have proposed more intensive congressional oversight over the CIA. These proposals have usually been defeated.

In January 1955, Senator Mansfield (Democrat-Montana) introduced a resolution to establish a Joint Committee on Central Intelligence; it was defeated 50 to 27. In 1966, the Senate Foreign Relations Committee proposed a Senate Committee on Intelligence Operations; the proposal was defeated 61 to 28. However, the Hughes Amendment to the Foreign Assistance Act of 1974 prohibits CIA expenditure of funds "for operations in foreign countries, other than intelligence activities intended solely for obtaining necessary intelligence" unless the President determines that it is "important to the national security" and reports the operation to the "appropriate committees of the Congress, including the Committee on Foreign Relations of the United States Senate and the Committee on Foreign Affairs of the United States House of Representatives." Both the Senate and House recently formed select committees with temporary charters to investigate the activities of all intelligence agencies.

2. General Accounting Office

The General Accounting Office (GAO) is responsible for making accounting and auditing reports to the Congress. It studies the efficiency, propriety, and legality of executive agency operations and conducts financial audits on its own initiative or at the request of a member or committee of Congress.

The CIA Act of 1949 authorizes the Director of Central Intelligence to make confidential (unvouchered) payments; these payments, constituting approximately one half of total CIA spending, are beyond

[2] A compilation from CIA files of its contacts with Congress shows that over a five-year period (1967–1972) the CIA averaged 26 briefings of congressional committees or subcommittees per year and 81 briefings of individual members of Congress per year.

the GAO's audit authority. The 1949 Act further protects CIA spending from GAO challenge by providing that:

> The sums made payable to the Agency may be expended without regard to the provisions of law and regulations relating to the expenditure of Government funds . . .

For a time, GAO audited the nonconfidential expenditures of the CIA; however, after adoption of the 1949 Act, no challenges to the legality of any payments were made. Any questions about the lawfulness of CIA expenditures were instead referred to the CIA's Comptroller.

When GAO broadened its activities in 1959 to include studies of agency efficiency, it included the CIA on a "trial basis." After two years, the Comptroller General (who heads GAO) decided that because of statutory and security restrictions on GAO audits of CIA activities, GAO "did not have sufficient access to make comprehensive reviews on a continuing basis which would produce evaluations helpful to the Congress."

GAO also concluded that it would not be worthwhile to continue its limited financial audits of the CIA. This decision to eliminate GAO audits of CIA activities was related to a CIA internal reorganization which increased the scope of its internal comptroller and audit operations. Since 1962, the GAO has not conducted any reviews at the CIA nor any reviews which focus specifically on CIA activities.

C. Control by the Courts

The CIA has only rarely been involved in litigation. In the CIA's history, there have been only seven judicial decisions relating to it. None operated as a substantial check on the CIA's activities.

The CIA's actions are not readily challenged in the courts. Most CIA activities relate to foreign intelligence and as a consequence are not reviewed by the courts. Moreover, since practically all of the CIA's operations are covered by secrecy, few potential challengers are even aware of activities that might otherwise be contested; nor can such activities be easily discovered.

The CIA is also specifically freed from statutory requirements which often constrain government activities and are enforced by courts. For instance, the 1947 Act authorizes the Director to discharge employees whenever he deems "such termination necessary or advisable in the interests of the United States." This discharge power has been held to be unreviewable. Accordingly, employees have rarely initiated suits against the Agency for wrongful termination and have never successfully done so.

D. The Effects of Publicity

Reports of CIA activities in newspapers and magazines and on television are another form of external control on its activities.

Until recently, the secrecy which protected the CIA's activities effectively limited the impact of this control. Recent events indicate that the CIA will be subject to more intensive scrutiny in the press, but as a practical matter the news media cannot effectively "police" CIA activities.

Publicity about the CIA tends to be an unrefined control mechanism. The press can examine only what is leaked; it cannot consider all relevant details; it may be inaccurate and incomplete; and it may have unintended results on CIA operations.

E. Control by Special Commissions and Panels

Since the creation of the CIA in 1947, it has been reviewed by a number of special panels, commissions and committees. Some were created in response to particular issues, most notably in 1961 after the Bay of Pigs and in 1967 after disclosure that nonprofit institutions had been used to assist the CIA. The primary studies were:

1. Dulles, Jackson, Correa Report to the NSC on the CIA and National Organization for Intelligence (January 1949) : A study of the structure and organization of the CIA, existing CIA activities, and the relationship of those activities to those of other departments and agencies.
2. Jackson Report (President's Committee on International Information Activities) (June 1953) : A survey and evaluation of the international policies and activities of the executive branch.
3. Doolittle Report (September 1954) : A report on covert operations of the CIA.
4. Clark Report (Task Force on Government Intelligence Activities) (May 1955) : A survey of the CIA and intelligence activities of the State and Defense Departments and the National Security Council.
5. Sprague Report (President's Committee on Information Activities Abroad) (December 1960) : A review of the impact of international actions of the United States government on world public opinion and on other governments, with particular reference to the CIA.
6. Kirkpatrick Report (Joint Study Group Report on Foreign Intelligence Activities of the U.S. Government) (December 1960) : A series of recommendations to assist the Director of Central Intelligence in coordinating foreign intelligence activities.

7. Kirkpatrick, Schuyler, Coyne Report (April 1962) : A study of the organization and activities of the CIA and its relationship with other agencies in the intelligence community.

8. Katzenbach Report (March 1967) : A review of the relationships between government agencies and educational and voluntary organizations which operate abroad.

9. Lindsay Report on Covert Operations of the U.S. Government (December 1968) : A study of supervision by Congress and within the CIA of covert operations.

10. OMB Report (Schlesinger Study of the Intelligence Community) (March 1971) : A study of the organization of the intelligence community and its cost-effectiveness.

Most recommendations have focused on the organization of the intelligence community and were preludes to a reorganization. The Katzenbach Report ended CIA funding of educational and voluntary organizations. The issue of CIA activities within the United States was not given major attention by any other of these review panels.

Conclusions

Some improvement in the congressional oversight system would be helpful. The problem of providing adequate oversight and control while maintaining essential security is not easily resolved. Several knowledgeable witnesses pointed to the Joint Committee on Atomic Energy as an appropriate model for congressional oversight of the Agency. That Committee has had an excellent record of providing effective oversight while avoiding security leaks in a highly sensitive area.

One of the underlying causes of the problems confronting the CIA arises out of the pervading atmosphere of secrecy in which its activities have been conducted in the past. One aspect of this has been the secrecy of the budget.

A new body is needed to provide oversight of CIA within the Executive Branch. Because of the need to preserve security, the CIA is not subject to the usual constraints of audit, judicial review, unlimited publicity, or open congressional budget review and oversight. Consequently, its operations require additional external control. The authority assigned the job of supervising the CIA must be given sufficient power and significance to assure the public of effective supervision.

The situation whereby the Agency determined whether its own employees would be prosecuted must not be permitted to recur.

Recommendation (3)

The President should recommend to Congress the establishment of a Joint Committee on Intelligence to assume the oversight role currently played by the Armed Services Committees.[3]

Recommendation (4)

Congress should give careful consideration to the question whether the budget of the CIA should not, at least to some extent, be made public, particularly in view of the provisions of Article I, Section 9, Clause 7 of the Constitution.[4]

Recommendation (5)

a. The functions of the President's Foreign Intelligence Advisory Board should be expanded to include oversight of the CIA. This expanded oversight board should be composed of distinguished citizens with varying backgrounds and experience. It should be headed by a full-time chairman and should have a full-time staff appropriate to its role. Its functions related to the CIA should include:

1. Assessing compliance by the CIA with its statutory authority.

2. Assessing the quality of foreign intelligence collection.

3. Assessing the quality of foreign intelligence estimates.

4. Assessing the quality of the organization of the CIA.

5. Assessing the quality of the management of the CIA.

6. Making recommendations with respect to the above subjects to the President and the Director of Central Intelligence, and, where appropriate, the Attorney General.

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[3] **Commissioner Griswold adds the following statement:**

"The assignment given to the Commission relates only to the domestic activities of the C.I.A. But the problems which have arisen in the domestic field cannot be fully understood and evaluated unless they are viewed against the role which the CIA has undertaken to play outside the United States. Because of the secret nature of its operations, legal and moral limitations may not always be kept in mind. In this situation, it should not be surprising that personnel, when working in the United States, should not always feel that they are subject to ordinary restraints.

"Congress should, in my opinion, decide by law whether and to what extent the CIA should be an action organization, carrying out operations as distinguished from the gathering and evaluation of intelligence. If action operations were limited, there would be a lessened need for secrecy, and the adverse effect which the activities of the CIA sometimes have on the credibility of the United States would be modified.

"One of the great strengths of this country is a deep and wide-flung capacity for goodwill. Those who represent us, both at home and abroad, should recognize the potentiality of that goodwill and take extreme care not to undermine it, lest their efforts be in fact counterproductive to the long-range security interests of the United States."

[4] **"No money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published from time to time."**

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b. The Board should have access to all information in the CIA. It should be authorized to audit and investigate CIA expenditures and activities on its own initiative.

c. The Inspector General of the CIA should be authorized to report directly to the Board, after having notified the Director of Central Intelligence, in cases he deems appropriate.

Recommendation (6)

The Department of Justice and the CIA should establish written guidelines for the handling of reports of criminal violations by employees of the Agency or relating to its affairs. These guidelines should require that the criminal investigation and the decision whether to prosecute be made by the Department of Justice, after consideration of Agency views regarding the impact of prosecution on the national security. The Agency should be permitted to conduct such investigations as it requires to determine whether its operations have been jeopardized. The Agency should scrupulously avoid exercise of the prosecutorial function.

Chapter 8
Internal Controls

The CIA relies on internal controls to ensure that policy commands are followed, that resources are used properly and efficiently and that activities are consistent with statutory authority.

Seven major mechanisms, none of them peculiar to this intelligence agency, play a role: (1) The chain of authority; (2) requirements for coordination among various offices within the agency; (3) written internal regulations; (4) internal "watchdogs", including the legal counsel, inspector general, and auditors; (5) resource controllers of money, property, and personnel; (6) training courses; and (7) informal methods of communication.

A central feature of the CIA's organization is its "compartmentation." For reasons of security, persons in one office are not informed of activities in other offices unless they have a "need to know." As a consequence, the number of persons who are in a position to comment on activities within the CIA is small.

Even persons whose function it is to oversee or inspect CIA activities are sometimes denied complete access to operational details.

On the other hand, compartmentation results in high-level, detailed approval of many activities—more so than in most government agencies.

In addition, the secrecy of CIA activities creates additional problems for internal control. Individuals trained and accustomed to be secretive and to use unorthodox methods to perform their tasks may be tempted to employ this knowledge and experience to avoid close scrutiny.

The sensitive and sometimes dangerous nature of the work of the CIA demands high standards of personal discipline, dedication, and patriotism. The investigation indicates that virtually all of the Agency activities criticized in this Report were known to top management, sometimes as a result of complaints of impropriety from lower-ranking employees. This shows, among other things, that the Agency's system of internal communication can operate.

A. Management and Administration

1. Chain of Authority

The Director of Central Intelligence is the head of the CIA and at the top of its chain of authority. He is also the principal foreign intelligence officer of the government and has duties extending beyond the CIA.

The Director's duties in administering the intelligence community, handling relations with other components of the government, and passing on broad questions of policy leave him little time for day-to-day supervision of the Agency.

His chief assistant (since 1953, by statute) is the Deputy Director of Central Intelligence (DDCI). In recent years, this position has been occupied by a high-ranking military officer, with responsibilities for maintaining liaison with the Department of Defense, fostering the Agency's relationship with the military services, and providing top CIA management with necessary experience and skill in understanding particular intelligence requirements of the military. Generally speaking, the Deputy Directors of Central Intelligence have not been heavily involved in administration of the CIA.

Each of the four major directorates within the CIA—Intelligence, Operations, Administration, and Science and Technology—is headed by a deputy director. They report directly to the Director of Central Intelligence.

The Directorate of Intelligence evaluates, correlates, and disseminates foreign intelligence. It also collects information by monitoring foreign radio broadcasts.

The Directorate of Operations (formerly called the Directorate for Plans) conducts the CIA's clandestine collection, covert operation, and counterintelligence activities. Many of its employees work overseas, but it also operates an office that collects foreign intelligence from Americans who volunteer information.

The Directorate of Science and Technology conducts research and development projects related to devices used in intelligence collection and in counterintelligence. It also provides technical services and supplies for operating portions of the CIA.

The Directorate of Administration (formerly called the Directorate of Support) handles housekeeping chores for the CIA such as contracting, communications, medical services, personnel management, security, finance and computer support.

In addition to these operating branches, the CIA has a number of staff offices, including a General Counsel, an Inspector General and a Comptroller, who report directly to the Director of Central Intelligence.

The compartmented nature of CIA operations and the adherence to "need-to-know" principles has restricted communication to lines of authority within each directorate. One directorate generally does not share information with another. The Director of Central Intelligence is, as a consequence, the only person in a position to be familiar with all activities. Therefore he is the focal point for formal internal control of the CIA.

The impact of compartmentation is sharpened by the occasional practice of having lower echelon officers report directly to the Director of Central Intelligence. Such special reporting authority outside the normal chain of command existed both for the Office of Security and the Special Operations Group of the Counterintelligence Staff.

This special reporting authority arose both from the need for tight security and the Director's interest in maintaining and continuing close contact with these sensitive activities.

Informal practices have the effect of expanding the information flow within the CIA. Daily morning meetings are held by the Director with the deputy directors. Also present are the Inspector General, Comptroller, legal and legislative counsels and other top officials. These weekday meetings include discussion of issues that otherwise would be handled only through the chain of authority. In addition, top CIA officials now meet regularly without the Director in the Agency Management Committee.

A distinctive feature of the CIA is the absence of "outsiders" in top-level management. Unlike the typical executive agency, where not only the chief officer but also a group of top-level assistants are appointed from the outside, no such infusion occurs in the CIA. Almost all the top leadership for the past 28 years has been chosen from within the organization.

2. Coordination Requirements

The need for coordination has caused the CIA to supplement the chain of authority with requirements for consultation between offices. Basic CIA policies and certain types of operational activities are approved only after consultation among staff offices and sometimes several directorates. The coordination required varies with the activity.

All regulations applicable to the entire agency must be reviewed by the directorates, the Inspector General and General Counsel before being approved by the Director of Central Intelligence. Whenever an activity requires use of a new proprietary company, an administrative plan must be prepared by the operating component and approved both within the direct chain of authority and by the Offices of General Counsel, Finance, Comptroller, and Security, among others.

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To the extent that CIA activities involve agency-wide regulations or proprietaries, the compartmented nature of the Agency is somewhat lessened by such coordination requirements.

Nonetheless, field operational details, although they often are approved through the chain of authority, are not normally cleared at headquarters for logistic and financial support or legal authority. Decentralized control is designed to allow the CIA to operate securely, effectively, and rapidly, though it sacrifices the opportunity for internal checks.

Current requirements for coordination would not provide significant control over most of the CIA activities which are the subject of this Report.

3. Written Directives

Written CIA regulations serve as an internal standard. The CIA is given its basic policy direction by the 1947 National Security and 1949 CIA acts. Directives of the National Security Council and of the Director of Central Intelligence in his role as head of the intelligence community elaborate upon the basic guidance of Congress in setting forth the CIA's duties and responsibilities. CIA regulations translate these broad intelligence directives into specifics. In addition, CIA regulations spell out the basic missions and functions of each office. They are readily available to all employees; as assignments and procedures change, amendments are made.

CIA regulations are supplemented by official notices, which deal with policies of a transitory nature. Over 100 are issued each year. Handbooks give further details on administrative practices, security, salary and benefits, travel, accounting, procurement and other items of general concern. In addition, each directorate and staff office publishes its own written guidance for employees. Some particular offices have also supplied detailed written guidance setting limits on their domestic activities.

Agency directives do not, in general, however, spell out in detail which activities can or cannot be undertaken under the CIA's statute or policies. Agency-wide regulations rarely go beyond quoting the National Security Act of 1947 prohibitions in describing the limitations on CIA activities within the United States. A handbook of required regulatory reading for all CIA employees similarly does not discuss, beyond the barest outline, the 1947 Act's prohibitions on the exercise of police powers or internal security functions.

Some changes have recently been made to improve guidance provided by written directives. A number of notices have been issued specifically dealing with CIA activities within the United States and requiring office chiefs to prevent activities not authorized by the CIA's charter. Notices have set strict limitations on certain testing programs, surveillance of Americans at home and abroad, assistance to local law enforcement agencies, detailing of personnel to other agencies, and wiretaps, searches and seizures. Most are brief and relate to past incidents that have been questioned. These notices have not yet been written into permanent regulations.

B. Staff Offices

Three staff offices [1] are assigned responsibility to investigate activities throughout the CIA, respond to inquiries about their legality, and report their findings to the Director: the General Counsel, the Inspector General and the Audit Staff.

1. The Office of General Counsel

The CIA's legal counsel performs a dual role. On the one hand, he supplies independent advice to the Director of Central Intelligence on the propriety—under the Constitution, statutes, or regulations—of CIA activities.

On the other hand, because the legal counsel is also part of the CIA's management that is responsible for carrying out assigned tasks, he is subject to pressures to find legal techniques to facilitate proposed activities.

The absence of clear legal standards in the many unusual situations which come to him complicates his problem in maintaining professional independence of judgment.

The General Counsel and his staff of 14 lawyers are responsible for providing legal advice to the Director and all other officials of the CIA. They also do miscellaneous legal tasks not involving legislative liaison.

Two features of this legal office are distinctive. First, one person served as the General Counsel for 27 years, from the time the Agency was created in 1947 until his retirement in 1974. Many particularly sensitive matters were handled by him personally. His successor has also served in the General Counsel's office for most of this period. Second, with one exception, the staff has been recruited entirely from within the CIA.

The General Counsel is involved in policy-making. He has been an active participant in drafting the basic delegations of responsibility to the CIA: the National Security Council Intelligence Directives (NSCID's) and Director of Central Intelligence Directives (DCID's). He reviews all internal CIA regulations.

[1] A fourth, the Office of Legislative Counsel, coordinates CIA relations with Congress and therefore does not exercise a significant internal control function.

The General Counsel also participates in implementing CIA policy. His office has been active in establishing proprietaries and other cover for operations. He is consulted on CIA immigration cases and reviews procurement contracts, administrative and liquidation plans for proprietary companies, and agreements between the CIA and non-governmental organizations.

The General Counsel is sometimes asked by the Director and other officials within the CIA for formal or informal legal opinions on the legality of CIA activities. The office maintains a collection of its legal opinions; they range over a wide assortment of topics from proper use of the confidential appropriated funds of the CIA to the authority for domestic activities in support of foreign intelligence.

The General Counsel does not review and comment on all activities of the CIA. He does not have authority to initiate inquiries; rather he responds to requests for legal advice. Most of the activities reviewed in this Report do not appear to have been the subject of a legal opinion from the General Counsel until quite recently.

Absence of written opinions alone does not necessarily indicate that the General Counsel was not consulted; consultation was at times handled informally. The General Counsel and his staff have, however, testified that they were unaware of most of the specific CIA activities discussed in this Report.

2. The Inspector General

The Inspector General and his staff of five professionals report to the Director. They review employee grievances, supervise equal employment practices, investigate reports of wrongdoing, and perform special management reviews of CIA activities. Under Directors with differing styles and management approaches, the Inspector General's role has varied.

The size of the Inspector General's staff reflects the Director's view of the scope of appropriate oversight of the operating divisions and of the amount of reliance that management should place on the chain of command.

Until quite recently, the Inspector General conducted component reviews of all CIA activities. Teams from the Inspector General's office visited each component and sought to determine the propriety and efficiency with which it conducted its activities.

The teams were also concerned with morale, security and supervisor-employee relationships.

The size of the Inspector General's staff has recently been reduced from fourteen to five professionals. As a result, it no longer conducts component reviews; instead, the Director relies on each deputy director and his staff to ensure proper management in his directorate.

Even when the Inspector General's office performed component reviews, the ability of such reviews to discover information was restricted. The office could review each component only once every three to five years. In performing such reviews, the Inspector General's staff was sometimes refused access to particularly sensitive CIA activities for which the Director granted a waiver from inspection. Even with complete access, not all aspects of an office's activities could be examined.

Despite these limitations, the Inspector General frequently was aware of many of the CIA activities discussed in this Report, and brought them to the attention of the Director or other top management. The only program which was terminated as a result was one in 1963—involving experiments with behavior-modifying drugs on unknowing persons.

The focus of the Inspector General component reviews was on operational effectiveness. Examination of the legality or propriety of CIA activities was not normally a primary concern.

In the last two years, the Inspector General has become a focal point for collection of information on questionable CIA activities. In April 1973, the Director of Central Intelligence asked the Inspector General to coordinate the CIA's internal investigation of possible involvement with Watergate matters. A May 9, 1973, memorandum from the Director to all CIA employees requested that they report to him any activities that may have been improper. Although most such reports were through the chain of command, some came directly from employees of lesser rank. The obligation to report such activities to the Director or the Inspector General is now a standing order in the Agency.

3. The Audit Staff

While the Inspector General conducts general program reviews of CIA activities, more particular financial reviews are conducted by the Audit Staff. Although part of the Inspector General's office on the CIA table of organization, the Audit Staff operates separately. Its chief has direct reporting responsibility to the Director. With a staff of 36, few of whom have previously served elsewhere in the CIA, the Audit Staff conducts annual reviews of the financial records of all CIA activities. Field offices are reviewed on a random rather than an annual basis.

The purpose of the audit is to ensure compliance with proper accounting procedures consistent with CIA financial regulations. To the extent possible, CIA regulations are similar to financial regulations relied on generally in the federal government. Auditors apply the standards of the American Institute of Certified Public Accountants.

In conducting a financial audit, the Audit Staff has available computerized information on all expenses of the office being audited. The Audit Staff selects a few expenses of each office for particular examination. Activities using unusual accounting procedures or requiring large sums of money other than payroll expenses will normally be chosen.

Although an auditor often is necessarily aware of the activities of an office during this financial compliance review, he does not usually learn about the activities in great detail; his focus is on their financial aspects.

Within the past year, at the urging of the General Accounting Office, the Audit Staff has begun to review programs in addition to auditing for financial compliance. This is a limited project of about four program reviews per year and focuses on costly activities. Program reviews concentrate on the success of activities in achieving stated goals and on cost-effectiveness. They are not searches for illegal or improper conduct.

C. Control of Resources

1. The Comptroller and the Budget Process

Preparation of the annual CIA budget is coordinated by the Comptroller, who reports to the Director. The Comptroller has a staff of fewer than twenty professionals, eight of whom are specifically assigned to review the budgets of the four directorates. Because these budget reviewers usually are assigned to the Comptroller from directorates and have not had budget experience, they serve as advocates for their directorates as well as comptrollers reviewing funding requests.

Every division within the CIA prepares a budget which is reviewed within each directorate or staff office before being forwarded and compiled by the Comptroller. Detailed scrutiny of budgets is done primarily within the directorates. The Comptroller focuses only on major issues, involving large sums of money, major new initiatives or activities of special concern to the Director.

In reviewing the budget, the Comptroller's staff generally examines allocation of resources only if they exceed $30 million or employ over 200 persons. More limited activities would not be closely examined in the budget process at the Comptroller level. His focus is on questions of cost and effectiveness. Rarely, if ever, has the propriety of an activity been an issue for the Comptroller, unless some unusual funding pattern is involved.

The Comptroller presents the budget to the Director of Central Intelligence for approval. It is then sent to the Office of Management and Budget for review before submission to Congress. After Congress appropriates funds, the Comptroller releases them to the directorates. Lump sums are given to each directorate, with instructions that the Comptroller is to be notified only of any internal apportionments of funds that constitute substantial changes from the original budget.

The Comptroller also provides fiscal guidance to the directorates, including instructions on when the Director is to be kept advised of the progress of certain activities.

The principal detailed budgetary control of specific CIA programs—apportionment of funds, evaluation of activities, and planning for the future—is performed outside the Comptroller's office. Within the past two years, staff officers in each directorate have been using a "management-by-objectives" system that seeks to relate need for funds to the Director's program goals. Periodic reports are made to the deputy directors and to the Director of Central Intelligence.

2. The Office of Finance

While the Comptroller prepares the budget and apportions funds to the directorates, the Office of Finance handles actual payment of expenses. Within the Directorate of Administration, this chief financial officer does not report directly to the Director of Central Intelligence. The Office of Finance's responsibilities include processing the payroll, maintaining centralized financial records, auditing private contractors, disbursing cash and purchasing foreign currencies. The responsibility most closely related to internal control is the verification of all vouchers for expenditures.

Finance officers assigned to each office and station must approve all vouchers. They are responsible for preventing expenditure of funds in violation of CIA regulations. Financial regulations do not, however, explicitly describe what activities are prohibited by the CIA's charter. Finance officers therefore rarely questioned the activities described in this Report.

3. Property Controllers

A number of the activities described in this Report require use of particular types of property; wiretaps, for instance, require special electronic devices. This property is maintained in various offices within the CIA. Operating components needing to use this property must obtain it from the office that maintains an inventory. Inventory management controls exist in most offices, but they have not always been oriented toward ensuring legitimate use of equipment.

New controls have been established (since 1972) over the loan of disguise materials and alias documents. Their use must now be ap-

proved by designated senior officials who can question the contemplated use; centralized, detailed records list their location and regulations require their return when no longer needed.

4. Personnel Controllers

General personnel policies are formulated and personnel administration is conducted in the Office of Personnel in the Directorate of Administration. The Office of Personnel has some contact with operational activities when it approves agreements with contract officers and validates job ratings and salaries. In these capacities, although the Office learns some operational details, it does not monitor the activities.

Occasionally, activities whose propriety is questionable come to the personnel office's attention. For example, the CIA's special Retirement and Disability System is available only to certain employees who have served overseas or in "qualified" domestic activities; the Office has forwarded information from employee applications for this program to the Inspector General's office for scrutiny when questionable domestic activities were mentioned.

D. Other Information Channels

1. Training

The CIA's Office of Training, first established in 1951, has long worked closely with the Directorate of Operations to train agents in the special skills necessary for clandestine operations.

In recent years, the Office has expanded its curriculum and now offers more than 60 courses on world affairs, management theories and techniques, foreign languages and intelligence evaluation and production. One course is required of all new professional CIA employees; the three-week introduction to International and World Affairs deals with the nature of intelligence work and the organization of the CIA. Although a brief introduction to the statutory framework of the CIA is included in the course, detailed discussions of the domestic limitations on the CIA is not.

2. Communication Outside the Chain of Authority

The Management Advisory Group.—In 1969, the Executive Director-Comptroller (a position now vacant) established a Management Advisory Group consisting of 14 mid-level officers (three from each directorate and two from the Director's staff) to discuss CIA policies and activities with the Director of Central Intelligence. The Group meets monthly with the Director and conducts inquiries into CIA practices. CIA employees are informed of the Group's existence

through notices and are encouraged to submit suggestions for areas needing review.

The Group's focus has been on areas of improved personnel management. In 1970, however, it questioned the propriety of a number of CIA activities within the United States, particularly Operation CHAOS. The Group sought and received assurance that these domestic activities had been properly approved.

Within the last two years, similar advisory groups have been created in each directorate.

Conclusions

In the final analysis, the proper functioning of the Agency must depend in large part on the character of the Director of Central Intelligence.

The best assurance against misuse of the Agency lies in the appointment to that position of persons with the judgment, courage, and independence to resist improper pressure and importuning, whether from the White House, within the Agency or elsewhere.

Compartmentation within the Agency, although certainly appropriate for security reasons, has sometimes been carried to extremes which prevent proper supervision and control.

The Agency must rely on the discipline and integrity of the men and women it employs. Many of the activities we have found to be improper or unlawful were in fact questioned by lower-level employees. Bringing such situations to the attention of upper levels of management is one of the purposes of a system of internal controls.

Recommendation (7)

a. Persons appointed to the position of Director of Central Intelligence should be individuals of stature, independence, and integrity. In making this appointment, consideration should be given to individuals from outside the career service of the CIA, although promotion from within should not be barred. Experience in intelligence service is not necessarily a prerequisite for the position; management and administrative skills are at least as important as the technical expertise which can always be found in an able deputy.

b. Although the Director serves at the pleasure of the President, no Director should serve in that position for more than 10 years.

Recommendation (8)

a. The Office of Deputy Director of Central Intelligence should be reconstituted to provide for two such deputies, in addition to

the four heads of the Agency's directorates. One deputy would act as the administrative officer, freeing the Director from day-to-day management duties. The other deputy should be a military officer, serving the functions of fostering relations with the military and providing the Agency with technical expertise on military intelligence requirements.

b. The advice and consent of the Senate should be required for the appointment of each Deputy Director of Central Intelligence.

Recommendation (9)

a. The Inspector General should be upgraded to a status equivalent to that of the deputy directors in charge of the four directorates within the CIA.

b. The Office of Inspector General should be staffed by outstanding, experienced officers from both inside and outside the CIA, with ability to understand the various branches of the Agency.

c. The Inspector General's duties with respect to domestic CIA activities should include periodic reviews of all offices within the United States. He should examine each office for compliance with CIA authority and regulations as well as for the effectiveness of their programs in implementing policy objectives.

d. The Inspector General should investigate all reports from employees concerning possible violations of the CIA statute.

e. The Inspector General should be given complete access to all information in the CIA relevant to his reviews.

f. An effective Inspector General's office will require a larger staff, more frequent reviews, and highly qualified personnel.

g. Inspector General reports should be provided to the National Security Council and the recommended executive oversight body. The Inspector General should have the authority, when he deems it appropriate, after notifying the Director of Central Intelligence, to consult with the executive oversight body on any CIA activity (see Recommendation 5).

Recommendation (10)

a. The Director should review the composition and operation of the Office of General Counsel and the degree to which this office is consulted to determine whether the Agency is receiving adequate legal assistance and representation in view of current requirements.

b. Consideration should be given to measures which would strengthen the office's professional capabilities and resources

including, among other things, (1) occasionally departing from the existing practice of hiring lawyers from within the Agency to bring in seasoned lawyers from private practice as well as to hire law school graduates without prior CIA experience; (2) occasionally assigning Agency lawyers to serve a tour of duty elsewhere in the government to expand their experience; (3) encouraging lawyers to participate in outside professional activities.

Recommendation (11)

To a degree consistent with the need for security, the CIA should be encouraged to provide for increased lateral movement of personnel among the directorates and to bring persons with outside experience into the Agency at all levels.

Recommendation (12)

a. The Agency should issue detailed guidelines for its employees further specifying those activities within the United States which are permitted and those which are prohibited by statute, Executive Orders, and NSC and DCI directives.

b. These guidelines should also set forth the standards which govern CIA activities and the general types of activities which are permitted and prohibited. They should, among other things, specify that:

—Clandestine collection of intelligence directed against United States citizens is prohibited except as specifically permitted by law or published Executive Order.

—Unlawful methods or activities are prohibited.

—Prior approval of the DCI shall be required for any activities which may raise questions of compliance with the law or with Agency regulations.

c. The guidelines should also provide that employees with information on possibly improper activities are to bring it promptly to the attention of the Director of Central Intelligence or the Inspector General.

Part IV

Significant Areas of Investigation

Introduction

This Commission was charged with determining whether any activities of the CIA within the United States exceeded its statutory authority. We have, therefore, extensively inquired into the CIA's domestic activities and related matters over the years.

The next 11 Chapters of this Report detail our findings and analyze those activities that bear special scrutiny.

The Commission met weekly, beginning on January 13, 1975, to hear testimony from witnesses familiar with CIA domestic activities. The Commission heard 51 witnesses, including the four living former Directors of Central Intelligence, the current Director, 28 other current and former CIA employees, the Director of the FBI, Secretary of State Henry A. Kissinger, former Secretary of State Dean Rusk: three former Presidential Advisers for National Security Affairs, McGeorge Bundy, Walt W. Rostow and Gordon Gray; and five experts on individual liberties and privacy. A transcript of all testimony by these witnesses was made. More than 2,900 pages of sworn testimony were collected.

In addition to testimony before the Commission, many additional witnesses were questioned under oath by the Commission staff, or signed sworn affidavits.

The staff was divided into four teams for purposes of the investigation. Three two-man teams conducted the factual investigation. The fourth team researched the legislative history and other Constitutional and statutory limitations on the CIA and investigated its internal and external controls.

These four teams presented the most important evidence through witnesses who appeared before the Commission. They also made available to the Commission summaries of all interviews and documentary evidence that they discovered.

The Commission's investigation attempted, within the limits of time and personnel, to discover all pertinent witnesses and documents disclosing the nature of the CIA's domestic activities.

Members of the staff spent weeks at the CIA and elsewhere interviewing personnel, and reviewing files, computer systems and written memoranda on activities within the United States.

The Commission was given access to all CIA files that the Commission ascertained could be pertinent to a full investigation. Some files were reviewed in their entirety; others were sampled at random. The documentary holdings of the CIA were much too large for an investigation or examination of all papers. Nevertheless, we believe that this investigation covered all areas of the CIA likely to have been involved in domestic activities, and examined closely those witnesses and documents most likely to contain pertinent information on such activities.

Chapter 9

The CIA's Mail Intercepts

During the early 1950's, at the height of the so-called cold war, the CIA initiated the first of a series of programs to examine the mails between the United States and Communist countries for purposes of gathering intelligence. During the years since that time, interception and examination [1] of the mails for intelligence purposes was carried out at various times by the CIA at four different locations in the United States, until the last project was terminated in 1973.

An intercept project in New York City was the most extensive of the CIA mail operations, and lasted for twenty years.

Three Postmasters General and one Attorney General were informed of the project to varying degrees. The CIA, the record discloses, was aware of the law making mail openings illegal, but apparently considered the intelligence value of the mail operations to be paramount.

The stated purpose of the New York mail intercept project was best described in the report of the Chief of Counterintelligence presented to Director James R. Schlesinger in 1973 when termination of the project was being considered. The report stated:

> The mail intercept project is a basic counterintelligence asset designed to give United States intelligence agencies insight into Soviet intelligence activities and interests.[2]

Three other mail projects carried out by the Agency during the same period occurred in San Francisco, Hawaii and New Orleans. The intercept in San Francisco took place during four separate periods of a month or less in 1969, 1970 and 1971. The one in Hawaii occurred in late 1954 and early 1955; and the New Orleans intercept lasted only about three weeks, in 1957.

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[1] Mail intercepts or mail openings involve the opening and examination of the contents of letters. Mail cover operations involve only examination and copying information on the outside or covers of letters.

[2] Among these Soviet activities was mail censorship. Presumably all mail to and from the USSR is censored by the Soviets.

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In addition, the Office of Security, acting alone over a 24-year period, ran over 91 separate mail cover operations and conducted about 12 mail openings relating to particular individuals within the United States. Most of the cases involved CIA employees under investigation, although some of the activity was directed against foreign nationals and some against citizens who had no connection with the CIA.

This chapter discusses and analyzes these projects, concludes that the interceptions were illegal and improper, and recommends steps to prevent their reinstitution.

A. East Coast Mail Intercept

1. Inception of the Project

During 1952, interception of mail was perceived by the CIA as a potential source of intelligence. The Agency concluded that it was willing to devote the technical personnel and resources that would be required to carry such an operation into effect. Nevertheless, the CIA recognized the necessity for caution in approaching the subject with the postal authorities. The Chief of the Special Security Division said in a planning memorandum dated July 1, 1952, "I believe we should make contact in the Post Office Department at a very high level, pleading relative ignorance of the situation and asking that we, with their cooperation, make a thorough study of the volume of such mail, the channels through which it passes and particularly the bottlenecks within the United States in which we might place our survey team."

The Post Office Department was initially to be approached with a request that the CIA be allowed to examine only the outside or covers of the mail. The actual ultimate intent of the CIA was, however, made clear in the last paragraph of the July 1, 1952, memorandum:

> Once our unit was in position, its activities and influence could be extended gradually, so as to secure from this source every drop of potential information available. At the outset, however, as far as the Post Office is concerned, our mail target could be the securing of names and addresses for investigation and possible further contact.

The memorandum also outlined the possible benefits of such a program. It would allow determination of the nature and point of origin of communications from the Soviet Union. Technical analysis of the mail might also reveal secret communication methods.

By September 30, 1952, the Office of Security of the CIA had determined, through its investigation of the mails in the United States, the volume of mail flow from the Soviet Union. Security had also determined from the FBI that the Bureau then maintained no records

of correspondence between United States and Soviet citizens except that which was uncovered incidentally in investigation of internal security or espionage cases. The Security Office requested the Deputy Director for Plans to inform the Director of Central Intelligence that Security planned to undertake activities to accumulate information on all letter envelopes, or covers, passing through New York City, originating in the Soviet Union or destined for the Soviet Union. Security noted that the Operation would require the cooperation of the United States Post Office Department and the FBI. The sensitivity of the operation was deemed "patently obvious."

On November 6, 1952, the CIA wrote to the Chief Postal Inspector and asked that arrangements be made for one or two designated CIA employees to work with a Postal Inspector in securing certain information from the mails. The expressed intention was to examine the outside of envelopes only.

Arrangements were made on December 8, 1952, with the Chief Postal Inspector to survey all mail to and from the Soviet Union passing through New York City, and to provide for selective photographing of the envelopes or covers. The mail was removed in bulk from the regular Post Office channels for purposes of examination, and by December 18 the Office of Security had completed the survey of how all mail passing to and from the Soviet Union was handled through New York.

By September 1953, the mail operation had been in progress for about a year. Analysis by the Agency of the materials examined showed that the CIA had gained both substantive and technical intelligence. This was deemed sufficiently valuable to warrant expansion of the project and the photographing of all the mail covers passing through the New York Post Office to and from the Soviet Union. On December 23, 1953, Security reported to the CIA's Director of Operations that it was ready to install the photography equipment at the Post Office and that the Post Office would cooperate by making the mail available to the CIA agents. Both sides of all first class mail were to be photographed. The December 23 memorandum closed by suggesting that the support of Allen Dulles, then Director of Central Intelligence, be solicited for securing Post Office approval of this second step of the venture. Agency documents show that by this time (and probably as early as February 1953) selected items of the mail were already being opened and the contents analyzed by the CIA.

2. Initial Contact with the Postmaster General

In a memorandum to the Director of Central Intelligence dated January 4, 1954, the Director of Security explained that the Postal Inspectors were unwilling to go forward without higher authorization from within the Post Office Department. Security suggested to the

DCI that arrangements be made for a meeting between the DCI and the Postmaster General, who had already been briefed generally on the project by the Chief Postal Inspector and was waiting for the Director's call. The Director of Security said that in his meeting with the Postal Inspectors, no mention was made of informing the FBI. In fact, the FBI apparently did not become aware of the mail project until four years later, in February of 1958.

On May 17, 1954, Allen Dulles and Richard Helms, the latter then Chief of Operations in the Plans Directorate, met with Postmaster General Arthur Summerfield and three of Summerfield's assistants. According to Helms' contemporaneous memorandum of the meeting, Dulles described the importance of the mail program and asked that it be allowed to continue. No mention appears to have been made of covert mail opening. Summerfield made no specific comment but, according to Helms' memorandum, it was clear that he was in favor of giving the CIA any assistance he could. Helms' memorandum pointed out that Director Dulles, during the conference, did not mention the potential for passing material on internal security matters to the FBI and thought it would be better to leave that until a later date.

3. Formal Counterintelligence Proposal

By late 1955, the Office of Security had eight full-time employees and several others on a part-time basis engaged in opening the mail. The project was ready to be expanded. The Chief of Counterintelligence asked Helms, by memorandum dated November 21, 1955, for formal approval of a new counterintelligence program in conjunction with the mail project.

The Counterintelligence Staff, which had previously not been involved with the project, proposed that the CIA expand the operation and "gain access to all mail traffic to and from the USSR which enters, departs or transits the United States." Counterintelligence further suggested that the "raw information acquired be recorded, indexed, analyzed and that various components of the Agency be furnished items of information." According to the November 21 memorandum, the only added function that would be performed by the Office of Security was that "more letters will be opened." "They are presently able to open only a very limited number."

The project description which accompanied the November 21 memorandum noted that the mail opening did not have the express or tacit approval of the postal authorities. It also recognized that "there is no overt, authorized or legal censorship or monitoring of first-class mails which enter, depart, or transit the United States at the present time." It could be assumed, therefore, the proposal said, that foreign espionage agents used the mail as a means of communication, relying upon the policy of the government against any monitoring of mail. Because

of this policy, however, it was conceded that any disclosure of the mail project would probably cause "serious public reaction in the United States, perhaps leading to a congressional inquiry." But, the project description said, "it is believed that any problem arising could be satisfactorily handled."

The proposed counterintelligence project was approved by the Deputy Director for Plans and the Director of Security in January 1956, but difficulties in organization delayed commencement of operations until approximately November 1956.

4. FBI Liaison with the Mail Project

In January 1958, the FBI approached the Post Office Department for the purpose of instituting similar coverage of mail to and from the Soviet Union. The Post Office Department brought the Bureau's request to the Agency's attention, and shortly thereafter CIA representatives told the FBI of the Agency's ongoing mail project. Up to that time, the CIA had avoided telling the FBI of the mail project--and no materials derived from the project were disseminated to the FBI.

Discussions between Agency and Bureau representatives in February 1958 resulted in an agreement that the CIA would send to the FBI mail project items which were of internal security interest. The FBI, in turn, would provide the Agency with watch lists of particular persons or matters in which the Bureau was interested. The Bureau agreed with the CIA's suggestion that the project should be handled by the CIA alone. Eventually, the FBI would become, by far, the principal recipient of mail project materials outside of the CIA's Counterintelligence Staff.

5. The Mail Project in Full Operation

The mail opening project, which started in the early months of the operation with only a few letters, had expanded by 1959 to include the opening of over 13,000 letters a year. By 1961, the CIA had installed a small laboratory for technical examination of letters to uncover foreign espionage techniques of communication.

The physical scanning of the mail was performed by CIA officers in a facility located at the New York intercept. The envelopes of letters selected during the scanning process were photographed, opened and the contents photographed. The letters were then resealed. Technical testing of some of the letters and their contents was also accomplished at a CIA facility in the region. Copies of letters were analyzed in CIA headquarters.

Individuals or organizations of particular intelligence interest were specified in watch lists provided to the mail project by the Counterintelligence Staff, by other CIA components, and by the FBI. The total

number of names on the watch list varied, from time to time, but on the average, the list included approximately 300 names including about 100 furnished by the FBI. The watch list included the names of foreigners and of United States citizens. Operation CHAOS (see Chapter 11), in an effort to focus the mail project upon communications of dissidents, provided the mail project with a watch list of 41 American citizens.

Dissemination of the information derived from the mail intercept was made to those CIA departments which filed watch lists. The principal user of the information within the CIA was the Counterintelligence Staff. Information of an internal security nature derived from the intercept was forwarded to the FBI.

6. Second Briefing of a Postmaster General

With the inauguration of the Kennedy Administration in 1961 and the appointment of a new Postmaster General, consideration was again given in the CIA to briefing high postal officials on the program. The Deputy Chief of Counterintelligence pointed out in a January 27, 1961, memorandum that "there is no record in any conversation with any official of the Post Office Department that we have admitted opening mail." The memorandum continued that although "all conversations have involved examination of exteriors," it nevertheless seemed "quite apparent that they must feel sure that we are opening mail." No further explanation was given to support the last remark.

Counterintelligence suggested to Richard Helms, then the Deputy Director for Plans, who was about to meet with J. Edward Day, the new Postmaster General, that ". . . if the Postmaster General asks if we open any mail, we confirm that some mail is opened. He should be informed, however, that no other person in the Post Office has been so informed."

Allen Dulles, Director of Central Intelligence, accompanied by Helms and another CIA officer met with Postmaster General Day on February 15, 1961. According to Helms' memorandum for the record made the following day, the CIA representative told Day "the background, development and current status (of the mail project), withholding no relevant details." The Postmaster General, according to Helms' memorandum, ended the February 15 meeting by "expressing the opinion that the project should be allowed to continue and that he did not want to be informed in any greater detail on its handling."

Whether the "relevant details" told to Day included the fact of mail openings is not entirely clear.

Day testified on May 7, 1975, before the House Committee on the Post Office and Civil Service that, when Dulles came to visit on February 15, 1961, and said he had something "very secret" to talk about,

Day responded that he would rather not know about the secret, and so Dulles did not tell him about it.

Helms stressed in his testimony that, while he could not recall the specific conversation, his memorandum of February 15, 1961, states that no information was withheld. An August 1971 note on the subject, apparently written by the chief of the mail project, tends to point the other way. In any event, the mail project continued.

7. Consideration of "Flap Potential" and Cover Stories

Concern over the "flap potential" of the mail project appears to have been constant. Even the CIA's Inspector General, after a review of the Office of Security in 1960, had recommended preparation of an "emergency plan" and "cover story" if the mail project were somehow revealed. Despite general realization in the Agency of the dangers involved, the Inspector General in the 1960 review did not suggest termination of the project or raise the issue of its legality.[3]

Detailed consideration of the "flap" problem was set forth in a memorandum sent by the Deputy Chief of Counterintelligence to the Director of Security on February 1, 1962. This memorandum warrants attention. It conceded that everyone realized from the outset of the mail project that ". . . a flap would put us [the project] out of business immediately and give rise to grave charges of criminal misuse of the mail by government agencies." It had been decided, however, that "the effort was worth the risk." It was assumed that any compromise of the project would "unavoidably be in the form of a charge of violations of the mails." The memorandum continued:

> Since no good purpose can be served by an official admission of the violation, and existing Federal Statutes preclude the concoction of any legal excuse for the violation, it must be recognized that no cover story is available to any government agency.
>
> * * * * * * *
>
> Unless the charge is supported by the presentation of interior items from the project, it should be relatively easy to "hush up" the entire affair, or to explain that it consists of legal mail cover activities conducted by the Post Office at the request of authorized Federal Agencies. Under the most unfavorable circumstances, including the support of charges with interior items from the project it might become necessary, after the matter has cooled off during an extended period of investigation, to find a scapegoat to blame for unauthorized tampering with the mails.

The response of the CIA to this Commission's inquiries on the mail project was the opposite of that suggested in the memorandum. All CIA files and personnel connected with the mail project appear to have

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[3] A July 1969 Inspector General review of the Counterintelligence Staff, however, did recommend that the Deputy Director of Plans discuss with the Director of Central Intelligence the transfer of the mail operation to the FBI or in the alternative that the project be cancelled. The recommendation was not followed.

been made available to the Commission staff, and a detailed, accurate description of the project was provided to the Commission by the former Chief of Counterintelligence. The 1962 memorandum is, however, significant because it shows the thought processes of those involved and illustrates the need for a method of periodic review of CIA operations by objective persons.

A further indication that the CIA was aware of the possible criminality of the mail project exists in a September 26, 1963, memorandum by the officer in charge of the mail project to an officer in the CIA's Operations Division. That memorandum states "there is no legal basis for monitoring postal communication in the United States except during time of war or national emergency . . ." The Commission staff found nothing in the CIA records indicating that the Agency's legal counsel was asked to give an opinion on the mail intercept prior to its inception. As previously noted, the Inspector General, in looking into the project in 1960, simply proposed that an adequate "cover story" be developed.

Substantial consideration was given again to the possible efforts of exposure of the operation, after testimony before a Senate subcommittee in April 1965 had apparently indicated that governmental agencies were "snooping into the mail." According to a contemporaneous memorandum of an April 25, 1965, conference which included the Assistant Deputy Director for Plans, Thomas Karamessines, consideration was given to suspending the mail project pending the conclusion of the Senate hearings. The idea was rejected because the project was deemed sufficiently secure and the project's facilities at the post office could be dismantled and removed on an hour's notice.

Consideration was given during the April 25 meeting to briefing Postmaster General Gronouski about the project because no officials then in the Post Office Department had been briefed. This was rejected because of testimony which Mr. Gronouski had given before the Senate subcommittee. The Assistant Deputy Director for Plans instead gave instructions that "steps be taken to arrange to pass this information through McGeorge Bundy to the President" after the subcommittee investigation was completed. No evidence could be found to confirm that President Johnson was ever advised of the project.

8. The Appointment of William Cotter, a Former CIA Officer, as Chief Postal Inspector

On April 7, 1969, William J. Cotter, previously a security officer in the Plans Directorate, was sworn in as Chief Postal Inspector of the United States Post Office Department. Cotter was recommended for the position by Richard Helms, who, along with the heads of other governmental components, had been asked by Postmaster General Blount for suggestions as to persons who might fill the Chief Inspector's job. Cotter was considered the best qualified among three or four persons suggested to Helms by the CIA's Director of Security.

Cotter had been with the Agency since 1951, and from 1952 through 1955 he had served as deputy head of the CIA field office which coordinated the East Coast mail intercept. Cotter knew of the project from its outset and he was aware that letters were opened surreptitiously. Although Cotter had no direct contact with the mail intercept project from 1956 to 1969, when he was appointed Chief Postal Inspector, he knew that it was still in operation.

As Cotter left the CIA headquarters on April 8, 1969, to be sworn in as Chief Postal Inspector, he coincidentally met an officer in the Counterintelligence Staff. A CIA memorandum for the record of the same date sets forth the substance of the conversation which ensued. According to that memorandum, Cotter was concerned that circumstances in his new position might compel him to reveal the existence of the mail project. If he were asked about mail intercepts under oath, Cotter—unlike his predecessor—could not truthfully state he thought the project involved only mail "covers." Further, because of his CIA background, he would be in a particularly precarious position if the project were compromised.

According to the April 8 memorandum, Cotter said he planned to enter his new job without making inquiries about the project, and he planned to do nothing about the project unless it was mentioned to him. Cotter said that eventually he would probably inspect the mail intercept facility and might find it necessary to brief Postmaster General Blount. But, according to the memorandum, Cotter assured the counterintelligence officer that he would not take any action without consulting first with the CIA.

9. Cotter's Dilemma About the Mail Project

In January 1971, Cotter, as Chief Postal Inspector, received a letter from an association of American scientists inquiring about possible Post Office acquiescence in opening first-class mail. Cotter apparently forwarded a copy of the letter to the CIA. A CIA memorandum in March 1971 indicates that Cotter also was concerned that the impending alteration of the Post Office Department from a governmental agency to a corporation in mid-1971 might cause organizational changes which would result in revelation of the mail project. Before this Commission, Cotter testified that the reorganization was not of major concern to him in this respect.

In any event, Director Helms convened a meeting of his associates on May 19, 1971, to discuss the mail project. The May 19 meeting was attended by the Deputy Director for Plans, the Director of Security, the Chief and the Deputy Chief of Counterintelligence, and the officer in charge of the mail project. According to a memorandum made

after the meeting, the discussion in part concerned the extent of knowledge of the project outside the CIA and the likelihood of exposure. Thomas Karamessines, now Deputy Director for Plans, was particularly concerned about compromise of the project because it would cause the CIA "the worst possible publicity and embarrassment." Cotter's "dilemma" was evident. While he was presumably loyal to the CIA, he could not deny knowledge of the project under oath and, furthermore, in his new job his loalty belonged to the Postmaster General.

Karamessines suggested during the meeting that the mail project be handled by the FBI. As he said, "they could better withstand such publicity, inasmuch as it is a type of domestic surveillance."

The Counterintelligence Chief responded that his staff regarded the operation as foreign surveillance—and that the FBI did not have the facilities or trained personnel to take care of the operation. The Chief of Counterintelligence also contended that the CIA could live with the known risks and should continue the project.

Director Helms decided to discuss the matter with Cotter and determine whether Postmaster General Blount should be informed. Helms then met with Cotter, and it was agreed that higher level approval in the Post Office Department for the mail project was necessary. Helms said he would first talk with the Attorney General.

10. Helms Briefs the Attorney General and the Postmaster General on the Mail Project

The Director met with Attorney General Mitchell on June 1 and with Postmaster General Blount on June 2, 1971, to discuss the mail project. Helms reported on June 3, 1971, to the Deputy Director for Plans, the Director of Security, and the Counterintelligence Chief that Attorney General Mitchell had fully concurred in the value of the operation and had no "hang-ups" concerning it. Mitchell also reportedly encouraged Helms to brief the Postmaster General.

Helms said he met with Postmaster General Blount and showed him selected items derived from the project and explained Cotter's situation. Blount, according to Helms, was "entirely positive regarding the operation and its continuation." Further, Blount felt "nothing needed to be done" and rejected a "momentarily held thought" to have someone review the legality of the project because to do so would widen the circle of knowledgeable persons. The project was therefore continued with Director Helm's admonition that if there were even a suspicion of a leak, the project was to be stopped; investigation could be made later.[4]

[4] In a telephone interview with the Commission staff, Mr. Blount said he could not recall the specifics of his conversation with Helms. Mr. Mitchell's attorney, in response to a staff inquiry, said that Mitchell could recall the conversation with Helms but thought they had only discussed mail covers.

11. Termination of the East Coast Mail Project

Postmaster General Blount resigned his cabinet post later in 1971 and Attorney General Mitchell resigned at the end of February 1972, leaving Cotter as once again the senior governmental official outside the CIA with knowledge of the mail project. Cotter expressed his misgivings about the propriety of the project and his continuing concern about the conflict in his loyalties in a conversation with Mr. Karamessines and the Chief of the Office of Security. Finally, in early 1973, Cotter said that unless the CIA obtained higher level approval for the project by February 15, 1973, it would have to be terminated.

This ultimatum was brought to the attention of James R. Schlesinger, who was then Director of Central Intelligence. The Counterintelligence Staff forwarded a memorandum to the Director arguing the importance to both the CIA and the FBI of continuing the project. The correspondence was reviewed at a meeting on February 15, 1973, between Schlesinger and William Colby, who was the CIA Executive Director-Comptroller. Schlesinger determined at the meeting that the project should be turned over to the FBI and that he was not convinced that "the product to the CIA [from the mail project] was worth the risk of CIA involvement."

As a result of another meeting shortly thereafter, with both Colby and the Counterintelligence Chief, Schlesinger decided that Cotter should be asked to defer termination of the project while the CIA took it to a "very high level." But Cotter refused the request for delay, stating that the project should be shut down now and could be renewed once appropriate authority was obtained. The New York mail project was therefore terminated by the Agency on February 15, 1973.

There is no record to indicate that the CIA attempted to obtain President Nixon's approval of the project in 1973. Indeed, although CIA files reflect suggestions made in January 1954 (Eisenhower Administration) and in April 1965 (Johnson Administration) that the President be advised of the mail project, no evidence could be found that any briefing of any President occurred.

12. Evaluating the Mail Project

Statistics gathered by the CIA show that in the last full year of its operation, the New York mail intercept handled approximately 4,350,000 items of mail and examined the outside of over 2,300,000 of those items. Photographs were taken of the exteriors of approximately 33,000 items. Some 8,700 items were opened and the contents analyzed.

Selections for opening were made on the basis of a watch list given to the crew and upon various other intelligence factors. During the last year, approximately 5,000 of the selections were made on the basis of the watch list.

In the last year, the program made over 3,800 separate dissemina-tions of information derived from the project within the Agency and sent some 1,400 separate items of information to the FBI. At the end of 1972, the active watch list of names totaled approximately 600. The number of names watch-listed varied from month to month as they were supplied by CIA components and the FBI.

Although only mail coming into the United States was intercepted in the early years of the project, both outgoing and incoming mail were involved during most of the project's operation. CIA personnel estimate that, overall, approximately 30 percent of the mail intercepted was outgoing.

The project not only disseminated current information but provided file data back to 1955 in a compartmented, computerized machine record system containing almost 2,000,000 entries. Institutional and organizational files were also maintained for reference and analytical purposes.

The intelligence value of the mail project is not easy to assess. While the Commission staff examined materials derived from the mail intercept, it is difficult to judge their significance without knowing a great deal about the cases to which the materials may relate.

All components of the Agency seemed to agree that the project was useful as a source of technical communications intelligence on such matters as secret writing, censorship techniques and the like.

There are also indications that the FBI found the mail project valuable in internal security matters.

The Counterintelligence Staff regarded the mail project as a unique source of intelligence of strategic importance. It was, they said, a source of counterintelligence leads and of confirmation of otherwise questionable information.

During his 1973 review of the project, however, Director Schlesinger was not convinced that the intelligence derived from the mail intercept was worth the risk of continued CIA involvement.

B. West Coast Mail Intercept

An August 26, 1969, two CIA officers from the technical division of the Plans Directorate spoke with the Deputy Chief Postal Inspector for the United States about commencing a CIA mail cover operation on the West Coast. The proposed operation was to encompass international mail from the Far East. According to a contemporaneous CIA memorandum, the Agency officers said during the August 26 meeting that the proposed activity would not involve opening the mail; rather, the Agency wanted only to analyze the exteriors of

relevant envelopes. The postal official stated that he wanted to look further into the matter.

The same CIA officers met with the Deputy Chief Postal Inspector on September 12, 1969, to make arrangements for a survey on the West Coast of the mail flow from the designated communist-controlled areas overseas. The postal official agreed to the proposed survey. A CIA memorandum made shortly after the September 12 meeting indicates that "the key factor" in the official's decision to permit the survey was "the fact that no envelopes would be opened."

Several days after the meeting on September 12, the two CIA officials visited a postal facility in the San Francisco area. They conducted a week-long survey of the incoming mail from the Far East. In all, over 1500 envelopes were reviewed. No indication could be found that any mail was opened during this survey.

CIA records do not show that any high level approval was requested or obtained within the Agency for the September 1969 mail survey. The CIA officers who undertook the survey apparently did so in order to determine the feasibility of the mail project before they sought approval for it.

On October 6, 1969, the two officers who had conducted the survey convinced the chief of their division in the Plans Directorate that the project was feasible and that approval should be sought for it. The proposal was also discussed on October 23, 1969, with the Director of Security, who agreed with it but said that the approval of Director Helms had to be obtained. The Director of Security also suggested during this meeting that, in view of the obvious sensitivity of the proposal, all CIA personnel should "avoid preparing or exchanging any formal communications on the project." (No such communications were located, but hand-written notes made by one CIA officer detailed the events occuring throughout the formative stages of the project.)

Thomas Karamessines, the Deputy Director for Plans, orally approved the project on November 4, 1969. He had secured Director Helms' approval for the project the prior week. Karamessines testified that he approved of the project because it was the only way to obtain intelligence vital to the safety of agents involved in certain ongoing operations.

Later in November 1969, the CIA Director of Security explained the project to Chief Postal Inspector Cotter, who gave his approval. Cotter, of course, was familiar with the New York mail intercept project. He said he wanted the West Coast project "to go slow and develop gradually."

Neither Cotter nor any other postal official appears to have been told that the West Coast project would involve opening mail. CIA records indicate that the Agency representatives ostensibly agreed

with the Post Office instructions that no mail was to be removed from Post Office premises or opened. Nevertheless, the CIA's plan from the outset was to open the mail, if possible, without informing postal authorities.

The CIA officers involved in the West Coast project were aware that questions might be raised as to its propriety under United States laws, but they believed the likely intelligence potential from the project was worth the risk. The successful operation of the mail project in New York over the prior 16 years also played a part in the decision to proceed with the West Coast project.

The first formal operation of the San Francisco project occurred in early 1970, and another operation was run later that year. A third effort was made in 1971. Each of the operations lasted for approximately two or three weeks and followed the same pattern: Late in the evening, CIA personnel went to the postal facility, where a special official met them and opened the relevant bags of mail. The postal official remained present while the CIA representatives performed tests on the outside of envelopes. During virtually every session, the CIA officers, apparently without the knowledge of the postal official, concealed selected pieces of mail in an equipment case or a handbag. The selected items were then taken surreptitiously from the post office facility, opened, photographed, analyzed, resealed and returned to the mail flow during the next visit to the facility.

CIA records indicate that a great majority of the mail examined had originated outside the United States, although, on at least one occasion, a bag of outgoing mail was opened for the CIA officers. The primary objective of the San Francisco mail intercept, unlike the East Coast mail project, was to obtain technical intelligence concerning foreign censorship, secret writing and the like. Agency records indicate the San Francisco project was highly successful in meeting this objective.

C. Hawaiian Mail Intercept

An intercept of mail from the Far East was carried out in the territory of Hawaii from late 1954 until the end of 1955, when the intercept was terminated. The project was initiated by a single CIA officer, who photographed, opened and analyzed selected items of mail.

CIA Headquarters was not informed of the one-man Hawaiian operation prior to its beginning, nor was express approval ever granted for it. Tacit approval of the project may nevertheless be implied from the favorable response given to the operation report submitted by the officer in charge of the project. The Hawaiian intercept appears to have been successful in producing technical postal intelligence.

D. New Orleans Mail Intercept

A fourth mail intercept was conducted in New Orleans for approximately three weeks in August 1957 as a counterintelligence operation. Approximately 25 sacks of international surface mail were examined each day. The mail examined did not originate in the United States, nor was it destined for delivery in the United States; it was simply in transit. Approximately 200 items were opened and photographed, but no substantive intelligence was gained and the project was terminated.

Conclusions

While in operation, the CIA's domestic mail opening programs were unlawful. United States statutes specifically forbid opening the mail.

The mail openings also raise Constitutional questions under the Fourth Amendment guarantees against unreasonable search, and the scope of the New York project poses possible difficulties with the First Amendment rights of free speech and press.

Mail cover operations (examining and copying of envelopes only) are legal when carried out in compliance with postal regulations on a limited and selective basis involving matters of national security. The New York mail intercept did not meet these criteria.

The nature and degree of assistance given by the CIA to the FBI in the New York mail project indicate that the primary purpose eventually became participation with the FBI in internal security functions. Accordingly, the CIA's participation was prohibited under the National Security Act.

Recommendation (13)

a. The President should instruct the Director of Central Intelligence that the CIA is not to engage again in domestic *mail openings* except with express statutory authority in time of war. (See also Recommendation 23.)

b. The President should instruct the Director of Central Intelligence that *mail cover* examinations are to be in compliance with postal regulations; they are to be undertaken only in furtherance of the CIA's legitimate activities and then only on a limited and selected basis clearly involving matters of national security.

Chapter 10

Intelligence Community Coordination

Introduction

In the late 1960's and continuing into the early 1970's, widespread violence and civil disorder arose in many cities and on many campuses across the country.

President Johnson and later President Nixon acted on a number of fronts to organize the resources of the Federal government to determine the facts about those responsible for the turmoil. Both Presidents persistently demanded to know whether this violence and disorder was in any way supported or directed by foreign elements.

Inevitably, the CIA became a major factor in these undertakings, with action including:

(1) Participation in coordinated intelligence community efforts to deal with the disturbances;

(2) Creation of a Special Operations Group ("Operation CHAOS") to investigate and analyze any foreign connections of domestic dissident groups (Chapter 11); and,

(3) Efforts of CIA's Office of Security to protect CIA's installations and campus recruiters from potentially violent dissent activity. (Chapter 12).

A. Summary

In 1967, the Justice Department under Attorney General Ramsey Clark established the first in a series of secret units designed to collate and evaluate information concerning the growing domestic disorder and violence.

The Justice Department's initial effort failed to produce the desired intelligence results.

The CIA was consulted for advice on intelligence evaluation, and the Department of Justice under Attorney General John Mitchell

created another unit in 1969. This effort, too, failed to produce results satisfactory to the Administration.

Therefore, in June of 1970, President Nixon instructed the directors of four principal intelligence agencies to develop a plan for increased coordination and evaluation of domestic intelligence. This led the Nixon Administration in December of 1970 to create an interagency committee and staff, including representatives from the CIA the FBI, and other principal intelligence agencies, for coordination and evaluation of intelligence related to domestic dissidence. This joint committee produced reports for President Nixon and certain other top governmental officials from February 1971 through May 1973.

All these efforts resulted from a realization in both the Johnson and the Nixon administrations that the Government of the United States had no effective capacity for evaluating intelligence concerning domestic events. The FBI, as an investigative agency, produced raw data but did not produce evaluated intelligence. The CIA produced intelligence evaluations, but its jurisdiction was limited to foreign intelligence or counterintelligence. The problem was further complicated by the FBI's refusal during one period to cooperate fully with other components of the intelligence community.

This realization appears to have caused the White House to pressure the CIA into expanding the Agency's own activities related to domestic dissidence (see Chapter 11). The White House evidently also concluded that without some formal interagency coordination, it would not have an adequate source of domestic intelligence evaluations or estimates upon which to rely in attempting to deal with domestic disturbances.

The CIA's participation in these joint efforts warrants particular attention. Any involvement of the Agency in activities of the Department of Justice or in a domestic intelligence evaluation group could, at least on the surface, raise a question of impropriety, under 50 USC sec. 403(d), which prohibits the CIA from having ". . . law enforcement powers or internal security functions."

B. The "Interdivision Information Unit"

In early fall, 1967, Attorney General Clark asked John Doar, Assistant Attorney General for Civil Rights, to report on the Department's facilities for organizing information on individuals involved in civil disorders. On September 27, 1967, Doar recommended establishment

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of a "single intelligence unit to analyze the FBI information we receive about certain persons and groups who make the urban ghetto their base of operation."

The FBI was to constitute only one source of information for the proposed unit. As additional sources, Doar suggested federal poverty programs, Labor Department programs, and neighborhood legal services. Doar recognized the "sensitivity" of using such additional sources, but he nevertheless thought these sources would have access to relevant facts. Other sources of dissident information suggested by Doar included the intelligence unit of the Internal Revenue Service and perhaps the Post Office Department. The CIA was not among the proposed sources.

Attorney General Clark, by memorandum dated November 9, 1967, approved Doar's recommendation. Clark found it "imperative" that the Justice Department obtain "the most comprehensive intelligence possible regarding organized or other purposeful stimulation of domestic dissension, civil disorders and riots." He appointed a committee of four Assistant Attorneys General to make recommendations concerning the organization and functioning of the proposed unit. "Planning and creation of the unit must be kept in strictest confidence," Clark's memorandum stated.

On December 6, 1967, the committee recommended in part that the new unit, in addition to analyzing FBI information, should develop contacts with other intelligence agencies, including the CIA, as possible sources of information. Following his committee's recommendation, Attorney General Clark on December 18, 1967, directed the organization of the Interdivision Information Unit ("IDIU"). Objectives of the new Unit were:

> . . . reviewing and reducing to quickly retrievable form all information that may come to this Department relating to organizations and individuals throughout the country who may play a role, whether purposefully or not, either in instigating or spreading civil disorders or in preventing or checking them.

After its establishment, the IDIU commenced collecting, collating, and computerizing information on antiwar activists and other dissidents. The IDIU produced daily and weekly reports on dissident occurrences and attempted to predict significant future dissident activities.

C. Development of Justice Department-CIA Liaison

Problems of domestic dissidence were of immediate concern to the Nixon Administration when it took office.

Attorney General John Mitchell met with Director Helms of the

CIA on May 14, 1969, to discuss problems arising from domestic unrest and, more specifically, to discuss where within the government the entire question of domestic dissident intelligence could be handled.

The Attorney General explained that he felt the FBI was not acquiring the necessary intelligence concerning domestic unrest, although Mitchell also was of the opinion that the IDIU was improving in that regard. Helms offered to have a CIA liaison established with the Department of Justice to provide advice on the Department's intelligence efforts; but, because of the "political implications" involved, Helms rejected the Attorney General's suggestion that CIA personnel be assigned to the Justice Department unit.

Helms then asked the Chief of CIA's Special Operations Group, which ran Operation CHAOS,[1] to establish the liaison with the Justice Department. He was to make contact with Jerris Leonard, the Assistant Attorney General in charge of the Civil Rights Division, and James Devine, another member of the Justice Department. Leonard coordinated the Department's efforts concerning civil disorders, and Devine, under Leonard, headed the IDIU.

The Chief of the CIA Special Operations Group met with Leonard on May 19 and with Leonard and Devine on May 27, 1969. According to notes taken at those meetings by the CIA officer, the Justice Department representatives explained that they and their units were responsible for receiving and evaluating information used to advise the Attorney General and the President as to when federal aid would be needed in civil disorders. The IDIU was the unit which received and indexed the information. Coordination and evaluation of that information was supposed to be the responsibility of a relatively inactive entity known as the Intelligence Evaluation Committee ("IEC"), which was composed of representatives from the Department of Justice, the Department of Defense and the Secret Service.

Conceding their ignorance of matters relating to intelligence evaluation, Leonard and Devine requested the CIA's assistance and advice in processing intelligence on civil disorders. Leonard also pressed the CIA officer to sit as a member of the IEC which, Leonard explained, was an informal group and would therefore permit any CIA role in it to remain hidden. The officer declined, saying that the CIA had no domestic jurisdiction and that Helms was reluctant to "have the Agency appear to be too deeply involved in domestic matters." However, the officer suggested that the CIA could probably be of assistance in supplying information on the foreign travel and contacts of individuals of interest, as well as in providing advice relating to the organization and evaluation of intelligence information.

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[1] The activities of the CIA through Operation CHAOS are discussed fully in Chapter 11.

When the CIA officer reported to Helms on these meetings, the Director agreed with his position on the nature of the liaison and confirmed that there should be no formal participation by the CIA on the Intelligence Evaluation Committee. Helms also instructed the officer not to inform anyone else in the CIA of the newly established liaison. The Director suggested that, perhaps, the Chief of Counterintelligence, the liaison officer's immediate supervisor, might be told at a later date—depending on developments. As a matter of fact, no one in the CIA other than Helms, his Executive Assistant and the liaison officer himself knew of the CIA's liaison with the Justice Department during the following year.

D. Exchange of the IDIU Computer Listing

On June 18, 1969, Devine briefed the CIA liaison officer on the IDIU machine records system. Devine explained that the IDIU had often been unsuccessful in providing advance warning of incipient civil disorders because information concerning the disorders was not available far enough in advance. It was agreed that Devine would furnish the IDIU computer listing to the CIA for checking against the foreign travel records of dissidents, as held by Operation CHAOS, and to allow the CIA's analysts the opportunity to suggest how the Justice Department might use its list more effectively.

The IDIU listing apparently contained the names of approximately 10,000 to 12,000 individuals, as well as brief narratives about their dissident activities.[2] The head of Operation CHAOS found that the IDIU listing consisted principally of information derived from FBI reports. He concluded that any meaningful comparison with Operation CHAOS records was not reasonably feasible.

In September of 1969, the officer asked Devine for a duplicate of the actual IDIU computer tape and program. The idea was that, by matching the duplicate IDIU tape with the computer tape maintained by Operation CHAOS, it could possibly be determined whether the CIA had indexed information which the FBI had not already provided to the IDIU.

The duplicate IDIU computer tape and program were delivered to the Chief of Operations CHAOS and held by him personally in his private safe. Only the Chief, Director Helms, and a CHAOS computer programmer knew of the CIA's possession of the Justice

[2] The evidence reviewed by the Commission indicates that the listing of 10,000–12,000 names held by the IDIU and the compilation of 7,200 personality files held by Operation CHAOS (see Chapter 11) were developed independently of one another.

Department materials. Subsequently, the Chief and the computer programmer attempted to match the Department of Justice tape with the Operation CHAOS computer system, but concluded that the matching would require too much time and effort. None of the information contained in the IDIU tapes was used by Operation CHAOS or incorporated into the CIA records. The IDIU materials were finally destroyed when Operation CHAOS was terminated in March 1974.

E. The "Civil Disturbance Group"

In a further attempt to coordinate the efforts of the Department of Justice to control civil disorders, Attorney General Mitchell, on July 22, 1969, established the "Civil Disturbance Group" (CDG). Both the IDIU and the IEC were placed under the jurisdiction of the Civil Disturbance Group, which was instructed to coordinate intelligence, policy, and action within the Department of Justice concerning domestic civil disturbances.

Although the plan establishing the CDG made no mention of the CIA, Helms was told of the plan almost immediately. On July 25, 1969, three days after the plan had been put into effect, the Attorney General met with Helms. According to handwritten notes made by Helms during that meeting, Attorney General Mitchell explained that the CDG had been created because the FBI could not provide the needed analysis of intelligence on civil disturbances. The FBI, the Attorney General noted, was an "investigative not [an] intelligence outfit." Mitchell asked Helms to have the CIA investigate the adequacy of the FBI's collection efforts in dissident matters and to persuade the FBI to turn over its material to the CDG. Apparently the Attorney General was experiencing some difficulty in obtaining cooperation within his own Department.

The CIA connection with the Civil Disturbance Group appears to have been minimal. Shortly after the CDG was established in July 1969, the Chief of Operation CHAOS, acting as the CIA liaison, assisted Jerris Leonard, as Chief of Staff for the CDG, and other Justice Department officials in establishing relationships with the military intelligence departments. In November 1969, the CIA liaison officer took part in a series of meetings with Leonard concerning preparations for handling an antiwar rally scheduled to take place in Washington, D.C. Intermittent contacts between the liaison officer and other Justice Department officers also occurred over the following two or three months.

F. The "Interagency Committee on Intelligence (Ad Hoc)"

The CDG did not satisfy the government's requirements for coordinated and evaluated intelligence on domestic upheaval. Both the Attorney General and the White House continued to receive only raw, unevaluated data from the FBI. In addition, cooperation within the intelligence community upon intelligence matters deteriorated substantially during late 1969 and early 1970. In late February 1970, J. Edgar Hoover forbade the Bureau to engage in anything but formal, written liaison with the CIA, because Helms had refused to compel a CIA officer to disclose to Hoover the name of an FBI agent who had given the officer certain FBI information late in 1969.

President Richard M. Nixon called a meeting at the White House on June 5, 1970, of the directors and officers from four of the major components of the intelligence community. Those attending included J. Edgar Hoover for the FBI, Richard Helms for the CIA, Vice Admiral Gayler for the National Security Agency and Lt. General Bennett for the Defense Intelligence Agency. The purpose of the meeting was to discuss problems relating to domestic disorders.

The President directed those present to make greater efforts to cover the activities of dissidents in the United States. He made it plain that he was dissatisfied with the quality of intelligence concerning the extent of any foreign connections with domestic dissidence. The possible relationship of Black radicalism in the Caribbean to Black militancy in the United States was discussed, and the President directed that a study on the subject be prepared.[3] Finally, the President said that Mr. Hoover was to organize the group to draft a plan for coordination of domestic intelligence.

Four days later, on June 9, 1970, the "Interagency Committee on Intelligence (Ad Hoc)" ("ICI") held its first meeting. The committee was composed of the directors of the FBI, CIA, NSA, and DIA. Simultaneously, a subcommittee of representatives from the same agencies was established to accomplish the drafting of the ICI report. The CIA Counterintelligence Chief was designated as the CIA's representative on the subcommittee, and the Chief of Operation CHAOS served as an "observer" in the group. The subcommittee was officially constituted within the United States Intelligence Board, but this appears to have been done simply to provide an organizational cover for the activities of the subcommittee. Minutes of the subcommittee's meetings show that, in fact, the subcommittee was "an independent, ad hoc, inter-agency group with a specific mandate," and that the "scope and direction of the review [conducted by the subcommittee] will be determined by the White House."

[3] Operation CHAOS eventually did prepare such a study. It was delivered over the signature of Director Richard Helms to Tom Huston on July 6, 1970, for handing to the President.

Two of the stated objectives for the ICI were: (1) to assure a "higher priority by all intelligence agencies on internal security collection efforts" and (2) to assure "maximum use of all special investigative techniques, including increased agent and informant penetration by both the FBI and CIA." An unstated objective was to effect greater cooperation and evaluation of data by the FBI. Charles Huston, the White House liaison on the ICI, stated the problem during the first meeting of the Committee: "The President receives uncoordinated information which he has to put together," or, as Helms told the CIA's observer later in June 1970, "the heart of the matter" was to "get the FBI to do what it was not doing."

Huston made it clear at the initial ICI meeting that President Nixon wanted the Committee to assume that all methods of gathering intelligence were valid. The President, Huston said, wanted the Committee, in reviewing matters which "obstructed" intelligence gathering, to consider that "everything is valid, everything is possible." All restrictions on methods were to be listed, according to Huston, so that the President could make a final decision on which methods would be employed.

A forty-three page "Special Report" was issued by the ICI on June 25, 1970. The Report assessed the internal security threat posed by the major domestic dissident groups as well as by foreign organizations. The CIA's contribution to this section of the Report was entitled, "Definition of Internal Security Threat—Foreign," and encompassed only the foreign aspects of the problem.

The ICI's Report also considered the effect of legal restraints and constitutional safeguards limiting the methods which the government could employ in the collection of domestic intelligence. The enumerated methods which were subject to "restraints" included electronic surveillance, mail coverage, surreptitious entry and development of campus sources. Covert mail coverage and surreptitious entry were specifically described as illegal. The Special Report listed the benefits or detriments to be derived from employing such methods but did not expressly recommend their use; instead, it specified possible alternatives concerning each of them. The FBI expressed opposition to any change in existing procedures.

Finally, the ICI's Report concluded that:

> There is currently no operational body or mechanism specifically charged with the overall analysis, coordination and continuing evaluation of practices and policies governing the acquisition and dissemination of intelligence, the pooling of resources and the correlation of operational activities in the domestic field.

The ICI recommended establishment of an interagency group for evaluation and coordination of domestic intelligence, a proposal which the CIA representatives had supported throughout the Committee's meetings. Director Hoover opposed the recommendation.

On July 9, 1970, Huston advised Director Helms that all communications to the White House on domestic intelligence or internal security matters were thereafter to be addressed to Huston's exclusive attention. At approximately the same time, Huston recommended to the President, through H. R. Haldeman, that almost all the restraints on methods of intelligence collection discussed in the ICI's Special Report should be relaxed. Haldeman advised Huston on July 14, 1970, that the President had approved Huston's recommendations.

By memorandum dated July 23, 1970, Huston informed Helms and the other members of the ICI of the President's decision. Under the "Huston Plan," prohibitions against covert mail coverage, surreptitious entry and electronic surveillance were to be relaxed or removed. Huston further advised the ICI members that a committee composed of representatives from the FBI, the CIA, the NSA and the DIA was to be constituted effective August 1, 1970, to provide domestic intelligence evaluations

Apparently Attorney General Mitchell was not aware of the June 5, 1970, meeting between the President and the heads of the intelligence community or of the course of meetings and events leading up to the President's decision and direction on the Huston Plan. Attorney General Mitchell told Helms on July 27, 1970, that he had not heard of the Huston Plan until earlier that same day, when Hoover had complained to him about Huston's July 23 memorandum. In a memorandum he made of their meeting, Helms said Mitchell had been "frank" in stating that no action should be taken on Huston's directive until Mitchell had spoken with the President. Subsequently, Mitchell expressed his opposition to the Huston Plan, apparently with success. The next day, July 28, the White House asked Helms to return his copy of Huston's July 23 memorandum. Soon thereafter, in late August or early September, John Dean was assigned White House responsibility for domestic intelligence on internal security matters.

Sometime during this same period, the Attorney General discussed with Director Helms the continuing lack of evaluated domestic intelligence and the absence of coordination on that matter within the intelligence community. Mitchell said that he was considering the possibility of a small unit within the Department of Justice for the assembling and evaluation of domestic intelligence. A luncheon for the Attorney General was arranged at the CIA Headquarters on September 17, 1970, to discuss this possibility.

In addition to Mitchell and Helms, the Deputy Director for Plans, the Chief of Counterintelligence, and the Chief of Operation CHAOS were present for the discussion on September 17. According to notes made at the luncheon meeting, the group discussed problems of the existing domestic intelligence procedures. Specificallly, it was again emphasized that the FBI did not have any "organization for evaluation of domestic intelligence." Further, the Justice Department's IDIU was characterized as "useless" for evaluation purposes because the unit often did not receive information until after the events happened. The luncheon group proposed that a unit be established within the Justice Department to "provide evaluated intelligence from all sources" and "allow preventive action" to be taken in time.

One of the options discussed was the revival within the Justice Department of the Intelligence Evaluation Committee. The revived IEC would include the CIA and perhaps a White House representative, and it would be charged with the responsibility of coordination and evaluation. To avoid duplication of effort, the new IEC would draw upon the files and indices maintained by the participating agencies, rather than setting up its own files.

Shortly after the September 17, 1970, luncheon, Attorney General Mitchell met with John Dean to discuss the prompt organization of the new domestic intelligence unit. It was Dean's suggestion that an interagency domestic intelligence unit be used for both operational and evaluation purposes. Dean further suggested that, while initially there would be no blanket removal of the restrictions on the methods of intelligence collection, eventually restraints could be removed as far as necessary to obtain intelligence on a particular subject. Dean also thought that the existing but inactive IDIU would provide an "appropriate Justice Department cover" and eliminate the chance of public discovery of a new intelligence operation within the Department of Justice.

G. The "Intelligence Evaluation Committee"

The Administration thus decided to revise and reactivate the moribund Intelligence Evaluation Committee (IEC) of the Department of Justice. The initial meeting of the reconstituted IEC occurred on December 3, 1970, in John Dean's office in the Old Executive Office Building. Several other meetings of an organizational nature were held from time to time through February 1971.

The Committee was composed of representatives from the Department of Justice, the FBI, the CIA, the Department of Defense, the

Secret Service and the National Security Agency. A representative of the Treasury Department was invited to participate in the last two IEC meetings. The Chief of Counterintelligence was the CIA representative on the IEC, and the Chief of Operation CHAOS was his alternate.

Robert C. Mardian, Assistant Attorney General for the Internal Security Division, was technically Chairman of the IEC, while John Dean served as the White House representative. The ultimate authority over the Committee was somewhat fuzzy; both Mardian and Dean stated requirements and made assignments to the Committee.

The IEC was not established by Executive Order. In fact, according to minutes of the IEC meeting on February 1, 1971, Dean said he favored avoiding any written directive concerning the IEC because a directive "might create problems of Congressional oversight and disclosure." Several attempts were nevertheless made to draft a charter for the Committee, although none appears to have been accepted by all of the IEC members. The last draft which could be located, dated February 10, 1971, specified the "authority" for the IEC as "the Interdepartmental Actional Plan for Civil Disturbances," something which had been issued in April 1969 as the result of an agreement between the Attorney General and the Secretary of Defense. Dean thought it was sufficient just to say that the IEC existed "by authority of the President."

Revitalization of the IEC in December 1970 appears clearly to have sprung from the suggestions of the ICI's Special Report. Helms testified that he understood that the IEC had been organized to focus and coordinate intelligence on domestic dissidence. Handwritten notes made by the CIA Counterintelligence Chief during an IEC meeting on January 25, 1971, indicate that the IEC was in part an "implementation of the *ad hoc* committee report." But, because Hoover had objected so strongly to the ICI's report, no reference was to be made to it during the IEC meetings.

The Counterintelligence Chief's notes also reflect that the operation of the IEC was to be "done with the tools we now have." This Commission's staff did not find any indication that the IEC attempted to adopt the suggestions in the Huston Plan for ignoring legal restrictions on intelligence gathering in the United States.

The January 25, 1971, meeting of the IEC also concerned recruiting a staff for the Committee. Mardian suggested that each of the participating agencies should contribute an individual to work on the staff, although Hoover had already made it clear the FBI would refuse either to contribute to the IEC budget or to provide personnel for the staff.

H. The "Intelligence Evaluation Staff"

A staff for the IEC was organized by the end of January 1971. That group, called the Intelligence Evaluation Staff ("IES"), held its first meeting on January 29, 1971. Unlike the Committee, which was intended to function as a "think tank," the Staff was to do the work of coordination, evaluation and preparation of estimates for issuance by the Committee.

The Chief of Operation CHAOS was the CIA representative on the IES. He attended such IES meetings as were called, and he coordinated the CIA's contributions to the IES evaluations and estimates. The Operation Chief was not assigned to the IES on a full-time basis. Representatives of the NSA, the Secret Service and the military intelligence services also served on the IES. Finally, in May 1971, the FBI also assigned a representative to aid the staff.

Although the Department of Justice's IDIU was not actually involved in the work of the IES, the IES was "attached to [the IDIU] for cover purposes."

The Intelligence Evaluation Committee met on only seven occasions; the last occasion was in July 1971. The Intelligence Evaluation Staff, on the other hand, met a total of one hundred and seventeen times between January 29, 1971, and May 4, 1973.

The IES prepared an aggregate of approximately thirty studies or evaluations for dissemination. It also published a total of fifty-five summaries called intelligence calendars of significant events. The preparation of these studies, estimates or calendars was directed by John Dean from the White House or by Robert Mardian as Chairman of the IEC.

The initial studies related to the "May Day" demonstrations held in 1971, and later reports concerned other proposed antiwar demonstrations, racial protests or planned violence. From January to August 1972, the IEC/IES issued, and regularly revised, reports covering the potential for disruptions at both the 1972 Republican and Democratic National Conventions.

Many of the IEC reports contained information having both domestic and international aspects. The CIA made a number of contributions to the IEC/IES publications. Those contributions were prepared by Operation CHAOS personnel (see Chapter 11). However, the contributions appear to have been a by-product of ongoing activities abroad. Review of all the contributions reveals that the CIA reported, with only minor exceptions, on matters relating strictly to foreign or international events or organizations.

It appears the only participation by the CHAOS Chief in the IES,

aside from serving as the CIA liaison in preparing the Agency's contributions, was to edit drafts of the Staff's reports. Mardian himself did ask the Chief to use the CIA's computer index for name traces in connection with the March 1971 Capitol bombing incident, the "Pentagon Papers" case and the Berrigan Brothers case.[3] But no evidence was found that the CIA was asked by either the IEC or the IES to collect domestic intelligence.

The agents run by the CIA's Operation CHAOS appear on only one occasion to have been directed to collect information domestically which was used for IEC/IES purposes. That was the use of one agent during the 1971 May Day demonstrations in Washington, D.C., which is described more fully in Chapter 11. CHAOS forwarded the information supplied by that agent to the FBI, and some of the information ultimately may have been incorporated in IEC publications concerning the May Day demonstrations.

Director Helms told the CIA liaison officer during a meeting on December 5, 1972, that the Agency "should minimize its contributions to the IEC, with the expectation that eventually the organization may disappear." Helms in his testimony was unable to recall the basis for this instruction. By then, however, the fact that Attorney General Mitchell and Robert Mardian had long since resigned to work on President Nixon's reelection campaign, plus the substantial decline in the incidence of civil disorder, all contributed to the lapse in IEC/IES activity.

The IEC and IES were terminated in July 1973 by Assistant Attorney General Henry Petersen.

Conclusions

The CIA's liaison with the Department of Justice and the Agency's participation in interagency intelligence groups resulted from attempts to utilize the CIA's expertise in intelligence evaluation and its collection of intelligence abroad having a bearing upon domestic dissidence.

This attempted use occurred because two Administrations believed the government of the United States lacked an effective capacity to coordinate and evaluate intelligence on matters affecting internal security.

The available evidence indicates that the CIA's participation in meetings of the IES was limited to providing advice on foreign intelligence and evaluation techniques and to editing reports. The

[3] This appears to have been a short cut of the general procedure in the Justice Department to make requests for name checks by the CIA through the FBI.

Agency's substantive contributions to the IES were restricted to foreign aspects, if any, of the relevant problems.

The statutory prohibition on internal security functions does not preclude the CIA from providing foreign intelligence or advice on evaluation techniques to interdepartmental intelligence evaluation organizations having some domestic aspects.

The attendance of the CIA liaison officer at over 100 meetings of the Intelligence Evaluation Staff, some of them concerned wholly with domestic matters, nevertheless created at least the appearance of impropriety. The Director of Central Intelligence was well advised to approach such participation reluctantly.

The liaison officer acted improperly in the one instance in which he directed an agent to gather domestic information within the United States which was reported to the Intelligence Evaluation Staff.

Recommendation (14)

a. A capability should be developed within the FBI, or elsewhere in the Department of Justice, to evaluate, analyze, and coordinate intelligence and counterintelligence collected by the FBI concerning espionage, terrorism, and other related matters of internal security.

b. The CIA should restrict its participation in any joint intelligence committees to foreign intelligence matters.

c. The FBI should be encouraged to continue to look to the CIA for such foreign intelligence and counterintelligence as is relevant to FBI needs.

Chapter 11

Special Operations Group—"Operation CHAOS"

Responding to Presidential requests to determine the extent of foreign influence on domestic dissidence, the CIA, upon the instruction of the Director of Central Intelligence, established within the Counterintelligence Staff a Special Operations Group in August 1967, to collect, coordinate, evaluate and report on foreign contacts with American dissidents.

The Group's activities, which later came to be known as Operation CHAOS, led the CIA to collect information on dissident Americans from its overseas stations and from the FBI.

Although the stated purpose of the Operation was to determine whether there were any foreign contacts with American dissident groups, it resulted in the accumulation of considerable material on domestic dissidents and their activities.

During six years, the Operation compiled some 13,000 different files, including files on 7,200 American citizens. The documents in these files and related materials included the names of more than 300,000 persons and organizations, which were entered into a computerized index.

This information was kept closely guarded within the CIA to prevent its use by anyone other than the personnel of the Special Operations Group. Utilizing this information, personnel of the Group prepared 3,500 memoranda for internal use; 3,000 memoranda for dissemination to the FBI; and 37 memoranda for distribution to high officials.

The Operation ultimately had a staff of 52, who were isolated from any substantial review even by the Counterintelligence Staff of which they were technically a part.

Beginning in late 1969, Operation CHAOS used a number of agents

to collect intelligence abroad on any foreign connections with American dissident groups. In order to have sufficient "cover" for these agents, the Operation recruited persons from domestic dissident groups or recruited others and instructed them to associate with such groups in this country.

Most of these recruits were not directed to collect information domestically on American dissidents. On a number of occasions, however, such information was reported by the recruits while they were developing dissident credentials in the United States, and the information was retained in the files of the Operation. On three occasions, agents of the Operation were specifically used to collect domestic intelligence.

Part of the reason for these transgressions was inherent in the nature of the task assigned to the Group: to determine the extent of any foreign influence on domestic dissident activities. That task necessarily partook of both domestic and foreign aspects. The question could not be answered adequately without gathering information on the identities and relationships of the American citizens involved in the activities. Accordingly, any effort by the CIA in this area was bound, from the outset, to raise problems as to whether the Agency was looking into internal security matters and therefore exceeding its legislative authority.

The Presidential demands upon the CIA appear to have caused the Agency to forego, to some extent, the caution with which it might otherwise have approached the subject.

Two Presidents and their staffs made continuing and insistent requests of the CIA for detailed evaluation of possible foreign involvement in the domestic dissident scene. The Agency's repeated conclusion in its reports—that it could find no significant foreign connection with domestic disorder—led to further White House demands that the CIA account for any gaps in the Agency's investigation and that it remedy any lack of resources for gathering information.

The cumulative effect of these repeated demands was the addition of more and more resources, including agents, to Operation CHAOS—as the Agency attempted to support and to confirm the validity of its conclusion. These White House demands also seem to have encouraged top CIA management to stretch and, on some occasions, to exceed the legislative restrictions.

The excessive secrecy surrounding Operation CHAOS, its isolation within the CIA, and its removal from the normal chain of command prevented any effective supervision and review of its activities by officers not directly involved in the project.

A. Origins of Operation CHAOS—August 1967

In the wake of racial violence and civil disturbances, President Johnson on July 2, 1967, formed the National Commission on Civil Disorders (the Kerner Commission) and directed it to investigate and make recommendations with respect to the origins of the disorders. At the same time, the President instructed all other departments and agencies of government to assist the Kerner Commission by supplying information to it.

On August 15, 1967, Thomas Karamessines, Deputy Director for Plans, issued a directive to the Chief of the Counterintelligence Staff instructing him to establish an operation for overseas coverage of subversive student activities and related matters. This memorandum relayed instructions from Director Richard Helms, who, according to Helms' testimony, acted in response to continuing, substantial pressure from the President to determine the extent of any foreign connections with domestic dissident events. Helms' testimony is corroborated by a contemporaneous FBI memorandum which states:

> The White House recently informed Richard Helms, Director, CIA, that the Agency should exert every possible effort to collect information concerning U.S. racial agitators who might travel abroad * * * because of the pressure placed upon Helms, a new desk has been created at the Agency for the explicit purpose of collecting information coming into the Agency and having any significant bearing on possible racial disturbances in the U.S.

The question of foreign involvement in domestic dissidence combined matters over which the FBI had jurisdiction (domestic disorder) and matters which were the concern of the CIA (possible foreign connection). The FBI, unlike the CIA, generally did not produce finished, evaluated intelligence. Apparently for these reasons, the President looked to the Director of Central Intelligence to produce a coordinated evaluation of intelligence bearing upon the question of dissidence.

When the Kerner Commission's Executive Director wrote to Helms on August 29, 1967, requesting CIA information on civil disorders, Helms offered to supply only information on foreign connections with domestic disorder. Ultimately, the CIA furnished 26 reports to the Kerner Commission, some of which related largely to domestic dissident activities.

B. Evolution of Operation CHAOS—The November 1967 Study

The officer selected to head what became the Special Operations Group was a person already involved in a counterintelligence effort

in connection with an article in *Ramparts* magazine on CIA associations with American youth overseas. In connection with his research and analysis, the officer had organized the beginnings of a computer system for storage and retrieval of information on persons involved in the "New Left."

By October 1967, this officer had begun to establish his operation concerning foreign connections with the domestic dissident scene. In a memorandum for the record on October 31, 1967, he indicated that the CIA was to prepare a study on the "International Connections of the United States Peace Movement."

The CIA immediately set about collecting all the available government information on dissident groups. All field stations of the CIA clandestine service were polled for any information they had on the subject of the study. Every branch of the intelligence community was called upon to submit whatever information it had on the peace movement to the Special Operations Group for cataloging and storage. Most of the information was supplied by the FBI.

All information collected by the Special Operations Group was forwarded to the CIA Office of Current Intelligence, which completed the study by mid-November. Director Helms personally delivered the study to President Johnson on November 15, 1967, with a covering note stating that "this is the study on the United States Peace Movement you requested."

The study showed that there was little evidence of foreign involvement and no evidence of any significant foreign financial support of the peace activities within the United States. As a result of the information gathered for the study, however, the Special Operations Group gained an extensive amount of data for its later operations.

On November 20, 1967, a new study was launched by the CIA at the request of the Director of Central Intelligence. This study was titled "Demonstration Techniques." The scope of the study was world-wide, and it concentrated on antiwar demonstrations in the United States and abroad. The procedure used on the earlier study was also employed to gather information for this new project.

The CIA sent an updated version of the Peace Movement Study to the President on December 22, 1967, and on January 5, 1968, Director Helms delivered to the White House a paper entitled "Student Dissent and Its Techniques in the United States." Helms' covering letter to the President described the January 5 study as "part of our continuing examination of this general matter."

Again, the information bank of the Special Operations Group was increased by the intelligence gathered for these studies.

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C. Evolution of Operation CHAOS—Domestic Unrest in 1968

Continuing antiwar demonstrations in 1968 led to growing White House demands for greater coverage of such groups' activities abroad. As disorders occurred in Europe in the summer of 1968, the CIA, with concurrence from the FBI, sought to engage European liaison services in monitoring United States citizens overseas in order to produce evidence of foreign guidance, control or financial support.

In mid-1968, the CIA moved to consolidate its efforts concerning foreign connections with domestic dissidence and to restrict further the dissemination of the information used by the Special Operations Group. The Group was given a cryptonym, "CHAOS." The CIA sent cables to all its field stations in July 1968, directing that all information concerning dissident groups be sent through a single restricted channel on an "Eyes Only" basis to the Chief of Operation CHAOS. No other dissemination of the information was to occur.

Some time in 1968, Director Helms, in response to the President's continued concern about student revolutionary movements around the world, commissioned the preparation of a new analytic paper which was eventually entitled "Restless Youth." Like its predecessor, "Restless Youth" concluded that the motivations underlying student radicalism arose from social and political alienation at home and not from conspiratorial activity masterminded from abroad.

"Restless Youth" was produced in two versions. The first version contained a section on domestic involvements, again raising a question as to the propriety of the CIA's having prepared it. This version was delivered initially only to President Johnson and to Walt W. Rostow, the President's Special Assistant for National Security Affairs. Helms' covering memorandum, dated September 4, 1968, stated, "You will, of course, be aware of the peculiar sensitivity which attaches to the fact that CIA has prepared a report on student activities both here and abroad."

Another copy of the first version of "Restless Youth" was delivered on February 18, 1969, after the change in Administrations, to Henry A. Kissinger, then Assistant to President Nixon for National Security Affairs. Director Helms' covering memorandum of February 18 specifically pointed out the impropriety of the CIA's involvement in the study. It stated:

> In an effort to round-out our discussion of this subject, we have included a section on American students. This is an area not within the charter of this Agency, so I need not emphasize how extremely sensitive this makes the paper. Should anyone learn of its existence it would prove most embarrassing for all concerned.

A second version of "Restless Youth" with the section on domestic activities deleted was later given a somewhat wider distribution in the intelligence community.

The CHAOS group did not participate in the initial drafting of the "Restless Youth" paper, although it did review the paper at some point before any of its versions were disseminated. Intelligence derived from the paper was, of course, available to the group.

E. The June 1969 White House Demands

On June 20, 1969, Tom Charles Huston, Staff Assistant to President Nixon, wrote to the CIA that the President had directed preparation of a report on foreign communist support of revolutionary protest movements in this country.

Huston suggested that previous reports indicated inadequacy of intelligence collection capabilities within the protest movement area. (Helms testified that this accurately reflected the President's attitude.) According to Huston's letter, the President wanted to know:

—What resources were presently targeted toward monitoring foreign communist support of revolutionary youth activities in this country;

—How effective the resources were;

—What gaps existed because of inadequate resources or low priority of attention; and,

—What steps could be taken to provide maximum possible coverage of the activities.

Huston said that he was particularly interested in the CIA's ability to collect information of this type. A ten-day deadline was set for the CIA's reply.

The Agency responded on June 30, 1969, with a report entitled, "Foreign Communist Support to Revolutionary Protest Movements in the United States." The report concluded that while the communists encouraged such movements through propaganda and exploitation of international conferences, there was very little evidence of communist funding and training of such movements and no evidence of communist direction and control.

The CIA's covering memorandum, which accompanied the June 30 report, pointed out that since the summer of 1967, the Agency had attempted to determine through its sources abroad what significant communist assistance or control was given to domestic revolutionary protests. It stated that close cooperation also existed with the FBI and that "new sources were being sought through independent means." The memorandum also said that the "Katzenbach guidelines" of 1967

had inhibited access to persons who might have information on efforts by communist intelligence services to exploit revolutionary groups in the United States.[1]

E. CHAOS in Full-Scale Operation—Mid-1969

By mid-1969, Operation CHAOS took on the organizational form which would continue for the following three years. Its staff had increased to 36. (Eventually it totaled 52.) In June 1969 a Deputy Chief was assigned to the Operation to assist in administrative matters and to assume some of the responsibilities of handling the tightly-held communications. There was a further delegation of responsibility with the appointment of three branch chiefs in the operation.

The increase in size and activity of the Operation was accompanied by further isolation and protective measures. The group had already been physically located in a vaulted basement area, and tighter security measures were adopted in connection with communications of the Operation. These measures were extreme, even by normally strict CIA standards. An exclusive channel for communication with the FBI was also established which severely restricted dissemination both to and from the Bureau of CHAOS-related matters.

On September 6, 1969, Director Helms distributed an internal memorandum to the head of each of the directorates within CIA, instructing that support was to be given to the activities of Operation CHAOS. Both the distribution of the memorandum and the nature of the directives contained in it were most unusual. These served to underscore the importance of its substance.

Helms confirmed in the September 6 memorandum that the CHAOS group had the principal operational responsibilities for conducting the Agency's activities in the "radical milieu." Helms expected that each division of the Agency would cooperate "both in exploiting existing sources and in developing new ones, and that [the Special Operations Group] will have the necessary access to such sources and operational assets."

Helms further stated in the memorandum that he believed the CIA had "the proper approach in discharging this sensitive responsibility while strictly observing the statutory and *de facto* proscription on Agency domestic involvements."

The September 6 memorandum, prepared after discussions with

[1] In 1967 President Johnson appointed a committee including Nicholas Katzenbach, John Gardner, and Richard Helms to investigate charges that the CIA was funding the National Student Association. The charges were substantiated, and the Katzenbach Committee's recommendation that the government refrain from covert financial support of private educational organizations was adopted as government policy.

the Chief of the Operation, among others, served at least three important functions: First, it confirmed, beyond question, the importance which Operation CHAOS had attained in terms of Agency objectives. Second, it replied to dissent which had been voiced within the CIA concerning the Operation. Third, it ensured that CHAOS would receive whatever support it needed, including personnel.

F. Agent Operations Relating to Operation CHAOS

Within a month after Helms' memorandum of September 6, an operations or "case" officer was assigned from another division to Operation CHAOS. The Operation thus gained the capacity to manage its own agents. A full understanding of the Operation's use of agents, however, requires some appreciation of similar proposals previously developed by other components of the CIA.

1. "Project 1"

In February 1968, the CIA's Office of Security and a division in its Plans Directorate jointly drafted a proposal for "Project 1," which was initially entitled "An Effort . . . in Acquiring Assets in the 'Peace' and 'Black Power' Movements in the United States." The project was to involve recruitment of agents who would penetrate some of the prominent dissident groups in the United States and report information on the communications, contacts, travel and plans of individuals or groups having a connection with a certain foreign area. The proposal was rejected by Director Helms in March 1968 on the ground that it "would appear to be" beyond the Agency's jurisdiction and would cause widespread criticism when it became public knowledge, as he believed it eventually would.

Shortly thereafter, the proposed Project was modified to include a prohibition against domestic penetration of dissident groups by agents recruited by CIA. Any contact with domestic groups would be incidental to the overall objective of gaining access overseas to information on foreign contacts and control.

This modification was consistent with Helms' instruction that the Agency was not to engage in domestic operational activity directed against dissident groups. The modified plan was approved by the Deputy Director of Plans, subject to conditions to ensure his tight supervision and control over its activities, but no evidence could be found that the project ever became operational.

The history of Project 1 clearly reflected the CIA's awareness that statutory limitations applied to the use of agents on the domestic

dissident scene. "Penetration" of dissident groups in the United States to gain information on their domestic activities was prohibited.

2. *"Project 2"*

A second program, "Project 2," was initiated in late 1969 by the same office in the CIA's Plans Directorate which had developed Project 1. Under Project 2, individuals without existing dissident affiliation would be recruited and, after recruitment, would acquire the theory and jargon and make acquaintances in the "New Left" while attending school in the United States. Following this "reddening" or "sheepdipping" process (as one CIA officer described it), the agent would be sent to a foreign country on a specific intelligence mission.

Project 2 was approved on April 14, 1970, by the Assistant Deputy Director for Plans, who stated that no Project 2 agent was to be directed to acquire information concerning domestic dissident activities. Only if such information was acquired incidentally by the agents during the domestic "coloration" process would it be passed to Operation CHAOS for forwarding to the FBI.[2]

Renewals of Project 2 were approved annually during 1971–1973 by the Deputy Director for Plans. The Project was also reviewed and approved in the fall of 1973 by William E. Colby, by then Director of Central Intelligence. In granting his approval on September 5, 1973, Director Colby, in language which paraphrased the original Project 1 guidelines, stated that:

> Care will be taken that, during the training period of [Project 2] agents within the United States, they will not be operated by CIA against domestic targets.

During the period 1970–1974 a total of 23 agents were recruited for the project, of which 11 completed the prescribed development process in the United States. Each agent was met and debriefed on a regular schedule in this country by Project 2 case officers. The agents were told repeatedly of the limitations on their activities in the United States.

The Project 2 case officers used debriefing sessions as one method of assessing an agent's effectiveness in reporting facts precisely and accurately, obviously an essential skill to any intelligence agent. "Contact reports" were prepared after the sessions. Although the reports contained a substantial amount of information on agents' observations of domestic activities, no evidence was found that Project 2 itself opened any files based upon any of the information.

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[2] Prior to the April 14 approval of Project 2, Operation CHAOS personnel had requested that a proviso be added to the Project that Operation CHAOS would coordinate Project 2 recruits during the "coloration" process in the United States. The proviso was rejected.

Copies of all contact reports with Project 2 agents, however, were provided to Operation CHAOS, and that Operation made a detailed review of the information contained in the reports. Information on both individuals and activities which was contained in the reports and which was deemed significant by CHAOS was incorporated into the raw data files of the operation and indexed into its computer system. Depending upon the nature of the information, it might eventually be furnished by Operation CHAOS to the FBI.

Thus, while Project 2 agents were not assigned collection missions in the United States, the tandem operation of CHAOS with Project 2 nevertheless did result in collection and dissemination by the CIA of a limited quantity of intelligence on domestic dissident activities. Director Helms testified that he was not aware of this collection and dissemination.

Furthermore, despite efforts by Project 2 case officers to have their agent trainees avoid taking an activist role in domestic dissident groups, that did occur upon occasion. One of the agents became an officer in such a group, and on at least one occasion the agent provided Project 2 with copies of minutes of the group's meetings.

A Project 2 agent also became involved as an adviser in a United States congressional campaign and for a limited period, furnished reports to CHAOS of behind-the-scenes activities in the campaign.

3. *CHAOS Agents*

During the first two years of its existence, Operation CHAOS gathered the bulk of its information from reports issued by other governmental agencies or received from CIA field stations abroad.

By October 1969, this approach had changed almost completely. Operation CHAOS' new case officer was beginning to contact, recruit, and run agents directly for the operation. This reversal of approach appears to be attributable primarily to three factors:

—First, and most important, an increasing amount of White House pressure (for example, the June 20, 1969, letter from Tom Charles Huston, Staff Assistant to the President) was brought to bear on the CIA to provide more extensive and detailed reporting on the role of foreign connections with American dissident activities;

—Second, Operation CHAOS had been relatively unsuccessful in obtaining meaningful information through agents associated with other agencies;

—Third, the tempo of dissident activities had increased substantially in the United States.

The extent of CHAOS agent operations was limited to fewer than

30 agents. Although records of the Operation indicate that reporting was received from over 100 other agent sources, those sources appear to have been directed abroad either by other governmental agencies or by other components of the CIA. The information which these sources reported to Operation CHAOS was simply a by-product of other missions.

Operation CHAOS personnel contacted a total of approximately 40 potential agents from October 1969 to July 1972, after which no new agent recruitments were made. (The case officer left the Operation on July 12, 1972.) Approximately one-half of these individuals were referred to the Operation by the FBI, and the remainder were developed through various CIA components.

All contact, briefing and debriefing reports prepared by the case officer concerning all potential and actual agents, from whatever source, became part of the records of the Operation. These reports, often highly detailed, were carefully reviewed by CHAOS personnel; all names, organizations and significant events were then indexed in the Operation's computer. Upon occasion, the information would be passed to the FBI.

The individuals referred to Operation CHAOS by the FBI were past or present FBI informants who either were interested in a foreign assignment or had planned a trip abroad. Eighteen of the referrals were recruited. Only one was used on more than one assignment. In each instance the Operation's case officer briefed the individual on the CHAOS "requirements" before his trip and debriefed him upon his return. After debriefing, the agents once again became the responsibility of the FBI.

In one instance, the FBI turned an individual over to Operation CHAOS for its continued use abroad. Before going overseas, that agent was met by the Operation's case officer on a number of occasions in the United States and did report for several months upon certain domestic contacts.

Seventeen agents were referred to Operation CHAOS by other CIA components. Ten were dropped by the Operation for various reasons after an initial assessment. Four were used for brief trips abroad, with reporting procedures which essentially paralleled those used for the FBI referrals.

The remaining three individuals had an entree into anti-war, radical left or black militant groups before they were recruited by the Operation. They were used over an extended period abroad, and they were met and debriefed on numerous occasions in the United States.

One of the three agents travelled a substantial distance in late 1969 to participate in and report on major demonstrations then

occurring in one area of the country. The CHAOS case officer met and questioned the agent at length concerning individuals and organizations involved in the demonstrations. Detailed contact reports were prepared after each debriefing session. The contact reports, in turn, provided the basis for 47 separate disseminations to the FBI, the bulk of which related solely to domestic matters and were disseminated under titles such as: "Plans for Future Anti-War Activities on the West Coast."

The second of these agents regularly provided detailed information on the activities and views of high-level leadership in another of the dissident groups within the United States. Although a substantial amount of this agent's reporting concerned the relationship of the dissident group with individuals and organizations abroad, information was also obtained and disseminated on the organization's purely domestic activities.

The third agent was formally recruited in April 1971, having been initially contacted by Operation CHAOS in October 1970. During the intervening months the CIA had asked the agent questions posed by the FBI concerning domestic dissident matters and furnished the responses to the Bureau.

Two days after the official recruitment, the agent was asked to travel to Washington, D.C. to work on an interim basis; the mission was to "get as close as possible" and perhaps become an assistant to certain prominent radical leaders who were coordinators of the imminent "May Day" demonstrations. The agent was to infiltrate any secret groups operating behind the scenes and report on their plans. The agent was also asked to report any information on planned violence toward government officials or buildings or foreign embassies.

This third agent travelled to Washington as requested, and was met two or three times a week by the CHAOS case officer. After each of these meetings, the case officer, in accordance with the standard procedure, prepared contact reports including all information obtained from the agent. These reports, many of which were typed late at night or over weekends, were passed immediately to the Chief of Operation CHAOS. And when the information obtained from the agent was significant, it was immediately passed by the Chief to an FBI representative, generally orally.

The Operation's use of these three agents was contrary to guidelines established after Director Helms rejected the initial proposal for Project 1 in March 1968. Helms testified that he was not aware of the domestic use of these agents.

The Commission found no evidence that any of the agents or CIA officers involved with any of the dissident operations em-

ployed or directed the domestic use of any personal or electronic surveillance, wiretaps or unauthorized entries against any dissident group or individual. Any reporting by CHAOS agents in the United States was based upon information gained as a result of their personal observations and acquaintances.

G. Collection, Indexing, and Filing of Information by Operation CHAOS

The volume of information passing through the CHAOS group by mid-1969 was great. As Director Helms pointed out in his September 6, 1969, memorandum to the Directorates, the Operation's main problem was a backlog of undigested raw information which required analysis and indexing.

Not only was the Agency receiving FBI reports on antiwar activities, but with the rise of international conferences against the war, and student and radical travel abroad, information flowed in from the Agency's overseas stations as well.

The Operation had gathered all the information it could from the Agency's central registry. According to the Chief of the Operation, that information for the most part consisted of raw data gathered on individuals by the FBI which had not been analyzed by the Agency because the information contained nothing of foreign intelligence value.

CHAOS also availed itself of the information gained through the CIA's New York mail intercept. The Operation supplied a watch list of United States citizens to be monitored by the staff of the mail intercept. The number of mail items intercepted and sent to CHAOS during its operation were sufficient in number to have filled two drawers in a filing cabinet. All of these items were letters or similar material between the United States and the Soviet Union.

In addition, Operation CHAOS received materials from an international communications activity of another agency of the government. The Operation furnished a watch list of names to the other agency and received a total of approximately 1100 pages of materials overall. The program to furnish the Operation with these materials was not terminated until CHAOS went out of existence. All such materials were returned to the originating agency by the CIA in November 1974 because a review of the materials had apparently raised a question as to the legality of their being held by CIA. The materials concerned for the most part anti-war activities, travel to international peace conferences and movements of members of various dissident

groups. The communications passed between the United States and foreign countries. None was purely domestic.

During one period, Operation CHAOS also appears to have received copies of booking slips for calls made between points in the United States and abroad. The slips did not record the substance of the calls, but rather showed the identities of the caller and the receiver, and the date and time of the call. The slips also indicated whether the call went through.

Most of the officers assigned to the Operation were analysts who read the materials received by it and extracted names and other information for indexing in the computer system used by the Operation and for inclusion in the Operation's many files. It appears that, because of the great volume of materials received by Operation CHAOS and the time pressures on the Operation, little judgment could be, or was, exercised in this process. The absense of such judgment led, in turn, to the inclusion of a substantial amount of data in the records of the Operation having little, if anything, bearing upon its foreign intelligence objective.

The names of all persons mentioned in intelligence source reports received by Operation CHAOS were computer-indexed. The computer printout on a person or organization or subject would contain references to all documents, files or communications traffic where the name appeared. Eventually, approximately 300,000 names of American citizens and organizations were thus stored in the CHAOS computer system.

The computerized information was streamed or categorized on a "need to know" basis, progressing from the least sensitive to the most sensitive. A special computer "password" was required in order to gain access to each stream. (This multistream characteristic of the computer index caused it to be dubbed the "Hydra" system.) The computer system was used much like a library card index to locate intelligence reports stored in the CHAOS library of files.

The files, like the computer index, were also divided into different levels of security. A "201," or personality, file would be opened on an individual when enough information had been collected to warrant a file or when the individual was of interest to another government agency that looked to the CIA for information. The regular 201 file generally contained information such as place of birth, family, occupation and organizational affiliation. In addition, a "sensitive" file might also be maintained on that same person. The sensitive file generally encompassed matters which were potentially embarrassing to the Agency or matters obtained from sources or by methods which the

Agency sought to protect. Operation CHAOS also maintained nearly 1000 "subject" files on numerous organizations.[3]

Random samplings of the Operation's files show that in great part, the files consisted of undigested FBI reports or overt materials such as new clippings on the particular subject.

An extreme example of the extent to which collection could go once a file was opened is contained in the Grove Press, Inc., file. The file apparently was opened because the company had published a book by Kim Philby, the British intelligence officer who turned out to be a Soviet agent. The name Grove Press was thus listed as having intelligence interest, and the CHAOS analysts collected all available information on the company. Grove Press, in its business endeavors, had also produced the sex-oriented motion picture, "I Am Curious Yellow" and so the Operation's analysts dutifully clipped and filmed cinema critics' commentaries upon the film.

From among the 300,000 names in the CHAOS computer index, a total of approximately 7,200 separate personality files were developed on citizens of the United States.

In addition, information of on-going intelligence value was digested in summary memoranda for the internal use of the Operation. Nearly 3,500 such memoranda were developed during the history of CHAOS.

Over 3,000 memoranda on digested information were disseminated, where appropriate, to the FBI. A total of 37 highly sensitive memoranda originated by Operation CHAOS were sent over the signature of the Director of Central Intelligence to the White House, to the Secretary of State, to the Director of the FBI or to the Secret Service.

H. Preparation of Reports for Interagency Groups

Commencing in mid-1970, Operation CHAOS produced reports for the interagency groups discussed in the previous chapter. One such

[3] The organizations, to name a few, included:
Students for a Democratic Society (SDS);
Young Communist Workers Liberation League (YCWLL);
National Mobilization Committee to End the War in Vietnam;
Women's Strike for Peace;
Freedomways Magazine and Freedomways Associated, Inc.;
American Indian Movement (AIM);
Student Non-Violent Coordinating Committee (SNCC);
Draft Resistance Groups (U.S.);
Cross World Books and Periodicals, Inc.;
U.S. Committee to Aid the National Liberation Front of South Vietnam;
Grove Press, Inc.;
Nation of Islam;
Youth International Party (YIP);
Women's Liberation Movement;
Black Panther Party (BPP);
Venceremos Brigade;
Clergy and Laymen Concerned About Vietnam.

report was prepared by the Operation in June 1970. Unlike the June 1969 study, which was limited to CIA sources, the 1970 study took into account all available intelligence sources. In the 1970 analysis, entitled, "Definition of Existing Internal Security Threat—Foreign," the Agency concluded that there was no evidence, based on available information and sources, that foreign governments and intelligence services controlled domestic dissident movements or were then capable of directing the groups. The June 1970 Report was expanded and republished in January 1971. It reached the same conclusions.

I. Relationship of Operation CHAOS to Other CIA Components

Substantial measures were taken from the inception of Operation CHAOS to ensure that it was highly compartmented. Knowledge of its activities was restricted to those individuals who had a definite "need to know" of it.

The two or three week formal training period for the operation's agents was subject to heavy insulation. According to a memorandum in July 1971, such training was to be carried out with "extreme caution" and the number of people who knew of the training was to be kept to "an absolute minimum." The Office of Training was instructed to return all communications relating to training of CHAOS agents to the Operation.

The Operation was isolated or compartmented even within the Counterintelligence Staff which, itself, was already a highly compartmented component of the CIA. The Operation was physically removed from the Counterintelligence Staff. Knowledge within the Counterintelligence Staff of proposed CHAOS operations was restricted to the Chief of the Staff and his immediate assistants.

The Counterintelligence Chief was technically responsible in the chain of command for Operation CHAOS, and requests for budgeting and agent recruitment had to be approved through his office. But the available evidence indicates that the Chief of Counterintelligence had little connection with the actual operations of CHAOS. According to a CIA memorandum in May 1969, Director Helms specifically instructed the Chief of the Operation to refrain from disclosing part of his activities to the Counterintelligence Chief.

The Counterintelligence and the CHAOS Chiefs both agree that, because of the compartmentation and secrecy of CHAOS, the actual supervisory responsibility for the Operation was vested in the Director of Central Intelligence. This was particularly so beginning in mid-

1969. In fact, the Chief of CHAOS, later in history of his Operation, sought unsuccessfully to have his office attached directly to that of the Director.

Director Helms testified that he could recall no specific directions he gave to the CHAOS Group Chief to report directly to him. To the contrary, Helms said, he expected the Chief to report to the Chief of Counterintelligence, who in turn would report to the Deputy Director for Plans and then to the Director.

The sensitivity of the Operation was deemed so great that, during one field survey in November 1972 even the staff of the CIA's Inspector General was precluded from reviewing CHAOS files or discussing its specific operations. (This incident, however, led to a review of the Operation by the CIA Executive Director—Comptroller in December 1972.)

On another occasion, an inspection team from the Office of Management and Budget was intentionally not informed of the Operation's activity during an OMB survey of CIA field operations.

There is no indication that the CIA's General Counsel was ever consulted about the propriety of Operation CHAOS activities.

It further appears that, unlike most programs within the CIA clandestine service, Operation CHAOS was not subjected to an annual review and approval procedure. Nor does there appear to have been any formal review of the Operation's annual budget. Such review as occurred seems to have been limited to requests for authority to assess or recruit an American citizen as an agent.

The result of the compartmentation, secrecy and isolation which did occur seems clear now. The Operation was not effectively supervised and reviewed by anyone in the CIA who was not operationally involved in it.

Witnesses testified consistently that the extreme secrecy and security measures of Operation CHAOS derived from two considerations: First, the Operation sought to protect the privacy of the American citizens whose names appeared in its files by restricting access to those names as severely as possible. Second, CHAOS personnel were concerned that the operation would be misunderstood by others within the CIA if they learned only bits of information concerning it without being briefed on the entire project.

It is safe to say that the CIA's top leadership wished to avoid even the appearance of participation in internal security matters and were cognizant that the Operation, at least in part, was close to being a proscribed activity and would generate adverse public reaction if revealed.

Despite the substantial efforts to maintain the secrecy of Operation CHAOS, over six hundred persons within the CIA were formally

briefed on the Operation. A considerable number of CIA officers had to know of the Operation in order to handle its cable traffic abroad.

Enough information concerning CHAOS was known within the CIA so that a middle level management group of 14 officers (organized to discuss and develop possible solutions to various CIA problems) was in a position to write two memoranda in 1971 raising questions as to the propriety of the project. Although only one of the authors had been briefed on CHAOS activities, several others in the group apparently had enough knowledge of it to concur in the preparation of the memoranda.

Opposition to, or at least skepticism about, the CHAOS activities was also expressed by senior officers in the field and at headquarters. Some area division chiefs were unwilling to share the authority for collection of intelligence from their areas with the Operation and were reluctant to turn over the information for exclusive handling and processing by the Operation. When CHAOS undertook the placement of agents in the field, some operations people resented this intrusion by a staff organization into their jurisdiction.

In addition, some of the negativism toward CHAOS was expressed on philosophic grounds. One witness, for example, described the attitude of his division toward the Operation as "total negativeness." A May 1971 memorandum confirms that this division wanted "nothing to do" with CHAOS. This was principally because the division personnel thought that the domestic activities of the Operation were more properly the function of the FBI. As a result, this division supplied the Operation with only a single lead to a potential agent, and its personnel has little to do with the on-going CHAOS activities.

Apparently the feelings against Operation CHAOS were strong enough that Director Helms' September 6, 1969 memorandum was required to support the Operation. That memorandum, sent to all deputy directors in the CIA, assured them that the Operation was within the statutory authority of the Agency, and directed their support.

Director Helms' attitude toward the views of some CIA officers toward Operation CHAOS was further summarized in a memorandum for the record on December 5, 1972, which stated:

> CHAOS is a legitimate counterintelligence function of the Agency and cannot be stopped simply because some members of the organization do not like this activity.

J. Winding Down Operation CHAOS

By 1972, with the ending of the American involvement in the Vietnam War and the subsequent lower level of protest activities at

home, the activities of Operation CHAOS began to lag. The communications traffic decreased, and official apprehension about foreign influence also abated. By mid-1972, the Special Operations Group began to shift its attention to other foreign intelligence matters.

At the end of August 1973, William E. Colby, the new CIA Director, in memoranda dealing with various "questionable" activities by the Agency, ordered all its directorates to take specific action to ensure that CIA activities remained within the Agency's legislative authority. In one such memorandum, the Director stated that Operation CHAOS was to be "restricted to the collection abroad of information on foreign activities related to domestic matters. Further, the CIA will focus clearly on the foreign organizations and individuals involved and only incidentally on their American contacts."

The Colby memorandum also specified that the CIA was not to be directly engaged in surveillance or other action against an American abroad and could act only as a communications channel between the FBI and foreign services, thus altering the policy in this regard set in 1968 and reaffirmed in 1969 by Director Helms.

By August 1973, when the foregoing Colby memorandum was written, the paper trail left by Operation CHAOS included somewhere in the area of 13,000 files on subjects and individuals (including approximately 7,200 personality or "201" files);[4] over 11,000 memoranda, reports and letters from the FBI; over 3,000 disseminations to the FBI; and almost 3,500 memoranda for internal use by the Operation. In addition, the CHAOS group had generated, or caused the generation of, over 12,000 cables of various types, as well as a handful of memoranda to high-level government officials.

On top of this veritable mountain of material was a computer system containing an index of over 300,000 names and organizations which, with few exceptions, were of United States citizens and organizations apparently unconnected with espionage.

K. Operation CHAOS Terminated

On March 15, 1974, the Agency terminated Operation CHAOS. Directions were issued to all CIA field stations that, as a matter of future policy, when information was uncovered as a byproduct of a foreign intelligence activity indicating that a United States citizen abroad was suspect for security or counterintelligence reasons, the information was to be reported to the FBI.

[4] A CIA statistical evaluation of the files indicates that nearly 65 percent of them were opened to handle FBI information or FBI requests.

According to the CHAOS termination cable, no unilateral action against the suspect was to be taken by the CIA without the specific direction of the Deputy Director for Operations and only after receipt of a written request from the FBI and with the knowledge of the Director of Central Intelligence.

The files and computerized index are still intact and are being held by the Agency pending completion of the current investigations. According to the group chief who is custodian of the files, many of the files have little, if any, value to ongoing intelligence operations. The CIA has made an examination of each of the CHAOS personality files and has categorized those portions which should be eliminated. Final disposition of those files, as noted, awaits the completion of the current investigations.

Conclusions

Some domestic activities of Operation CHAOS unlawfully exceeded the CIA's statutory authority, even though the declared mission of gathering intelligence abroad as to foreign influence on domestic dissident activities was proper.

Most significantly, the Operation became a repository for large quantities of information on the domestic activities of American citizens. This information was derived principally from FBI reports or from overt sources and not from clandestine collection by the CIA. Much of the information was not directly related to the question of the existence of foreign connections with domestic dissidence.

It was probably necessary for the CIA to accumulate an information base on domestic dissident activities in order to assess fairly whether the activities had foreign connections. The FBI would collect information but would not evaluate it. But the accumulation of domestic data in the Operation exceeded what was reasonably required to make such an assessment and was thus improper.

The use of agents of the Operation on three occasions to gather information within the United States on strictly domestic matters was beyond the CIA's authority. In addition the intelligence dissemination and those portions of a major study prepared by the Agency which dealt with purely domestic matters were improper.

The isolation of Operation CHAOS within the CIA and its independence from supervision by the regular chain of command within the clandestine service made it possible for the activities of the Operation to stray over the bounds of the Agency's authority without the knowledge of senior officials. The absence of any regular review of these activities prevented timely correction of such missteps as did occur.

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Recommendation (5)

a. Presidents should refrain from directing the CIA to perform what are essentially internal security tasks.

b. The CIA should resist any efforts, whatever their origin, to involve it again in such improper activities.

c. The Agency should guard against allowing any component (like the Special Operations Group) to become so self-contained and isolated from top leadership that regular supervision and review are lost.

d. The files of the CHAOS project which have no foreign intelligence value should be destroyed by the Agency at the conclusion of the current congressional investigations, or as soon thereafter as permitted by law.

Chapter 12

Protection of the Agency Against Threats of Violence—Office of Security

During the period of widespread domestic disorder from 1965 to 1972, the CIA, along with other government departments, was subject to threats of violence and disruption by demonstrators and self-styled revolutionary groups.

In the fall of 1968, a bomb destroyed a CIA recruiting office in Ann Arbor, Michigan. Bomb threats required the evacuation of other Agency buildings on several occasions. Agency recruiters on college campuses were harassed and occasionally endangered. Protesters held massive demonstrations, sometimes with the announced purpose of preventing operation of the government.

Throughout this period, the government was determined not to permit such activities to disrupt its functioning. The Office of Security of the CIA was charged with the responsibility of ensuring the safety of CIA buildings, employees, and activities and their continued functioning.

Three programs to accomplish this mission are of particular concern to our inquiry:

—Assistance to recruiters on college campuses.
—Infiltration of dissident groups in the Washington, D.C., area.
—Research and analysis of dissident activity.

A. Assistance to Recruiters

In light of the increasingly hostile atmosphere on many college campuses, the CIA's Deputy Director for Support (now Administration) directed the Office of Security in February of 1967 to institute a program of rendering assistance to Agency recruiters.

CIA field offices made contacts with college and university officials to determine the general level of dissident activity on each campus—and the nature and extent of activity directed against the CIA in par-

ticular. The Office of Security then advised the recruiter scheduled to visit a particular campus of its findings and recommendations.

We found nothing to indicate that the CIA collected this information by any means other than openly published materials and conversations with law enforcement and other authorities.

If a recruiter elected to visit a campus where there were indications of trouble, the Office of Security would provide him with monitoring and communications support.

If trouble arose while the recruiting interviews were in process, appropriate warnings were communicated to the recruiter, law enforcement agencies in the vicinity were alerted, and arrangements were made for terminating the interviews and leaving the campus. The Agency had a clearly-expressed policy of avoiding confrontations.

If the recruiter elected not to conduct interviews on a college or university campus, the Office of Security would arrange for alternative interviewing space in off-campus facilities, if possible. Where necessary, similar monitoring and communications support was provided at the off-campus site. In some instances, the campus atmosphere was so hostile that scheduled recruitment visits were simply cancelled.

The program of assistance to recruiters was discontinued in 1970. By that time, revisions in the Agency's recruitment program eliminated the need for such security precautions.

B. Infiltration of Dissident Groups in the Washington, D.C., Area

A second program conducted by the Office of Security involving dissident activity was aimed at providing timely advance notice of impending demonstrations in the Washington, D.C., area in order to protect the facilities, employees and operations of the Agency. The Director of Central Intelligence knew of this program and approved its initial scope and purpose.

This project began in February 1967.[1] It was initially aimed at monitoring[2] public demonstrations which might develop into picketing of Agency buildings. Almost from the outset, however, it became a project for placing "assets" in suitable organizations in order to obtain information concerning intended demonstrations directed at

[1] There was testimony from one Agency employee that he had been asked as early as 1964 to monitor certain groups. If such monitoring did occur, it appears to have been confined to one or two men operating on their off-duty hours.

[2] According to Director Helms, to "monitor" a group is merely to attend its public meetings and hear what any citizen present would hear; to "infiltrate" a group is to join it as a member and appear to support its purposes in general; to "penetrate" a group is to gain a position of leadership and influence or direct its policies and actions.

CIA properties. ("Asset" is a term used by the CIA to refer to agents and informants other than employees.)

A small number of persons employed by the CIA, either directly or through an Office of Security proprietary, and several of their relatives were recruited to work on this project on a part-time basis. In the early phase of the project, only four or five such part-time "assets" were involved. They were instructed to mingle with others at demonstrations and meetings open to the public, to listen for information and pick up literature, and to report promptly on any indications of activities directed against Government installations, particularly CIA installations.

By April 1967, four specific organizations in the Washington metropolitan area had been designated for infiltration—the Women's Strike for Peace, the Washington Peace Center, the Student Non-Violent Coordinating Committee and the Congress of Racial Equality.

The part-time agents were instructed to attend meetings of these organizations, to show an interest in their purposes, and to make modest financial contributions, but not to exercise any leadership, initiative or direction. The Agency provided funds for their suggested financial contributions.

They were also directed to report how many persons attended the meetings or demonstrations, who the speakers and leaders were, what they said and what activities were conducted and planned.

These "assets" reported regularly, usually in longhand. The reports were not confined to matters relating to intended demonstrations at Government installations. They included details of the size and make-up of the groups and the names and attitudes of their leaders and speakers.

By late June 1967, the Agency sought to obtain whatever information it could regarding the sources and amounts of income of each of the infiltrated organizations.

One infiltrator was sent to dissident rallies in New York, Philadelphia and Baltimore. One was called upon to maintain a continuous check on the movements and activities of certain prominent dissident leaders whenever they arrived in Washington, D.C. Infiltrators were charged from time to time with obtaining specific information on individuals, groups or planned demonstrations.

In some instances, the Agency identified leaders or speakers at a meeting by photographing their automobiles and checking registration records. In other cases, it followed them home in order to identify them through the city directory. Photographs were also taken at several major demonstrations in the Washington area and at protest activities in the vicinity of the White House.

In September 1967, the National Mobilization Committee to End the War was added to the list of monitored organizations in anticipation of large demonstrations planned for the Washington, D.C., area in the following month. The assets were instructed to gather biographical data on its leaders and participants, and information regarding the location of the organization's office, the source of its funds, and the identity of other organizations which would participate in that demonstration.

In mid-August 1968, additional organizations were added to the list for monitoring: the Southern Christian Leadership Conference, School of Afro-American Thought, Washington Ethical Society, American Humanist Association, Black Panthers, War Resisters' League, Black United Front, Washington Mobilization for Peace, Washington Urban League, Black Muslims and Niggers, Inc.

Assets were instructed to include within their reports the details of meetings attended, including the names of the speakers and the gist of their speeches, any threatening remarks against United States government leaders, and an evaluation of attitudes, trends, and possible developments within the organization.

Funds and personnel adequate to carry out the program in full were never made available. There are strong indications in the CIA's files, and there was testimony before the Commission, that some of the named organizations were never monitored at all. On the other hand, some of them had already been infiltrated before August 1968.

On one occasion, in the course of infiltrating one of the dissident organizations, an asset learned that the organization was receiving financial support from a foreign source. The Director of Central Intelligence and the President were informed of this development. Concerned that further investigation of this matter might involve the Agency in forbidden domestic activity, the Director made immediate arrangements to turn the information and the asset over to the FBI. From that point forward, the asset engaged in no further activity on behalf of the CIA.

Information gathered in the course of this program was regularly supplied to Operation CHAOS. Indeed, both testimony and circumstantial evidence indicate that the broad sweep of the information collected was in part a result of requests levied on the Office of Security by that Operation.

By the latter part of 1968, the Washington Metropolitan Police Department had developed its own capability to collect information on dissident groups in the area, and the Office of Security phased out its project. In his testimony, Director Helms confirmed that these two events were related. The Office of Security has continued to maintain liaison with police departments in the Washington area.

During the period of the operation of this program (February 1967 to December 1968), the maximum number of agents employed at any one time appears to have been twelve. None of them was a professionally-trained intelligence gatherer. All were residents of the Washington metropolitan area. Most of them were manual laborers. They were paid nominal salaries by the CIA, in most cases $100 per month or less. Except for several housewives who were otherwise unemployed, all of these assets had full-time jobs unconnected with dissident groups or activities. During major demonstrations in the Washington metropolitan area, some of them were called upon to put in long hours on evenings and weekends, and for this extra service they received compensation on a modest hourly basis. The primary motive of these assets appears to have been patriotism rather than pay.

C. Research and Analysis on Dissident Activity

In 1966 and 1967, the Deputy Director for Support ordered the Office of Security to prepare several studies relating to dissidents and dissident groups. One of the studies centered on the individuals and groups who were charging the CIA with involvement in the assassination of Malcolm X, the Black Muslim leader. The study provided background information relating to those accusing the CIA.[a]

Shortly thereafter, the Deputy Director for Support ordered a further study on dissidents in general. Such a study was prepared, relying primarily upon public news sources.

In December 1967, the Office of Security launched a program under which it was to maintain for several years a continuing study of dissident activity throughout the United States. The stated purposes of this project were to identify threats to CIA personnel, projects and installations, and to determine whether there was foreign sponsorship or ties to any such groups.

All field offices were directed to forward to headquarters whatever relevant information they might find in their respective geographic areas. Such information was to be obtained from willing sources and from newspapers and similar publications. No penetrations, infiltrations or monitoring of dissident groups was ordered or expected.

A substantial flow of material, primarily newspaper clippings, began arriving at headquarters in early 1968. At that point, there was only one employee in the Office of Security charged with the responsibility of studying and evaluating such incoming material. In short order, the arriving material inundated him.

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[a] No evidence was found which would support such a charge.

The Office soon created a special branch to handle the task. The branch began operation in May 1968. Its staff varied slightly in size from time to time, normally consisting of four or five persons.

One of the jobs of this branch was to organize and study the material from the field offices. It also gathered relevant information from a variety of other sources, including:

—Newspapers of general circulation in Washington, D.C., New York and Chicago;

—Underground newspapers such as the *Los Angeles Free Press* and the *Berkeley Barb;*

—The communist press, such as *The Worker* and *People's World;*

—Organizational publications, such as the *Black Panther;*

—All college papers the branch could get and had time to read;

—Any relevant newspaper clippings it found;

—News magazines; and

—Books and articles in general.

These materials dealt with activities and plans of dissident groups, the names and travels of their leaders and speakers, and the attitudes and intentions of such figures.

The branch had little or no input from the separate element within the Office of Security engaged in monitoring dissident groups in the Washington metropolitan area during 1967 and 1968. It used no infiltrators, penetrators, or monitors.

Occasionally, the branch asked local police department intelligence officers for information on dissident activities, and it always received cooperation. It also received the minutes of meetings of police department intelligence officers from the Washington metropolitan area held from time to time to plan for the handling of demonstrations and potential riots. Finally, it received continuing reports from the FBI relating to activities of dissidents and dissident groups.

The end products of this branch were weekly and special reports called "Situation Information Reports" (SIR). These SIR's usually consisted of two sections: one an analytical approach to events which had been occurring; the other a calendar of forthcoming events. For the most part, the SIR's were published weekly. The only regular recipient of the full SIR's outside the Office of Security was the Chief of Operation CHAOS. A United States Secret Service agent regularly came to the Agency to pick up a copy of the calendar of forthcoming events. Branch personnel and the Secret Service agent also conferred whenever their information conflicted on the times and dates of forthcoming events.

The SIR's were not furnished to the FBI. Neither were copies furnished to local police departments. They were never released to the press or otherwise made public.

In addition to providing information from which to prepare the SIR's, the materials received from the field and studied by the special branch were used for several other related purposes:

(1) The Office of Security developed some insight into dissidents and dissident groups. It could identify certain individuals whose participation in an event would suggest the possibility of violence. It analyzed the relationships between some of the individuals and groups and noted the frequent alterations and reorganizations of some of the groups.

(2) It developed files on dissident groups and their leaders for reference purposes. These files were intended, in part, for use in making security clearance determinations on applicants for employment by the Agency. (According to those in charge of security clearance evaluations, participation in the activities of a dissident organization, even one that was prone to violence, did not necessarily disqualify an applicant for employment with the Agency, although it was considered relevant to his objectivity and willingness to accept Agency security discipline.)

(3) The Office of Security obtained information which helped it assess risks posed to CIA offices, recruiters, agents and contractors by upcoming demonstrations and other dissident activity.

Although estimates varied somewhat, approximately 500 to 800 files were created on dissenting organizations and on individuals related in various ways to dissident activity. The chief of the special branch "guessed" that somewhere between 12,000 and 16,000 names were indexed to these files.

The great majority of individuals and organizations indexed, or on whom files were opened, were dissidents and dissident groups. This was not true in all cases. Exceptions included Dr. S. I. Hayakawa of San Francisco State College and Father Theodore M. Hesburgh of Notre Dame University, because they were publicly involved in coping with dissident activities.

Few if any of the files opened during this project were destroyed before the commencement of the Commission's work. The Agency intends to retain these files until the current investigations are concluded, when it will destroy them as permitted by law.

In January 1971 the field offices were directed to limit their activities in support of this project to sending in newspaper clippings and the literature of dissident organizations. In late 1972, publication of the Situation Information Reports was discontinued because dissident activity had tapered off markedly. In June 1973, the entire project relating to dissident individuals and groups was discontinued.

During the lifetime of this project (late 1967 to mid-1973), several incidental uses were made of it by the Office of Security:

(1) Branch personnel prepared a special report evaluating risks that dissidents would interfere with CIA contract projects at about twenty universities.

(2) On at least one occasion, a branch officer briefed the police departments of Arlington and Fairfax Counties, Virginia, on what to expect from large demonstrations planned for the Washington metropolitan area.

(3) A branch officer delivered a briefing to security officers of the Atomic Energy Commission on the subject of dissident groups in connection with a training program on home-made bombs.

(4) Branch personnel served at the Command Center operated by the Office of Security during several large demonstrations in order to provide continuing analyses of developments and an assessment of risks to Agency personnel and installations.

During the same period of time, the FBI maintained its own program of reporting on dissident activity. CIA officials testified, however, that the FBI reports concentrated primarily on whether the person or organization was subversive, whereas the needs of the Office of Security extended beyond loyalty or subversion. This was so in connection with screening employment applications and in assessing the degree of risk to Agency facilities and operations by any particular organization or combination of organizations. Knowledgeable FBI officials did not dispute these observations, which were offered to explain why CIA mounted its own effort rather than using FBI reports.

Conclusions

The program under which the Office of Security rendered assistance to Agency recruiters on college campuses was justified as an exercise of the Agency's responsibility to protect its own personnel and operations. Such support activities were not undertaken for the purpose of protecting the facilities or operations of other governmental agencies, or to maintain public order or enforce laws.

The Agency should not infiltrate a dissident group for security purposes unless there is a clear danger to Agency installations, operations or personnel, and investigative coverage of the threat by the FBI and local law enforcement authorities is inadequate. The Agency's infiltration of dissident groups in the Washington area went far beyond steps necessary to protect the Agency's own facilities, personnel and operations, and therefore exceeded the CIA's statutory authority.

In addition, the Agency undertook to protect other Government departments and agencies—a police function prohibited to it by statute.

Intelligence activity directed toward learning from what sources a domestic dissident group receives its financial support within the United States, and how much income it has, is no part of the authorized security operations of the Agency. Neither is it the function of the Agency to compile records on who attends peaceful meetings of such dissident groups, or what each speaker has to say (unless it relates to disruptive or violent activity which may be directed against the Agency).

The Agency's actions in contributing funds, photographing people, activities and cars, and following people home were unreasonable under the circumstances and therefore exceeded the CIA's authority.

With certain exceptions, the program under which the Office of Security (without infiltration) gathered, organized and analyzed information about dissident groups for purposes of security was within the CIA's authority.

The accumulation of reference files on dissident organizations and their leaders was appropriate both to evaluate the risks posed to the Agency and to develop an understanding of dissident groups and their differences for security clearance purposes. But the accumulation of information on domestic activities went beyond what was required by the Agency's legitimate security needs and therefore exceeded the CIA's authority.

Recommendation (16)

The CIA should not infiltrate dissident groups or other organizations of Americans in the absence of a written determination by the Director of Central Intelligence that such action is necessary to meet a clear danger to Agency facilities, operations, or personnel and that adequate coverage by law enforcement agencies is unavailable.

Recommendation (17)

All files on individuals accumulated by the Office of Security in the program relating to dissidents should be identified, and, except where necessary for a legitimate foreign intelligence activity, be destroyed at the conclusion of the current congressional investigations, or as soon thereafter as permitted by law.

Chapter 13

Other Investigations by the Office of Security

The Office of Security is responsible, on a world-wide basis, for ensuring proper security of CIA facilities, operations and personnel.

The protection of classified material from unauthorized disclosure is prominent among the responsibilities of the Office.

The Office also administers the Agency's security clearance program and investigates breaches or suspected breaches of security by persons affiliated with the Agency. Occasionally it has investigated persons with no connection with the Agency, for various reasons related to the protection of classified material.

The Office is also responsible for providing proper security for persons who have defected to the United States from other nations.

In the course of conducting investigations, the Office has, on infrequent occasions, engaged in wiretaps, buggings, surreptitious entries and other improper conduct. Some of these activities were clearly illegal at the time they were conducted. Others might have been lawful at the time, but would be prohibited under current legal standards.

A. Security Clearance Investigations of Prospective Employees and Operatives

The Office of Security conducts security investigations of all prospective Agency employees and operatives, and of the employees of private contractors doing business with the Agency on classified projects. Employees are subject to reinvestigation at five-year intervals.

Such investigations are undertaken to ensure that persons likely to be security risks are not hired or retained by the Agency and are not used by private companies on sensitive jobs for the Agency. Proper security investigations of prospective Agency employees and operatives are essential. All such investigations begin with routine name

checks with other agencies to determine if there are any recent investigations of the subject on file. If no satisfactory recent investigation has been conducted, the Office of Security conducts its own investigation, which includes making contact with friends, neighbors and business associates of the prospective employee or operative.

Although the Commission has not attempted to review the thousands of files compiled during the course of security investigations, testimony before it has not given any reason to suspect that the Office of Security has abused its authority in this regard or made improper use of information so gathered.

Charges have been made implying that, on one occasion in 1968, the Johnson Administration improperly used the Agency to investigate a member of the Nixon campaign staff. The individual involved had received some unclassified materials from the Agency, and the Agency contemplated furnishing him with classified materials as well. A routine security investigation was begun.

When the Agency learned that this individual had been asked by Mr. Nixon to work on his campaign, it immediately curtailed its investigation, restricting further inquiry to name checks from other agencies. The Commission finds no basis for criticizing the Agency's actions in this instance.

Conclusions

The CIA has properly performed the necessary function of screening persons to whom it will make available classified information. The Office of Security's activities in this regard help fulfill the Director of Central Intelligence's statutory duty to protect sources and methods of intelligence from unauthorized disclosure.

B. Investigations of Possible Breaches of Security

Aside from routine security clearance investigations and reinvestigations, the Office of Security has conducted other investigations within the United States in response to specific allegations of jeopardy to intelligence sources and methods. Most of these allegations have been resolved through routine investigative techniques such as name checks or interviews.

In a relatively small number of cases, more intrusive methods (physical and electronic surveillance, unauthorized entry, mail covers and intercepts, and reviews of individuals' tax returns)—euphemistically known in the Office of Security as "special coverage"—were used.

While the Commission cannot be certain that it has found every

instance of "special coverage" within the United States during the last 28 years, it believes most of the significant operations have been discovered.

Two questions are involved in the analysis of these investigations:

1. Was it proper for the CIA to conduct the investigation of the particular subject by any means?

2. Were lawful investigative techniques employed?

1. Persons Investigated

a. Persons Affiliated with the CIA [1]

By far the largest category of investigations involved the Agency's own employees or former employees. We found a total of 76 investigations, involving 90 persons, in which some form of "special coverage" was used. Almost all of the persons involved were United States citizens.

Approximately one-fourth of the investigations of Agency employees and former employees resulted from information obtained from defectors to the United States that several employees of the Agency might be working for foreign intelligence services.

Almost all of the remaining investigations were the result of the discovery of suspicious activities on the part of employees with access to sensitive classified information.

For example, investigations were undertaken concerning employees associating with known or suspected foreign intelligence agents; employees spending beyond their means; and employees suspected of engaging in conduct which might subject them to blackmail or compromise.

A few investigations directed against valued employees with many years of service to the Agency were initiated as much to clear up suspicions concerning the employee as to ensure the Agency that the employee was not a security risk.[2]

All Agency employees are fully informed by the Office of Security, when they first seek employment, of the possibility that their activities might be closely scrutinized if they should be suspected of being a security risk.

The next largest category of cases involved the investigation of

[1] If a person affiliated with the Agency who was investigated also falls into another category of subjects investigated, he has been included in the category with persons affiliated for purposes of the Commission's analysis. Significantly different issues, however, are raised by investigations falling within the various groups.

[2] Under the National Security Act of 1947, the Director of Central Intelligence has the absolute right to discharge any employee without explanation where an employee is suspected of being a security risk. The Director would thus be justified in requesting and receiving that employee's resignation. One of the stated purposes for having undertaken an investigation of suspected employees was to permit innocent employees to continue their work with the Agency without knowing that they were suspected of having been disloyal.

49 foreign nationals living in this country. Of these, 38 were Agency operatives and 11 were defectors. In almost all of these cases, the Office of Security investigated the foreign national at the request of one of the operational arms of the Agency. The reasons varied from case to case. Examples include:

—Determining whether the subject was controlled by a foreign intelligence service;

—Verifying the subject's sources of information;

—Ascertaining the bona fides of a defector;[3]

—Determining the propriety of using the subject for operational purposes in the future.

In a few cases, special coverage was initiated in order to protect a CIA case officer if trouble arose, or to provide a record of conversations for later evaluation.

In many instances, the employee or operative under investigation was surveilled for only one or two days, or his telephone was tapped so as to overhear only one or two specific telephone conversations. In some other instances, the investigations were more extensive.

One investigation by the Office of Security spanned approximately eight years in the late 1940's and early 1950's. The employee involved was alleged to have engaged in Communist Party activities in the 1930's and was suspected of still being in contact with Communist sympathizers. A combination of physical surveillance, wiretaps and bugging were used from time to time. The apartment occupied by the subject was entered surreptitiously on two separate occasions. The Director of Central Intelligence closely followed this particular investigation. The investigation led eventually to termination of the subject's employment.

An extreme example of how far an investigation can go occurred in the late 1960's. A CIA employee who attended meetings of a group which the Agency suspected of foreign left-wing support, had been privy to extremely sensitive classified information. Physical surveillance of the employee was conducted for almost one year. A surreptitious entry was made into the employee's apartment by cutting through the walls from an adjacent apartment so that microphones could be installed. Seven microphones were placed so that conversations could be overheard in every room of the apartment. A cover was placed on the employee's mail for two months during one period and five months during another. Several of the subject's tax returns were also reviewed. This investigation yielded no evidence of disloyalty.

The investigations of Agency employees and operatives were conducted pursuant to a general understanding with the FBI. The Bureau

[3] Several American citizens working with, but not employees of, the Agency have been surveilled to determine their bona fides or the validity of their sources of information, in the same manner as foreign nationals in similar positions.

was unwilling (partly due to a lack of sufficient manpower) to undertake every investigation of a breach of security involving employees or operatives of the CIA or other intelligence departments and agencies. It expected those departments and agencies to conduct any necessary preliminary investigation and would enter the case itself only when hard evidence of espionage was discovered.

Further, each member agency of the United States intelligence community had been given primary responsibility by the National Security Council for protecting intelligence sources and methods within its own organization.

b. Newsmen

The Commission found two cases in which telephones of three newsmen were tapped in an effort to identify their sources of sensitive intelligence information. The first such instance took place in 1959. The other occurred in 1962, apparently with the knowledge and consent of Attorney General Kennedy.

Three additional investigations were found in which reporters were followed in an effort to identify their sources. These activities took place in 1967, 1971 and 1972.

Presidential concern was continually voiced, during every administration since the establishment of the CIA, that the sources of news leaks be determined and the leaks themselves stopped—by whatever means. In addition, the committee of the United States Intelligence Board charged with investigating news leaks has historically taken no definitive action to solve the problem.[4]

The attitude of the FBI during the 1960's and early 1970's also remained unwavering. The Bureau would not handle leak cases unless directed to do so by the Attorney General. The Bureau's procedure in such cases was to submit a request for investigation to the Attorney General for a prosecutive opinion and not to proceed unless the Attorney General issued a favorable opinion and a directive to investigate.

Faced with this set of circumstances, the CIA chose to conduct its own investigations of "leak" cases by physically and electronically surveilling newsmen to learn their sources of information.

c. Other Persons Not Affiliated With the CIA

On several occasions, the Office of Security placed "special coverage" on other persons with no relationship to the Agency. In 1971, six United States citizens and one alien were followed for a period of some three months as the result of a report that they intended to

[4] The Chairman of the USIB Security Committee during the early 1970's, when several surveillances were initiated against newsmen by the Office of Security, was also the CIA's Director of Security. At several Security Committee meetings he stated that surveillance of newsmen (which had been suggested at the meetings) was improper. At the same time, he carried out such surveillance at the direction of the Director of Central Intelligence.

assassinate the Director of Central Intelligence and kidnap the Vice President. This investigation was conducted in close cooperation with the FBI and the Secret Service.

On two occasions, investigations were directed against employees of other government agencies with access to sensitive intelligence material.[5] Significant breaches of security were suspected in both cases.

On at least one occasion, physical surveillance was placed on a citizen who had approached an Agency employee under circumstances suggesting that he might be attempting to penetrate the Agency. Several investigations of Americans have been initiated for other reasons directly associated with suspected security violations at the CIA.

In addition, on approximately eleven occasions, investigations of employees or former employees of the CIA have resulted in some type of coverage of other United States citizens with whom those employees had contacts.

The Commission discovered no evidence suggesting that any of these investigations were directed at any congressman, judge, or other public official.

Conclusions

Investigations of allegations against Agency employees and operatives are a reasonable exercise of the Director's statutory duty to protect intelligence sources and methods from unauthorized disclosure, provided they are lawfully conducted. Such investigations also assist the Director in the exercise of his unreviewable authority to terminate the employment of any Agency employee.

Although such investigations may take on aspects of domestic counterintelligence or enforcement of domestic laws, they are proper unless their principal purpose becomes law-enforcement or the maintenance of internal security. Whenever an investigation develops substantial evidence of espionage or other criminal activity, it should be coordinated with the FBI.

Investigation of the bona fides of alleged defectors is an important function, lawfully assigned to the CIA by the National Security Council.

The Director's responsibility to protect intelligence sources and methods, however, cannot be read so broadly as to permit investiga-

[5] Two additional cases involved investigations of military officers temporarily assigned to the Agency. These have been included in the figures for investigations of persons affiliated with the Agency.

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tions of persons having no relationship whatever with the Agency. The CIA has no authority to investigate newsmen simply because they have published leaked classified information. Investigations by the CIA should be limited to persons presently or formerly affiliated with the Agency, directly or indirectly.

Where an employee or other person under investigation has suspicious contacts with an unknown individual, sufficient investigation may be conducted to identify that person. Further investigation of the contacts of persons properly under investigation should be left to the FBI or other appropriate law enforcement agencies.

The investigation directed against several persons allegedly threatening to assassinate the Director of Central Intelligence and kidnap the Vice President was probably an exception to the general rule restricting CIA investigations to persons with some relationship to the Agency. The circumstances were obviously extreme, the threats involved the Agency's director, and the investigation was undertaken with the full knowledge and consent of both the FBI and the Secret Service.

Recommendation (18)

a. The Director of Central Intelligence should issue clear guidelines setting forth the situations in which the CIA is justified in conducting its own investigation of individuals presently or formerly affiliated with it.

b. The guidelines should permit the CIA to conduct investigations of such persons only when the Director of Central Intelligence first determines that the investigation is necessary to protect intelligence sources and methods the disclosure of which might endanger the national security.

c. Such investigations must be coordinated with the FBI whenever substantial evidence suggesting espionage or violation of a federal criminal statute is discovered.

Recommendation (19)

a. In cases involving serious or continuing security violations, as determined by the Security Committee of the United States Intelligence Board, the Committee should be authorized to recommend in writing to the Director of Central Intelligence (with a copy to the National Security Council) that the case be referred to the FBI for further investigation, under procedures to be developed by the Attorney General.

b. These procedures should include a requirement that the FBI accept such referrals without regard to whether a favorable prosecutive opinion is issued by the Justice Department. The CIA should not engage in such further investigations.

Recommendation (20)

The CIA and other components and agencies of the intelligence community should conduct periodic reviews of all classified material originating within that department or agency, with a view to declassifying as much of that material as possible. The purpose of such a review would be to assure the public that it has access to all information that should properly be disclosed.

Recommendation (21)

The Commission endorses legislation, drafted with appropriate safeguards of the constitutional rights of all affected individuals, which would make it a criminal offense for employees or former employees of the CIA willfully to divulge to any unauthorized person classified information pertaining to foreign intelligence or the collection thereof obtained during the course of their employment.

2. *Investigative Techniques Used*

Direction of some investigations at proper subjects does not mean that all the investigative techniques used were proper.

A great many of the cases (directed at 96 persons) involved physical surveillance—that is, observation of the public comings and goings of an individual. Some of the cases were trivial. In one case, an Agency employee was suspected of working at his private business establishment when he should have been working for the Agency. Employees of the Office of Security went to his place of private business and established that he was in fact there when he should have been at the CIA.

Other cases of physical surveillance were more extensive, involving dawn-to-dusk coverage for a period of months. The last case of physical surveillance by the Agency was in 1973. Current directives prohibit surveillance off Agency property.

Our investigation also disclosed thirty-two wiretaps, thirty-two instances of bugging,[6] and twelve unauthorized entries. The last wiretap used by the CIA was in 1965; the last bug in 1968; and the last unauthorized entry was in 1971.

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[6] These figures do not include cases in which the eavesdropping was done with the consent of one or both parties. Such instances were done for convenience in making a record of a conversation, such as the debriefing of a defector or a recruitment interview. Approximately thirty-four such instances were discovered. In addition, a technical log (for recording Office of Security wiretaps and buggings) for the period from December 1961 until March 1967, showing eleven telephone taps and sixty-five "mike and wire" operations conducted during that period, suggests that there may actually have been more "mike and wire" operations than the Commission has otherwise been able to document. Witnesses before the Commission testified that most of those installations were used where one or both parties were aware that their conversation was being recorded. In all cases where doubt existed as to whether the CIA had subjected an individual to any questionable investigation, the benefit of that doubt was *not* given to the Agency, and the investigation has been included in the above figures.

None of these activities was conducted pursuant to a search warrant, and only in connection with the 1965 wiretap did the Agency obtain the prior written approval of the Attorney General.

In at least fourteen instances, involving sixteen people, the CIA obtained access to information on individual Federal income tax returns. The Agency was apparently seeking information which would indicate possible connections between the subject and foreign groups.

Ninety-one mail covers were used in 63 investigations. Only 12 occasions, mail was actually opened and photographs were taken of the contents.

Conclusions

Physical surveillance, while not itself unlawful, may become so if it reaches the point of harassment. The possible invasions of privacy by physical surveillance and the proximity of that activity to proscribed law enforcement functions indicate that it should be undertaken only after high level authorization within the Agency. Such authorization would include a finding that the proposed surveillance is necessary to protect intelligence sources and methods. When a legitimate CIA investigation reaches the point that a search or some form of electronic eavesdropping is appropriate, the case should be turned over to the FBI or other law enforcement agencies.

The unauthorized entries into the homes and offices of American citizens were illegal when they were conducted and would be illegal if done today.

Because the law as to electronic eavesdropping has been evolving, the Commission has not attempted to delineate specifically which of the CIA's investigations over the years utilizing eavesdropping were unconstitutional under then-announced standards. Some of those investigations within the United States were proper under the constitutional standards of the time, but many others were not. Under constitutional standards applied today, it is doubtful whether any of those investigations would have been proper, with the possible exception of the one wiretap installed in 1965 where prior written approval of the Attorney General was sought and obtained.

Today, eavesdropping would at a minimum require the prior written approval of the Attorney General, based on a showing that the national security was involved and that the circumstances included a significant connection with a foreign power. The Supreme Court has left open the question whether such approval would be sufficient or whether a judicial search warrant would be required.

The execution of a search warrant involves the exercise of a law-enforcement power of a type expressly forbidden to the CIA. If the approval of the Attorney General is an adequate substitute for a warrant in some cases, similar problems may arise in conducting searches or eavesdropping under that authority.

Under the provisions of the Internal Revenue Code, no person has access, without special authorization, to any information supplied by a taxpayer pursuant to a requirement of the tax law relating to income and other taxes.[7]

Formal procedures for obtaining the necessary authorization have been in effect for some time. They require the applicant (here the Director of Central Intelligence) to make written application to the Commissioner of Internal Revenue for each tax return desired, setting forth the reason why the return is needed.[8]

The Commission has found no evidence that this procedure was ever followed by CIA personnel.

Mail covers are not unlawful if they are conducted in compliance with postal regulations and do not reasonably delay the mail. The opening of mail, however, violated specific statutes prohibiting such conduct and was unlawful (see chapter 9).

In many instances the Agency's files do not clearly indicate the nature of an investigation, the specific evidence suggesting that the person investigated was a security risk and thus a proper subject of investigation, the authority giving approval for special coverage, the reasons underlying the decision to investigate, or the results of the investigation.

Several past Directors of Central Intelligence testified that they believe they authorized all investigations in which wiretaps, bugs or unauthorized entries were utilized. Yet, in over half of the investigative records, a clear showing of the authorizing official is missing.

Investigative files should contain documentation showing the basis and authority for undertaking each investigation. This will assure that such investigations are authorized and have a lawful basis.

Recommendation (22)

The CIA should not undertake physical surveillance (defined as systematic observation) of Agency employees, contractors or related personnel within the United States without first obtaining written approval of the Director of Central Intelligence.

Recommendation (23)

In the United States and its possessions, the CIA should not intercept wire or oral communications[9] or otherwise engage in activities that would require a warrant if conducted by a law enforcement agency. Responsibility for such activities belongs with the FBI.

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[7] 25 U.S.C. sec. 610 (a) and (b).
[8] 26 C.F.R. sec. 301.6103(a).
[9] As defined in the Omnibus Crime Control and Safe Streets Act, 18 U.S.C. secs. 2510–20.

Recommendation (24)

The CIA should strictly adhere to established legal procedures governing access to federal income tax information.

Recommendation (25)

CIA investigative records should show that the investigation was duly authorized, and by whom, and should clearly set forth the factual basis for undertaking the investigation and the results of the investigation.

C. Handling of Defectors

Investigation of defectors is the responsibility of the CIA under a National Security Council Intelligence Directive, assigning this duty to the Agency as a "service of common concern" to the intelligence community as a whole.

Within the CIA, the Office of Security is charged with providing proper security for the handling of persons who have defected to the United States from other nations. A careful procedure has been developed for such handling.

Generally a defector can be processed in a few months' time. In one instance, however, a defector was involuntarily confined to a CIA installation for approximately three years. For much of this time, the defector was held in solitary confinement under extremely spartan living conditions. The defector was apparently not physically abused.

The justification given by the CIA for the lengthy confinement arose out of a substantial concern regarding the defector's bona fides. When the issue was finally resolved, the defector was given total freedom and became a United States citizen.

The confinement of the defector was approved by the Director of Central Intelligence on the written advice of the General Counsel. The FBI, the Attorney General, the United States Intelligence Board, and selected Members of Congress were all aware to some extent of the continued confinement.

In one other case, a defector was physically abused, although not seriously injured. The Director of Central Intelligence discharged the employee involved.

Conclusions

Such treatment of individuals by an agency of the United States is unlawful. The Director of Central Intelligence and the Inspector General must be alert to prevent repetitions.

D. Other Activities of the Office of Security

The Commission has examined other domestic activities of the Office of Security, including its cover operations, its use of the polygraph as an aid in security investigations, its use of informants among employees or contractor employees to assist in preventing sabotage of its premises or penetrations of its organization, its use of recording systems in certain CIA offices, and its efforts to test the physical security systems of certain private corporations under contract to the Agency.

No violations of the CIA's charter have been found in connection with such activities.

Chapter 14

Involvement of the CIA in Improper Activities for the White House

During 1971, the CIA, at the request of members of the White House staff, provided alias documents and disguise materials, a tape recorder, camera, film and film processing to E. Howard Hunt. It also complied with a request to prepare a psychological profile of Daniel Ellsberg.

This assistance was requested by various members of the White House staff and some of the materials provided were later used in connection with improper activities, including the break-in into the office of Dr. Lewis Fielding, Ellsberg's psychiatrist.

President Nixon and his staff also insisted in this period that the CIA turn over to the President highly classified files relating to the Lebanon landings, the Bay of Pigs, the Cuban missile crisis, and the Vietnam war. The request was made on the stated ground that these files were needed by the President in the performance of his duties, but was in fact made to serve the President's personal political ends.

The Commission's staff has investigated the facts and circumstances surrounding these events.[1] On the basis of this investigation, the

[1] Documentation supporting this chapter is contained in the statement of information in Hearings before House Judiciary Committee on H.R. 803 (Impeachment of President Nixon) Book VII (May–June 1974); transcript of trial testimony in United States v. Ehrlichman et al., No. 74–116 (June 28–July 9, 1974); transcript of testimony before House Special Subcommittee on Intelligence of the Armed Services Committee (May 1973–July 1974); transcripts of Executive Session Testimony before the Senate Select Committee on Presidential Campaign Activities (Watergate Hearings), principally between December 17, 1973, and March 8, 1974; the testimony and affidavits of witnesses examined by the Commission and its staff; and the files and records of the Central Intelligence Agency. The Commission also requested permission to examine relevant papers of President Nixon's administration which are currently in the custody of the General Services Administration under the terms of an interim order of the United States District Court for the District of Columbia. The provisions of that order permit counsel for the former President to object to such requests and he in fact did so, threatening to seek sanctions from the court to prevent such an examination. With the limited period of time available to complete the Commission's work, it was not possible to obtain a determination by the court of the validity of the request.

Commission concludes that the CIA neither participated in nor knew in advance of the Fielding or Watergate break-ins. The Agency provided certain assistance to the White House staff because the staff (and, in the case of the production of certain sensitive files, the President) insisted that it do so, but it appears to have provided that assistance without actual knowledge that the White House staff was engaging in illegal activities.

The Agency knew, however, that some of the demands made on it by the White House, such as the demand for a psychological profile of Dr. Ellsberg, were of doubtful propriety, and it is subject to criticism for having at times failed to make sufficient efforts to resist those demands. Nevertheless, the principal responsibility for drawing the Agency into these activities falls on the White House staff.

Once it became known, however, following the arrest of the Watergate burglars, that some of the activities under investigation involved persons with past or present CIA connections, the Agency's leaders should have undertaken a thorough inquiry and should have disclosed all relevant information to investigating agencies. The Commission considers the Agency's delay of nearly a year in instituting such an investigation, the Agency's failure promptly to disclose relevant information in its possession, and the Agency's destruction of some materials which may have contained relevant information to reflect poor judgment and to be subject to criticism.

The evidence bearing on these matters is discussed in this chapter.

A. Employment of E. Howard Hunt by Robert R. Mullen and Company

In April 1970, E. Howard Hunt retired from the Central Intelligence Agency after having served in it for over twenty years. With the help of the Agency's External Employment Affairs Branch, he obtained a job with Robert R. Mullen and Company, a Washington, D.C., public relations firm. The Mullen Company itself had for years cooperated with the Agency by providing cover abroad for Agency officers, carrying them as ostensible employees of its offices overseas.

Hunt, while employed by Mullen, orchestrated and led the Fielding and Watergate break-ins and participated in other questionable activities. The Mullen Company had tangential associations with some activities of the White House staff.

These circumstances have led to suspicions and allegations of CIA involvement in or advance knowledge of some of Hunt's improper activities. In this section we review the circumstances of Hunt's em-

ployment and the nature of the Hunt-Mullen-CIA relationship in the light of these allegations.

Hunt retired from the Agency in April 1970 after having held a number of responsible positions in the Directorate for Plans (now the Directorate of Operations). After initial service in Europe, Hunt served in various Western Hemisphere stations. In the early 1960s he supervised a group of Cubans forming a skeleton government-in-exile in connection with the Bay of Pigs operation and subsequently was responsible for certain foreign publishing activities conducted under cover by the Agency. Hunt retired on his own volition and in good standing with the Agency.

In the course of looking for post-retirement employment, Hunt contacted the Agency's External Employment Assistance Branch, which among other things helps retirees find positions. One of its officers, Frank O'Malley, had known both Hunt and Mullen from his earlier work on the Agency's cover staff. In view of Hunt's interest in the public relations field, O'Malley, with the help of the CIA case officer assigned to Mullen, contacted Mullen for help in placing Hunt. Mullen, who had known Hunt at a time after World War II when both had served in the European Cooperation Administration in Paris, arranged several interviews for Hunt during March 1970, none of which produced results.

Meanwhile, Mullen decided to expand the operations of his company, and about April 10, 1970, offered Hunt a job which he accepted. Although in early testimony Mullen had claimed that Director Helms or others in the Agency had put pressure on him to hire Hunt, he later acknowledged that this was not correct and that he had hired Hunt on his own initiative. There does not appear to be support for the position taken by Mullen in his early testimony. While Helms had given Hunt permission to list Helms' name as a reference on Hunt's resume, and had written a letter of recommendation to a friend at another company (a copy of which Mullen might have seen), there is no evidence that he either wrote or communicated with Mullen about Hunt, or took part in Mullen's hiring of Hunt. Helms' testimony is that he did not even know Mullen. Within the Agency, Mullen's hiring of Hunt was in fact considered undesirable because it could attract attention to the existing cover relationship between Mullen and the Agency.

The Mullen Company was a legitimate public relations firm with a number of clients having no known relationship to the CIA. Robert Mullen had, however, for many years cooperated with the CIA by making some of his overseas offices available at different times as a cover for Agency employees operating abroad. The existence of Mullens' relationship with the CIA was, of course, kept secret to

protect the secrecy of the cover arrangements and this led to complications when, after Watergate, the Mullen Company came under investigation.

The existence of the cover arrangements did not involve the Mullen Company in the collection or transmission of intelligence itself. Its only involvement was in the administrative arrangements for operating the offices in which an Agency employee worked during various periods of time, maintaining the appearance of public relations activity by the employee, and handling in secret the related administrative details. The necessary transactions were generally handled between the CIA's case officer and Mullen's bookkeeper who was a retired CIA accountant.

After Hunt came to work for Mullen he was told, with CIA's consent, of the existing cover arrangement so that he could deal with administrative matters when necessary during Mullen's frequent absences from Washington. To this end his security clearance was extended by the Agency in October 1970. The record, however, discloses only two instances of Hunt's involvement in these cover arrangements. On one occasion he suggested a new arrangement which the Agency declined; on another, he successfully urged the Agency not to terminate an existing arrangement.

There is no evidence of other significant contacts between Hunt and the Agency from the time of his joining Mullen until July 1971 when he became a White House consultant. The only documented contacts were inconsequential in nature. Hunt corresponded with the Agency's General Counsel in an unsuccessful effort to change his election of survivorship benefits under the Agency's retirement program. In the fall of 1970, he was asked by the Agency to prepare a citation for a Civil Service award. And some time during this period, Hunt repaid a loan made to him by the employee's association to pay medical expenses incurred on behalf of his children.

Eight months after Hunt was hired by the Mullen Company, Robert Bennett joined the company. Bennett, the son of Senator Wallace Bennett (R-Utah), had been active in Republican Party affairs and served as Congressional relations officer of the Department of Transportation until January 1971 when he came to the Mullen firm. His political connections led him to be involved in some of Hunt's later activities, discussed below.

Mullen, who was planning to retire, had invited Bennett to become president of the firm and purchase it. This was a disappointment to Hunt who had himself expected to become president and owner of the business. Attempts by Hunt to negotiate a joint ownership arrangement with Bennett failed and Hunt began to think of leaving the firm.

There is no evidence of Bennett's having had prior CIA contacts. He

stated that he learned of the Mullen-CIA arrangement in February 1971 when he was examining Mullen's books preliminary to negotiating a purchase price for the company. At that time, he first met the CIA case officer and was briefed; occasional meetings followed from time to time to discuss the cover arrangements.

Bennett brought Hughes Tool Company (now Summa Corporation) as a client to Mullen. He had met Hughes representatives while at the Department of Transportation. Later in 1971, he introduced Hunt to representatives of Hughes and various contacts occurred which are discussed further below.

Conclusions

The investigation disclosed no participation by Hunt after his retirement in any operation of the CIA, other than as described. Nor has this investigation disclosed evidence of participation by the Mullen Company or its employees during the period following Hunt's employment in any operations of the CIA other than those described. There is evidence that various companies who were clients of the Mullen firm may in turn have had relationships with the CIA, but no evidence has been found that either the Mullen firm or any of its employees participated in those relationships.

Those activities of Hunt which culminated in the Fielding and Watergate break-ins, for some of which he sought CIA support, were, so far as the record shows, conducted independently of his Mullen employment. No evidence has been found that the Mullen Company or its employees were either involved in those activities or that they served as a vehicle for CIA involvement in them. These matters are discussed in greater detail in later sections.

B. CIA Assistance to Hunt

In July 1971 the CIA, at the request of Hunt, who had been hired as a White House consultant, provided him with personal disguise materials and alias identification. Within the next month the CIA provided Hunt with additional assistance, including a tape recorder and concealed camera, and disguise materials and alias identification for G. Gordon Liddy. Some of these materials were used by Hunt and Liddy in preparing for and carrying out the entry into the office of Dr. Fielding, Daniel Ellsberg's psychiatrist. In particular, the CIA at Hunt's request developed pictures taken by him of that office in the course of his reconnaissance for the break-in.

These circumstances have led to suspicions and allegations of CIA involvement in or knowledge of Hunt's unlawful activities. In this section we review the record concerning CIA's assistance to Hunt.

Early in July 1971, Charles W. Colson, Counselor to President Nixon, invited Hunt to become a part-time consultant for the White House. Colson and Hunt were acquainted and had occasionally met for lunch. Hunt had expressed interest in Colson's White House work. Colson was looking for someone to become familiar with the Pentagon Papers and to coordinate White House efforts resulting from their recent publication by the *New York Times*. Colson introduced Hunt to John D. Ehrlichman, Assistant to the President, either immediately before or just after he was hired.

Shortly after Hunt started to work at the White House, Bennett told him of an acquaintance, Clifford de Mott, who claimed to have derogatory information about the Kennedy family. Bennett knew and had approved of Hunt's White House job and thought de Mott might be of interest to the White House. Hunt and Colson agreed that de Mott should be interviewed. Hunt felt, however, that his identity as a White House staff member should be concealed and proposed to obtain a disguise from the CIA.

At Hunt's request, relayed by Colson, Ehrlichman called General Robert E. Cushman, Jr., then Deputy Director of the CIA, on July 7, 1971. According to notes of the conversation taken by Cushman's secretary, Ehrlichman alerted him that Hunt had been asked by the President to do some special consulting work on security problems, that he may be contacting Cushman, and that Cushman should consider "he has pretty much carte blanche." Ehrlichman has testified that he does not recall having called Cushman about Hunt and that he does not believe he did.

Cushman routinely reported the news about Hunt's White House employment at the Agency's July 8, 1971, Senior Staff meeting attended by Helms. He also advised the Agency's Director of Security of Hunt's assignment since it related to security, and the Director in turn may have called Hunt's office to establish contact.

On July 22, 1971, Hunt met Cushman at the Agency by appointment. Hunt, who had known Cushman during his service as an Agency employee, asked to speak to Cushman alone. Hidden equipment in Cushman's office recorded the conversation. Such recordings were made by Cushman on occasion, but he was not able to explain why this particular conversation was recorded.

Hunt explained that he had been charged with a "highly sensitive mission" by the White House and needed a physical disguise and some identification cards for what he described as a "one time operation—in and out." Cushman has stated that he did not consider this

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request as something to be concerned about inasmuch as the request was made by an experienced ex-CIA officer with the endorsement of high-ranking White House staff. Cushman also stated that he assumed that the Agency's technical staff would require an appropriate accounting of materials given to Hunt. Moreover, materials of the sort requested by Hunt were considered by Agency personnel as being useful for disguising one's identity, not as implements for an unauthorized entry. And, indeed, Hunt's purpose when asking for these materials was simply to conceal his White House's connection while interviewing de Mott.

Cushman has testified (and a contemporaneous memorandum by his executive assistant confirms) that he reported this request to Helms routinely a few days after he had given authority to proceed, and that there was no discussion about it. Helms, however, did not recall having learned of Hunt's requests for technical assistance until later in August, either in connection with Hunt's subsequent request for secretarial assistance or in connection with the decision to terminate further assistance to him.

It was during this same period of time that Helms, at the request of David R. Young of the White House, authorized preparation of a psychological profile of Daniel Ellsberg, discussed in a later section of this chapter. The Commission has found no evidence indicating that Helms then knew that Hunt had a part in the profile project. Nor has it found evidence indicating Cushman knew of the request for preparation of the profile.

In any event, Cushman directed that his executive assistant handle Hunt's request for technical assistance. Since the materials requested would be provided by the Technical Services Division (TSD) of the Directorate for Plans, the executive assistant advised the office of the Deputy Director for Plans of the request and then contacted the Acting Chief of TSD. Hunt, at his request, was identified to TSD only as "Mr. Edward", not by his true name, but TSD was told that the request came from the White House. The materials were prepared and on the following day, July 23, 1971, a TSD technician met Hunt at a Washington apartment maintained by the Agency for clandestine meetings (where all subsequent meetings were also held) and supplied him with a wig, a pair of glasses, a speech-altering device, a driver's license and miscellaneous identification cards (not including credit cards). On his return, the technician briefed the Acting Chief on the meeting with Hunt. Hunt and the technician met again at Hunt's request about a week later to adjust Hunt's glasses.

Hunt used the disguise to interview de Mott in Rhode Island. There is no evidence that he disclosed to the Agency any information beyond the fact that he needed assistance to conduct an interview in disguise.

The Agency's regulations required the execution of authentication forms by an authorized officer before the issuance of technical assistance. In this manner the purposes for which assistance was required had to be disclosed and the material received had to be accounted for, either by its subsequent destruction or return. In the case of the assistance supplied to Hunt, the Acting Chief assumed, from the manner in which the request was given to him, that normal accounting procedures were to be dispensed with; he drew that conclusion from the fact that Hunt was identified to him only by an alias and that the entire request was treated as particularly sensitive. The Acting Chief and the technician did, however, continually request that Hunt promptly return the materials. According to the Acting Chief, it was Hunt's continuing evasion of these requests that eventually led him to express his concern to the executive assistant later in August.

Additional requests by Hunt for assistance followed. On August 18, 1971, he called the executive assistant requesting that a particular Agency secretary, then stationed in Paris, be detailed to him temporarily for a "highly sensitive assignment." After discussion with Cushman, the executive assistant turned Hunt down, offering him other qualified secretarial assistance available at Headquarters which Hunt, however, declined.

On August 20, 1971, Hunt again met with the technician and asked him for alias business cards. He also requested a tape recorder to record conversations in a noisy environment. TSD's Acting Chief approved these requests as being within the scope of the initial request.

About this time, Hunt also requested a so-called backstopped New York telephone number and a backstopped driver's license and credit cards. Backstopping requires arrangements such as a telephone answering service and cooperation with the issuing authority for providing independent vertification for the alias identification. The Acting Chief advised the technician that this request would not be met without the Director's approval. He did, however, ask one of his electronic technicians to find out what would be required to provide this service, and the technician appears to have asked TSD what information would be needed to provide a backstopped telephone number. A typewritten note from another officer to the technician specified some of the needed information that would have to be obtained from Hunt. It is not known what was done with that note, but on August 26 or 27, 1971, Hunt's secretary telephoned certain of this information to the technician who typed a memorandum recording it. There is no evidence, however, that steps were taken within the Agency (beyond this gathering of information) to provide backstopped service; in any event, as discussed below, by August 27, 1971, instructions were issued cutting off all further assistance to Hunt.

Another meeting between the technician and Hunt had taken place on August 25, 1971, at which time the business cards and tape recorder were delivered to him. Hunt had brought Liddy—identified only as George—to this meeting and requested disguise materials for him as well as a concealed camera. These were provided by the technician later that day after approval had been given by TSD's Acting Chief. Hunt renewed his request for a backstopped telephone number. In the course of the meeting the technician heard Hunt and Liddy speak of being engaged in narcotics-related activities and of catching a plane that evening. In fact, Hunt and Liddy were about to fly to Beverly Hills for a reconnaissance of the office of Dr. Fielding, Ellsberg's psychiatrist, but the Commission has found no evidence that anyone at the Agency had knowledge of this plan.

On the evening of the next day, August 26, 1971, Hunt called the technician from Los Angeles and asked him to meet him at Dulles Airport at 6:00 a.m. the next morning (August 27). Having first cleared with his Acting Chief, the technician met Hunt and received the concealed camera and a cartridge of film to be developed. Hunt asked that the pictures be delivered to him as soon as possible. The technician took the film to the CIA laboratory and then returned to his office.

Meanwhile, TSD's Acting Chief became concerned over Hunt's failure to return the alias materials which had been issued with the understanding that they would be for a "one time operation", coupled with the introduction of an unknown person (Liddy) and his requests for a concealed camera and backstopped alias materials. He instructed the technician to tell Hunt that no additional support would be given without further authorization from the Director. He then called Cushman's executive assistant on August 26, 1971, to report and express his concern. The executive assistant instructed that no further assistance should be provided to Hunt and directed him to get the camera and additional disguises back as soon as possible. The executive assistant also wrote a memorandum to Cushman expressing his concern over the assistance being requested by Hunt and noting that "there was also the question of its use in domestic clandestine activity." He recommended that all further requests be cleared in advance with the Deputy Director's office and that assurance be obtained from Ehrlichman that "Hunt's latest caper is OK." On the morning of August 27, 1971, after receipt of this memorandum, Cushman telephoned Ehrlichman and advised him that the Agency could not properly meet Hunt's requests and Ehrlichman agreed that he "would call a halt to this." Cushman passed the memoranda reflecting these communications to Helms who saw them several days later and noted his approval of the cutoff of assistance to Hunt.

By this time, the films which Hunt had delivered to the technician early on August 27, 1971, had been developed and printed. The laboratory made no extra copies of the prints, apparently because the matter was regarded as sensitive. When they were finished, the technician, prior to delivering them to Hunt, showed them to the Acting Chief who directed that xerox copies be made and retained in a file. He and the technician reviewed them briefly; their testimony is that they could not identify the subject of the pictures but speculated that it might be a California medical building having some connection with a narcotics training exercise, Liddy having previously mentioned narcotics. Through an enlarger they could make out the names "Dr. Fielding" and "Dr. Rothenberg" on the side of the building and the technician wrote the names on the xerox copies. The Acting Chief placed the xerox copies, along with other notes and papers related to the dealings with Hunt, in a folder labeled "Mr. Edward" (Hunt's alias) and the pictures were delivered to Hunt by the technician who advised him of the cut off of assistance.

Later that day the executive assistant, with Cushman also on the phone, called the Acting Chief and confirmed that Hunt was to receive no more assistance. They spoke briefly about the pictures. The Acting Chief has testified that they speculated that the pictures showed a medical building in Southern California, possibly involved in a narcotics exercise, but made no attempt to ascertain what they showed. On August 31, 1971, Hunt called the technician once again to renew his request for a backstopped telephone number but was turned down.

The disguise materials were not returned to the Agency and were eventually found in the possession of some of the men arrested at the Watergate in June 1972. Copies of the pictures taken with the CIA camera were turned over by the Agency to the Justice Department during the Watergate investigation in January 1973.

Conclusions

The providing of assistance to Hunt and Liddy was not within the Agency's authorized foreign intelligence functions. The Commission has found no evidence, however, indicating that the Agency was aware that Hunt's request would involve it in unauthorized activities, at least until request was made for a concealed camera and backstopped telephone number at which time prompt action was taken to terminate further support.

Nor has the investigation disclosed facts indicating that the CIA knew or had reason to believe that the assistance it provided to Hunt and Liddy would be used in connection with the planning of an illegal

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entry. Indeed, as will be discussed below, when Hunt made his first request to Cushman, the plan for the Fielding break-in had not yet been formulated.

The responsibility for involvement of the Agency in providing support ultimately used for illegal activities must rest primarily on the White House staff. It is to some extent understandable that the Agency would want to accommodate high-level White House requests which on their face do not appear to be improper. Nevertheless, the Agency is subject to criticism for having used insufficient care in controlling the use of the materials it supplied. Inasmuch as the assistance provided in this case differed from the foreign intelligence services normally provided by the CIA to the White House, the responsible Agency officials would have been well advised to insist on compliance with the normal procedures for control of materials of this kind, notwithstanding (or perhaps particularly because of) the air of mystery that surrounded Hunt's request. Those procedures would at least have required disclosure of where and when the materials were to be used and might have served to deter the request. The Agency should also use particular care in accommodating requests by or on behalf of former employees or contractors.

C. The Ellsberg Psychological Profile

In July 1971, at the request of David R. Young of the White House staff, the CIA prepared a psychological profile of Daniel Ellsberg, then under indictment for theft of the Pentagon Papers. Various materials, including FBI reports, were provided for this purpose by the White House staff to the Agency's psychiatric staff. In November 1971, a second profile was prepared at the request of the White House on the basis of additional materials supplied by it to the Agency.

Daniel Ellsberg was a patient of Dr. Lewis Fielding, a Beverly Hills psychiatrist. In September 1971, Hunt and Liddy, after having received CIA support, engineered a break-in into his office in an attempt to obtain material on Ellsberg for use in the preparation of the second profile.

These circumstances have given rise to suspicions and allegations of Agency involvement in or prior knowledge of the Ellsberg break-in. In this section, we review the circumstances surrounding the preparation of the profile in the light of these allegations.

The publication of the Pentagon Papers, coming on top of a series of unauthorized disclosures of classified materials, caused consternation in the White House. It led to the creation in July 1971, at the

President's direction, of the Special Investigative Unit, headed by David Young and Egil Krogh. This group, which later became popularly known as the White House Plumbers, reported to Ehrlichman. Its principal purposes were to induce action by various Executive agencies to prevent unauthorized disclosures, to review classification and security practices and procedures, and to ensure thorough investigation of all aspects of the case against Daniel Ellsberg, who by then had been indicted.

On July 28, 1971, Hunt submitted a written proposal to Colson for a series of overt and covert operations to assemble a file on Daniel Ellsberg that would help "to destroy his public image and credibility." Among other things, he proposed that the CIA prepare a "covert psychological assessment-evaluation" and that Ellsberg's file be obtained from his psychiatrist.

Colson passed the proposal to Young and Krogh and, with Ehrlichman's approval, Young in July 1971 contacted the CIA's Director of Security with the request that such a profile be prepared. Young had previously been in contact with Helms in connection with White House projects to review classification and security procedures and Helms had authorized him to deal directly with the Director of Security.

Young told the Director of Security that the White House wanted a personality assessment on Ellsberg similar to others previously done by the Agency on foreign leaders to assist in determining the motivation for an implication of the theft of the papers, and that Ehrlichman had a personal interest in this project. The Security Director expressed his concern to Young and stated that he would have to take it up with the Director. A few days later, he discussed the request with Helms. The Director approved it, stating that he believed that since the request dealt with a major security leak, providing assistance would fall within his obligation to protect intelligence methods and sources. A CIA study had found that release of the Pentagon Papers disclosed the identity of certain CIA operations and connections. In addition, shortly before the decision was made, the Director had received a report that a full set of the Pentagon Papers had come into the possession of a major foreign embassy, and this report may have influenced his decision. Nevertheless, the approval had been given reluctantly. As Young later put it in a memorandum to Ehrlichman reporting on CIA's preparation of the profile:

> CIA has been understandably reluctant to involve itself in the domestic area, but, responsive to the President's wishes, has done so. (Memorandum of August 20, 1971, p. 7)

On July 29, 1971, the Director of Security directed the Agency's Chief of Medical Services to prepare the profile, and he in turn assigned the task to the Chief of the Psychiatric Staff, who had had prior

experience along these lines. The latter called in a staff psychiatrist to prepare a first draft. All three doctors had reservations about the project as being outside the Agency's charter since it involved an American citiezn. They were also disturbed that the order came from the Director of Security instead of their superior, the Deputy Director for Support. Nevertheless, when copies of FBI reports, newspaper and magazine clippings, and State Department security and evaluation reports arrived from the White House in a few days, a draft profile was prepared for the Director of Security, who sent it to Young on August 11, 1971.

Young, Hunt and Liddy reviewed the profile and considered it inadequate. On August 12, 1971, they met with the Chief of the Psychiatric Staff to discuss what could be done to improve it. He stated that the information given to him was insufficient. Liddy said that Ellsberg had been under the care of a psychiatrist named Dr. Fielding and that more information was available, but he did not specify what it was. Young and Liddy made the suggestion, rejected by the CIA psychiatrist, that the Agency could interview Ellsberg's former wife. Liddy and Hunt also stated that they wished to "try Dr. Ellsberg in public."

The Agency psychiatrist had known Hunt when he was with the Agency and had rendered services to his family. At the end of the meeting, Hunt took him aside and asked him not to tell anyone at the Agency of his presence. Later, the psychiatrist telephoned Hunt to say he could not conceal his presence, and he subsequently discussed it, as well as the substance of the meeting, with the other doctors involved.

It was after the meeting with the psychiatrist that Hunt, Liddy, Young and Krogh decided that an effort should be made to obtain Dr. Fielding's file on Ellsberg. This led to the Fielding break-in of September 3, 1971, discussed in the following section.

Meanwhile, also on August 12, 1971, Ehrlichman and Young met with Helms and the Director of Security apparently to impress on them the importance of the Pentagon Papers investigation and the problem of leaks, as well as the status of Young as Ehrlichman's representative.

The Agency shortly received additional materials of the same nature from Hunt; there is no evidence, however, that they included any psychiatric reports. On August 20, 1971, the doctors met with the Deputy Director of Support to discuss this project. They concluded that the new material did not assist in preparing a personality assessment, that Ellsberg's former wife should not be interviewed, that the prospective use of the study as well as Hunt's participation were matters of concern, and that these matters should be taken up with the Director of Central Intelligence. The doctors hoped, however, that

inasmuch as no significant new material had been received, the matter would simply come to an end at this point.

On August 23, 1971, the psychiatrist called Young to acknowledge receipt of the material. Young told him Hunt would contact him. No further work was done on the profile.

On September 30, 1971, however (some few weeks after the break-in at Dr. Fielding's office), Young called to reactivate the project and set up a meeting with the psychiatrist. On October 12, 1971, additional materials of the same kind as before were received from Hunt. They did not include, so far as could be ascertained, any psychiatric reports. On October 27, 1971, the psychiatrist met with Young, Liddy and Hunt and was asked to prepare a new profile incorporating the additional information supplied.

A second profile was then prepared. The doctors were still concerned that the Agency might be exceeding its charter but believed that the question had been considered and resolved by the Director. On November 8, 1971, the profile was sent to Helms who reviewed it. On November 9, 1971, Helms wrote to Young:

> I have seen the two papers which [the psychiatrist] prepared for you. We are, of course, glad to be of assistance. I do wish to underline the point that our involvement in this matter should not be revealed in any context, formal or informal. I am sure that you appreciate our concern.

The psychiatrist himself delivered the profile to Young's office on November 12, 1971. Young, Hunt and Liddy were all present to receive it and a brief discussion of its contents was held.

At this point, the CIA's activities in connection with the psychological profile appear to have ended. Only after the Fielding break-in was disclosed by testimony to the Watergate Grand Jury in April 1973 did these activities come to light.

Conclusions

The preparation of a psychological profile of an American citizen who is not involved in foreign intelligence activities is not within the Agency's statutory authority. Although Ellsberg, by leaking the Pentagon Papers, may have jeopardized sources and methods of intelligence for which the Director is responsible, no evidence appears to have been presented to the Agency that the profile was desired for the purpose of protecting intelligence sources and methods. Indeed, by the time the second profile was prepared, at least one of the CIA doctors had reason to believe it might be leaked to the public—a highly improper activity and one not connected with the CIA's proper area of responsibility.

The Agency was induced to accept this assignment by pressure from the White House in the name of the President and purported national security. This request came from Young, who had previously served as the National Security Council's liaison to the Agency, but all of the CIA officers involved knew that it was of doubtful propriety.

However, the investigation has disclosed no evidence indicating that the Agency had prior knowledge of the break-in into Dr. Fielding's office or generally of efforts to secure additional information on Ellsberg by unlawful means. As a result of the Agency's normal practice of compartmentation, *i.e.*, restricting knowledge of an activity to those participating in it—evidently followed with particular care in the case of the White House projects because they were regarded as sensitive—there apparently was no communication between the two Directorates with which Hunt was dealing during the period. While the Directorate of Support was preparing the profile, the Operations Directorate was giving Hunt assistance, and neither seems to have known what the other was doing.

Only Director Helms appears to have had some knowledge of both activities, but the evidence indicates that his information was general and fragmentary and that he knew neither of Hunt's involvement in the profile project nor of the photographs of Fielding's office produced as a result of the technical support given Hunt. Although it would seem inappropriate to place responsibility on the Director on the basis of hindsight for failing to connect two seemingly unrelated series of events, it is clear to the Commission that procedures should be established which would allow sufficient information about White House requests to be gathered together at one point so that, in the future, the propriety of Agency participation can be judged with the benefit of all of the relevant facts.

In any event, the Commission concludes that the Agency is subject to criticism for proceeding with the preparation of a project considered to be of doubtful authority without consultation with its own counsel and other responsible White House officials. Moreover, the Agency's medical officers, in spite of their repeatedly expressed reservations, were negligent in failing to insist that those reservations (and all underlying facts) be presented to the Director, particularly after learning of the purpose to use the profile to try Ellsberg in public.

The Commission realizes that requests such as that for the profile confront the Director with a dilemma between his obligation to serve the President and compliance with his understanding of the Agency's statutory limitations; at times, as hereafter discussed, a Director may well have to conclude that he has no alternative but to submit his resignation. They also confront Agency staff with a similar dilemma

between obeying orders and acting within what they understand to be the Agency's authority. At the very least, the staff must make certain that their superiors have all the facts and considerations before them before they make their final decision.

D. The Break-in of Dr. Fielding's Office

On September 3, 1971, three Cuban emigres, under the command of Hunt and Liddy, broke into the office of Dr. Fielding, Ellsberg's psychiatrist. One of the Cubans was at the time a paid informer of the CIA in Miami; another had served the CIA as a contract agent for several years until 1966. Hunt and Liddy had previously reconnoitered the Fielding office, using the CIA-supplied camera and disguises. Their objective was to obtain psychiatric information useful in the preparation of the profile which the CIA had been asked to prepare.

Suspicions have arisen from these circumstances and charges have been made that the CIA was involved in the Fielding break-in or at least acquired prior knowledge of it. The relevant facts are reviewed in this section.

Following receipt of the first Ellsberg profile, which they regarded as unsatisfactory, Young and Krogh, in a memorandum to Ehrlichman, proposed an operation to obtain Ellsberg's psychiatric file. Hunt and Liddy made the reconnaissance of Dr. Fielding's office on August 26, 1971, referred to above. After their return, a so-called "covert operation" to obtain the file was authorized by Ehrlichman. Hunt went to Miami and recruited Bernard Barker and he in turn recruited Rolando Martinez and Felipe de Diego for the operation.

Both Barker and Martinez had a long history of association with the Agency. Barker was an American citizen who had lived in Cuba. He had joined the Cuban police force in the 1950's as a result of which he lost his American citizenship. While in the Cuban police, he was recruited by the Agency which helped him escape to the United States in 1959. Barker worked for Hunt during the Bay of Pigs period helping to organize a Cuban government-in-exile. He continued to serve in various CIA operations relating to Cuba until 1966, when the Agency no longer needed him and terminated his contract. Barker had entered the real estate business in Miami but made it clear to the Agency that he would be willing at any time to return to its service. There is, however, no record of any contacts or connections between Barker and the Agency after 1966.

Martinez was recruited by the Agency in Miami in 1961. Until 1969, he participated in a large number of maritime operations relating to

Cuba and compiled what the CIA considered a distinguished record. When these operations ended, Martinez obtained a real estate license and went to work for Barker. The Agency, in recognition of his services, had continued his contract payments until early 1970. At that time, the Agency had planned to terminate him but agreed to pay him $100 per month for a year to help him make the transition to civilian life. In return he was required to report monthly to a CIA case officer in Miami on developments in the Cuban community. In July 1971 it was agreed that the retainer would be continued for one more year because of Martinez' ability to report illegal attempts by Cuban exiles to infiltrate Cuba, but it was intended that it should end in July 1972.

There is no record that Felipe de Diego, the third participant, ever had a CIA connection of any kind.

In April 1971, Hunt, on the occasion of a business trip to Miami, had renewed his acquaintance with Barker. Barker introduced Hunt to Martinez and de Diego and together they attended the tenth anniversary commemoration of the Bay of Pigs in Miami on April 17, 1971. In August 1971 Hunt contacted Barker and asked him to recruit a crew to undertake what he described as an important security operation.

On September 3, 1971, Barker, Martinez and de Diego broke into Dr. Fielding's office in Beverly Hills. Hunt and Liddy supervised the operation. The file cabinets in the office were pried open but, although the testimony has been conflicting, it appears that no files on Ellsberg were found. The office was left in a shambles to cover the group's tracks by making it appear that someone looking for drugs had broken in. That night the Cubans returned to Miami; Hunt and Liddy left Los Angeles the next morning.

Shortly after the break-in, the Los Angeles police picked up one Elmer Davis who was wanted on several charges. In return for the dismissal of other charges, he pleaded guilty to the Fielding burglary, although there is no evidence he had had any part in it, and the police file on it was thereafter closed. As a result, the burglary received no publicity, and it was not until John Dean and Hunt testified before the Watergate Grand Jury in April 1973 that the facts of this operation came to light.

The Agency, of course, had in its files xerox copies of the pictures taken by Hunt in August which showed Dr. Fielding's office building with his name on the wall above his parking space. Those copies had been placed in a folder in the safe of the Acting Chief of the Technical Services Division on August 27, 1971, and appear to have been examined only by him and his technician. The medical staff working on the Ellsberg profile evidently was not aware of them. The pictures were discovered after the Watergate break-in and turned over to the Department of Justice in January 1973. There is no evidence that anyone in the Agency was aware of their significance until the Fielding break-in was disclosed to the Watergate Grand Jury in April 1973.

In addition, personnel in the Agency had certain contacts, described below, with participants in the break-in after it took place, but there is no evidence that as a result the Agency received any information about it.

Hunt, of course, had contacts with the CIA psychiatrist in October and November in connection with the preparation of the final version of the profile (discussed above). Hunt also met the Deputy Director for Plans for lunch in October 1971 to ask him to continue the existing cover arrangement with Mullen Company in Europe. In preparation for the lunch, the Deputy Director for Plans was briefed on the technical support which had been given Hunt in July and August by the Technical Services Division and was briefly shown the xerox copies of the Hunt photographs in the files.

He and the Chief of TSD glanced at the pictures which, according to their testimony, meant nothing to them. At the lunch, the conversation was confined to the Mullen matter. Hunt did not talk about his other activities. Shortly thereafter, Hunt asked an officer in the European Division for some unclassified information concerning a French security leak in 1954, which was supplied. There is no evidence of further Agency contacts with Hunt during the period immediately following the break-in.

Martinez served as a paid informer of the Agency's Miami Station during the period both before and after the break-in. Although he saw his case officer about once a month, there is no evidence that he ever disclosed anything about his activities for Hunt. Martinez testified that late in 1971 he casually mentioned to his case officer that Hunt had been in Miami and was working for the White House. The case officer later told him that he had run a name check on Hunt at the Station (as indeed he had) and that there was no information respecting Hunt's being employed by the White House. Martinez took that response to mean that Hunt was on a secret CIA mission of which the Miami Station was not to know. On the strength of his past experience with maintaining the secrecy of CIA operations, he therefore disclosed none of the Hunt-related activities to his case officer.

Conclusions

The investigation has disclosed no evidence to suggest that the Agency knew or suspected that Hunt had participated in a burglary or other illegal operations in the period in which the Fielding break-in occurred.

As discussed above, only Director Helms knew that the Agency was preparing the Ellsberg profile at the time when it was also providing certain technical support to Hunt. The Commission has found no evidence, however, that either the Director or any other Agency employee had knowledge of facts sufficient to disclose the plans for or the carrying out of the Fielding break-in.

E. White House Efforts to Declassify CIA Files

During 1971, a major effort was undertaken by the White House staff on instructions from the President to declassify documents and files of historical interest. Within the White House, the declassification campaign, although inherently legitimate, was also sought to be used for political purposes by providing materials embarrassing to critics of the administration. The White House staff at first, and finally President Nixon, brought pressure to bear on the CIA to turn over to the President highly sensitive materials ostensibly for legitimate government purposes, but in fact for the President's personal political ends. These events, which took place during the same time period in which CIA support for Hunt was sought and the Ellsberg profile was ordered, and which involved the same group of White House aides, are reviewed in this section.

During 1971, the White House staff, largely through David Young, conducted a major campaign to bring about the declassification of the many files and documents of historical interest which no longer required classification. A parallel effort was made to improve the security of those government papers requiring continued classification.

With the publication of the Pentagon Papers in June 1971, these activities gained added significance and urgency. While the Administration was concerned over the breach of security caused by the leak of the Pentagon Papers, it was also concerned over what it considered to be an unfairly selective disclosure of embarrassing historical data. By declassifying additional sensitive files relating to prior events—mainly the Bay of Pigs, the Cuban missile crisis, and the fall of the Diem Government in South Vietnam—it sought to obtain material helpful in neutralizing critics of the Administration's policies and particularly Senator Edward Kennedy, who in 1971 was regarded as Nixon's principal challenger. Beginning in June 1971, Colson and Young urged on Haldeman and Ehrlichman a campaign in which disclosures embarrassing to past administrations would be used for the political advantage of the Nixon Administration. That program involved the use of the Pentagon Papers as well as the declassification of other files.

Colson set Hunt to work examining the Pentagon Papers and other "overtly printed documentation . . . [to determine] the most useful in demonstrating the collective bad judgment of the Kennedy Administration and/or a number of its high-level appointees." The State Department was directed to turn over various files and cables, including those dealing with the fall of the Diem Government. Hunt and Colson interviewed Lucien Conein, a retired CIA employee formerly stationed in Vietnam, whom the Pentagon Papers identified as active in dealings with Vietnamese officials at the time of the overthrow and death of President Diem.

On September 20, 1971, Ehrlichman, Young, and Krogh met to review the program of obtaining previously classified CIA materials on the fall of the Diem Government, the Bay of Pigs, and the Cuban Missile Crisis. The agenda for that meeting describes the materials and the "exposure" to be given them through "briefing of selected newsmen," "Senate Foreign Relations Committee inquiry" and "other Congressional investigations." It states, opposite various listed items under each of the three subject heads, that Ehrlichman was to see Helms to obtain materials not previously turned over by CIA. A handwritten notation states that Young was to see Helms to "set up appointment for tomorrow."

On September 22, 1971, Ehrlichman met with Helms, advised him that the President wanted to declassify the documents relating to Vietnam, the Bay of Pigs, the Cuban missile crisis and the Lebanon landings, and asked to have the CIA's files on these matters turned over to him. Helms directed an internal review of these papers to make an assessment of the impact of their possible declassification.

Meanwhile on September 24, 1971, Colson sent a memorandum to Ehrlichman entitled, "Rekindling the Pentagon Papers Issue". Colson suggested various strategies in Congress to keep the Pentagon Papers issue alive and "each day hopefully creating some minor embarrassment for the Democrats." He also recommended other steps including "program[ming] Lucien Conein to write a letter to Senator Mathias complaining that he has been muzzled by the CIA, was paid money to get out of town and instructed to talk to no one." He concludes by urging that "we should very soon release declassified documents relating to the Lebanon crisis, the Cuban missile crisis and perhaps one or two others. Releasing of declassified documents will keep press interest alive in the whole issue. We should start doing it soon to avoid the charge of election year politicking."

On October 1, 1971, Ehrlichman again met with Helms at the Agency. Helms showed Ehrlichman the files which he proposed to turn over in response to the earlier requests and asked that they be returned as soon as possible. He declined, however, to release the files

relating to Vietnam. The other files were delivered to Ehrlichman that day.

On October 8, 1971, Helms was called to a meeting at the White House with the President and Ehrlichman, apparently because he had declined to release the Vietnam file. A contemporaneous CIA memorandum states that Nixon and Ehrlichman assured Helms that the President was interested in helping the CIA and had no intention of releasing CIA papers, but needed to know the specific background of these matters to meet possible press questions and to handle further Soviet negotiations that might touch on agreements reached during the Cuban Missile Crisis. Both Ehrlichman and Helms have testified that Helms was not told of the President's intention to use the information in these files for political purposes. The memorandum states that Helms replied that he worked for only one President at a time and that any papers in this possession were at the President's disposal. He then handed the requested Vietnam file to Nixon who slipped it into his desk drawer.

On November 16, 1971, Ehrlichman lunched with William Colby, who had become the CIA's Executive Director-Comptroller, and reaffirmed the President's desire to declassify documents on these subjects. Nothing more came of the program, however, and no action was taken on declassification of these files. So far as is known, none of the information in the documents was disclosed by the White House.

Conclusions

The White House demand for sensitive CIA files—cloaked in what appear to be at least in part false representations that they were needed for valid government purposes when, in fact, they were wanted to discredit critics of the administration—as thoroughly reprehensible. It represents another serious instance of misuse of the Agency by the White House.

So far as the Agency knew, the demand was for a proper purpose—there is no evidence that it had notice of the intentions revealed in later-discovered White House documents. Senior officials of the Agency did, however, consider the surrender of these files to be a highly sensitive matter, giving it great concern. The most sensitive of these files was turned over by the Director only upon direct request from the President.

The Commission recognizes that the Director cannot be expected to disobey a direct request or order from the President without being prepared to resign. The instances in which resignation may be called for cannot be specified in advance and must be left to the Director's judgment.

The Commission believes that in the final analysis the proper functioning of the Agency must depend in large part on the judgment, ability and integrity of its Director. The best assurance against misuse of the Agency lies in the appointment to that position of persons of such stature, maturity and integrity that they will be able to resist outside pressure and importuning. The Director should be able not only to manage the Agency, but also to reassure the public that he will do so properly.

F. CIA's Relation to Events Preceding the Watergate Break-in

The origins of Watergate go back to a program for political espionage in connection with the 1972 Presidential campaign on which Hunt and Liddy began to work early that year. That program had various facets of which espionage directed against the headquarters of the Democratic National Committee was one.

This investigation has disclosed no evidence that the Agency provided support for the espionage program which culminated in the Watergate break-in.

As has been discussed, however, four of the participants in the break-in—Hunt, Martinez, Barker and McCord—had ties to the Agency. Martinez continued on the CIA payroll as an informer until after his arrest. Hunt had dealings with the Agency in the summer and fall of 1971 in connection with the White House projects previously discussed. And he continued to be employed by Mullen, which had a CIA relationship, and to be associated with Bennett in several projects with political or espionage overtones.

These and connected circumstances have led to suspicions and allegations of CIA involvement in or prior knowledge of the Watergate break-in. In this section we review the relevant facts in the light of these charges.

1. Hunt's Contacts with the CIA

Hunt's contacts with the Agency in connection with his request for a disguise and related support and with the Ellsberg profile have been discussed above. The Commission has found no evidence to indicate that the Agency acquired notice in the course of these contacts that Hunt was engaged in or planning illegal activities.

These contacts ended in November 1971, and thereafter Hunt had what appear to have been only a few sporadic and insignificant contacts with Agency personnel.

Hunt called the Agency's External Employment Affairs Branch

on a few occasions to ask them to refer him to persons having certain qualifications needed for his projects. At one time Hunt asked to be referred to a firm qualified to locate possible hostile electronic listening devices. On another occasion he asked to be referred to an electronics expert. The Agency referred a man named Thomas Amato, experienced both in electronics and picking locks—the record is not clear whether Hunt had requested the latter capability. In any event, the Agency employee who routinely made the referral was not told by Hunt of his purpose, and he has stated that he did not consider that any illegal activity was contemplated.

Hunt, at the suggestion of Barker and Martinez, interviewed a Cuban refugee who had been close to Castro, using Martinez' tape recorder. He believes that he may have sent a transcript gratuitously to the Agency, but it has no record of it.

Hunt frequently played tennis with a long-time friend who was a CIA officer and may have had other occasional social contacts with CIA employees. There is no record, however, of any communications between him and the Agency disclosing facts which might have indicated that he was planning or pursuing illegal activities.

Hunt, of course, had been in contact with Martinez in connection with the Fielding break-in and, later, the two Watergate break-ins. As previously discussed, Martinez reported to his case officer in Miami on an average of once a month. Although he had mentioned Hunt in passing on two occasions in 1971, for reasons discussed, Martinez chose not to disclose Hunt's activities.

Nonetheless, the case officer's superior, the Miami Chief of Station, had been disturbed when he later learned that the case officer had not promptly reported the reference to Hunt's name, a name that meant nothing to the case officer. The Chief felt that he should be advised of the presence of any former CIA officers in his territory. His lingering and undefined concern over Hunt was evidently in his mind in March 1972, when he met Martinez in connection with another intelligence requirement. In the course of that conversation, Martinez again mentioned that Hunt had been in and out of Miami on a foreign business deal. Separately, he asked the Chief of Station whether he was certain that he was aware of all CIA activity in the Miami area.

These repeated references to Hunt, in whom the station chief from past experience had limited confidence, and Martinez' unusual question led the station chief to contact his superior at CIA Headquarters. He cabled that Martinez had reported that Hunt had been in the Miami area twice recently contacting old friends and although "on the surface Hunt seems to be trying to promote business deals of one sort or another," he had indicated that he was a White House counsellor "trying to create the impression that this could be of importance to his

Cuban friends." The cable asked that Hunt's White House employment be checked out.

On receipt of this cable it was discussed with the Associate Deputy Director for Plans who stated that he had previously learned from the Deputy Director for Plans that Hunt was a White House consultant supposedly engaged in domestic activities having nothing to do with foreign intelligence and that it was neither necessary nor proper for CIA to check into Hunt's activities since domestic activities were involved.

As a result of this advice from the Associate Deputy Director, premised not only on concern that the Agency should not become involved in domestic political activity but also on his estimate of Hunt's erratic judgment, a strongly worded letter was sent to the Miami Chief of Station advising that Hunt "undoubtedly is on domestic White House business, no interest to us, in essence, cool it." Neither the Associate Director nor the parties to these communications apparently knew of the prior support to Hunt or of the Ellsberg profile.

After receipt of this letter, the station chief, through the case officer, asked Martinez to write up for him in Spanish a summary of his contacts with Hunt. Martinez was disturbed but complied when the case officer told him to write something that he would not be afraid to have shown to him later. The station chief placed it in the file. The summary failed to disclose anything beyond what Martinez had previously reported and gave no hint of any questionable activities. Martinez met his case officer again in May and on June 6, but said nothing further relating to Hunt's activities.

The station chief testified that while he had been distressed over the blunt response from Headquarters, and uneasy over Martinez' question respecting his knowledge of CIA activities, he had no reason to suspect Hunt of unlawful activities. His basic concern was that he should know what a former Agency employee was doing in his territory. He did not suspect that Martinez, of whom he thought as a boat captain, was engaged in domestic espionage activities. As for the officers in Headquarters, their overriding concern appeared to have been not to become involved in a domestic investigation and, in particular, not to cross paths with the White House.

Although Martinez was the one person in regular contact with the CIA who had knowledge of Hunt's improper activities, the Commission has found no evidence to indicate that he provided the Agency with information about those activities.

2. Bennett's Contacts with Hunt and the CIA

During the period preceding Watergate, Hunt continued to be employed by Mullen Co. and was in regular contact with Robert Bennett,

its president. Mullen continued to provide cover for CIA officers abroad and Bennett and Hunt had a few meetings with the case officer respecting these arrangements.

Bennett learned of several of Hunt's planned or executed political activities in this period, not including, however, the Fielding or Watergate operations. By June 1972, Bennett had come to doubt Hunt's reliability and judgment and had determined that Hunt should eventually leave Mullen, but he decided to take no action until after the election. According to Bennett, nothing had come to his attention that he considered sufficiently serious to jusify the risk of White House displeasure should he discharge Hunt. There is no evidence that he learned anything that gave him notice of Hunt's illegal activities until they became public knowledge.

The following paragraphs summarize Bennett's relevant contacts with Hunt during this period.

At Colson's request, Hunt interviewed Dita Beard, public relations representative of ITT Corp., in her Denver hospital room in March 1972. A memorandum attributed to Beard had been published indicating that ITT had offered a large contribution to the Republican Party if the 1972 convention were to utilize the Sheraton Hotel facilities in San Diego. Bennett had received a tip from the Hughes organization that the memorandum might be a forgery and passed it to Hunt or Colson. Hunt, using the wig furnished by the CIA in August, interrogated Beard, attempting to establish that the memorandum was a forgery. On his return he gave a statement to Colson. Arrangements were made in the Senate for the release of a statement in a form useful to the media. Beard's lawyer called on Bennett, who himself had had no prior participation in this matter, to assist in its preparation. There is no evidence of any CIA knowledge of or involvement in these events.

At one time Hunt approached Bennett with a proposal to obtain the assistance of the Hughes organization for a burglary in Las Vegas to secure purported information about Senator Muskie. Bennett, at Hunt's request, introduced Hunt to a Hughes organization employee, but later learned that Hunt's proposal had been rejected. It was apparently in this connection that Hunt had called the Agency's External Employment Affairs Branch for referral of a technician. It was also this proposal which first gave Bennett concern with respect to Hunt's judgment; he assumed, however, that Hunt, being attached to the White House staff, would be adequately supervised and controlled. There is no evidence that CIA had knowledge of or any part in this plan.

During this period Bennett was asked by Hughes' attorneys to get a bid for surveillance of Clifford Irving, who was then writing a book

describing his earlier preparation of the fraudulent Hughes biography. Hunt got an estimate from James McCord and gave it to Bennett who passed it to the attorneys. They rejected it as too high. There is no evidence that the CIA had knowledge or was involved.

Bennett, active in Republican politics, participated in the reelection campaign and assisted in the formation of a number of committees to receive contributions. Neither Hunt nor Liddy evidently had any part in this effort; Bennett merely delivered Hughes' campaign contribution to Liddy. There is no evidence that the CIA had knowledge of or was involved in this activity.

Bennett's nephew, Fletcher, wanted a summer job and he referred him to Hunt. Hunt sought to recruit him to serve as a spy at Muskie Headquarters. Fletcher turned him down but referred Hunt to a friend, Tom Gregory, who took the job. Gregory was not related to Bennett but did visit Bennett and Fletcher occasionally and told them generally of his activities. According to Bennett, however, he was not told of any illegal activity until June 14, two days before Watergate, when Gregory told Bennett that Hunt had asked him to bug the office of Frank Mankiewicz in McGovern Headquarters. Gregory declined and went home. This plan evidently was not carried out. There is no evidence that Bennett (or the CIA) learned of the first Watergate break-in which had taken place in May 1972 or of the plans for the second Watergate operation until it became public knowledge.

Bennett's contacts with the CIA during the pre-Watergate period apparently were confined to the Mullen Company cover arrangements. There is no evidence that Bennett personally performed services for the CIA or had other operational contacts with the Agency. His communications with the case officer prior to Watergate evidently were limited to matters relating to the cover arrangements. There is no evidence that Bennett discussed Hunt with the case officer prior to the Watergate break-in.

In the days immediately following Watergate, a number of communications passed among Hunt, Liddy, and Bennett. Among other things, Hunt asked Bennett for help in finding him a lawyer. Liddy called Bennett to locate Hunt and pass messages to him. Nothing has been found in these communications suggesting Bennett's involvement in the Watergate operation.

Shortly after Watergate, the office of the United States Attorney questioned Bennett, and the evidence indicates that he responded truthfully to the questions, including disclosing the firm's relationship to the CIA. When he later appeared before the grand jury, he was asked few questions by the prosecutor. Having previously disclosed the facts concerning the CIA relationship, he did not volunteer them either to the grand jury or to the FBI when he was later

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interviewed by it. These events, which occurred within the three weeks following Watergate, along with other comments and observations by Bennett, were reported by the CIA case officer to his superiors after he met with Bennett on July 10, 1972. A copy of the handwritten report was sent to the Director. At this time, the CIA was gravely concerned over the impact of the Watergate investigation on the security of the Mullen cover and the information received from Bennett was considered important for that reason. The case officer's report reflects that at the time the Agency was also concerned over the disclosures being made by an ex-employee named Philip Agee which threatened the Mullen cover, among other things. This development was treated as highly classified by the Agency and had not been disclosed to Bennett. It was referred to as the "WH flap" for the reason that Agee's disclosures dealt mostly with the Agency's Western Hemisphere operations. All of these matters were then being reviewed within the Agency in connection with the question whether the cover arrangements with Mullen should be terminated as no longer secure.

This investigation has disclosed no evidence indicating that the Agency, through Bennett, was implicated in the Watergate break-in.

3. Miscellaneous Contacts and Relations

Various miscellaneous contacts and relationships have been mentioned as giving rise to suspicion of CIA involvement or advance notice of the Watergate break-in.

One of these is the fact that James McCord, another retired CIA employee, participated in the break-in. McCord had retired in January 1970 to form his own security firm and had become Director of Security of the Committee to Reelect the President early in 1972. He also had been in contact with the External Employment Affairs Branch for referrals to qualified ex-employees. In April 1972, he began to work with Hunt on plans for the break-in. There is no evidence that the Agency participated in or gained advance knowledge of the Watergate break-in through McCord.

Another concerns alleged telephone calls to and from the Agency immediately after the arrests of the burglars. The Watergate burglars were arrested at 2:30 A.M. on June 17, 1972. The first contact with the Agency, according to its records, occurred at 5 P.M. that day when an inquiry about the arrested men was received from a *Washington Post* reporter. That call was followed by calls from the Secret Service for a check on the aliases and from the FBI advising of the identification of McCord and Hunt, two ex-employees. This news was relayed to the Acting Director of Security who promptly called the Director of Security at 8:45 P.M. The Director returned to the Agency and then

called Helms at 10 P.M. to report that former Agency employees (McCord and Hunt) were involved in the burglary.

There is no evidence in the communications by Agency personnel immediately following the break-in to suggest that any Agency employee had advance knowledge of the break-in.

Conclusions

The Commission concludes, on the basis of this investigation, that there is no evidence either that the CIA was a participant in the planning or execution of the Watergate break-in or that it had advance knowledge of it.

G. The Agency's Response to the Post-Watergate Investigations

Within hours of the arrest of the Watergate burglars on June 17, 1972, it became known that McCord, Martinez and Barker had connections with the Agency. Hunt's connection was disclosed not long afterward. Inasmuch as the burglary had occurred within the District of Columbia, it fell within the jurisdiction of the FBI, and the FBI's attention soon focused on the CIA and its possible involvement in the Watergate operation. The Agency also became an object of White House efforts to inhibit the FBI investigation and to keep the arrested burglars silent. And eventually, the CIA came under the scrutiny of the Senate Select Committee on Presidential Campaign Activities (under Senator Ervin).

The manner in which the Agency responded to these investigations, its failure to make timely disclosure of information in its possession, and its destruction of certain tapes, has led to suspicions and allegations concerning its involvement in the Watergate operation or the subsequent cover-up. In this section, we examine the relevant events in the light of these charges.

1. CIA Attempts to Limit the Scope of the FBI Investigation

From the outset of the post-Watergate investigation, the Director took the position that insmuch as the CIA had not been involved in Watergate, it should not become involved in the investigation. He has testified that he was particularly concerned over disclosing information to FBI field offices because leaks had occurred there immediately after Watergate, and he was concerned over the failure of the FBI to disclose the purposes for which it sought information from CIA.

Within the first ten days after the break-in, the Agency nevertheless responded to certain requests from the FBI field office in Alexandria, Virginia. Helms, however, attempted to handle such requests directly with Acting FBI Director, L. Patrick Gray, and confine them as much as possible. In a memorandum dated June 28, 1972, he reported having urged Gray that this should be done because the CIA was not involved in Watergate and requested that the FBI "confine themselves to the personalities already arrested or directly under suspicion and that they desist from expanding this investigation into other areas which may well, eventually, run afoul of our operations."

There is no clear explanation why Helms wrote this memorandum. There is no evidence that he in fact made that request to Gray. According to Gray and Helms, Gray had called Helms on June 22, 1972, to inquire about possible CIA involvement in the Watergate operation. Helms simply told him that although the CIA knew the people who had been arrested, it was not involved in the operation.

On June 23, 1972, Helms and Lt. General Vernon A. Walters, the Agency's Deputy Director, were called to the White House to meet with Ehrlichman and H. R. Haldeman, the President's Chief of Staff. At this meeting, Haldeman suggested that the CIA ask the FBI to limit its investigation on the grounds that it might jeopardize the security of CIA operations. Helms, however, stated that he knew of no CIA operations that might be affected, and that he had so informed Gray on the preceding day. Haldeman, nevertheless, directed Walters to call on Gray with the suggestion that further investigation of activities in Mexico involving moneys found on the Watergate burglars would endanger CIA operations. Walters then saw Gray and, after referring to Helms' call to him of the preceding day, passed on that suggestion. Walters has testified that he considered this to have been a reasonable request, assuming, in the light of his own past experience, that it must have been intended to protect highly sensitive operations presumably known only to the White House. Walters was not asked at the meeting to have the FBI restrict its investigation in other ways.

During the following days, Walters had several meetings with John Dean, Counsel to the President, who, at the direction of Ehrlichman and Haldeman, suggested the possibility that the FBI investigation might expose CIA operations and asked what could be done about it. He also asked whether the CIA could pay the salaries and bail of the jailed burglars. Walters firmly rebuffed the suggestions implied in the questions. Helms had a further telephone conversation with Gray in which he advised him that the CIA had no interest in the Mexicans the FBI was then investigating.

On June 28 Helms left on a three week trip out of the country,

leaving the memorandum previously quoted. During his absence, information continued to be transmitted to the FBI through Walters. William E. Colby, then the Executive Director, handled the in-house coordination of the responses to the investigation.

During October and November 1972, the United States Attorney requested information concerning the CIA's connection with various activities of the Watergate defendants in order to prepare for the coming trial. Inquiries on this subject had earlier been made by the FBI. The United States Attorney was particularly concerned that the defendants might claim that they were acting on orders of the CIA. The Agency provided information in response to specific inquiries but sought to restrict it to the Attorney General and the Assistant Attorney General. Eventually, information respecting Hunt's request for support in July and August 1971 and the Agency's response was supplied to the United States Attorney.

The Agency, however, volunteered no information and withheld some appearing to have a bearing on these matters. For example, in July 1972 and again in December 1972 and January 1973, the Agency received letters from McCord relating to the attempts to involve the CIA in the defense of the Watergate burglars at their forthcoming trial. The letters reflected McCord's efforts to resist proposals that the Watergate burglars should implicate the CIA in order to bolster their defense. Helms obtained advice from the CIA's General Counsel that he was under no obligation voluntarily to turn the letters over to the FBI (which did not know of them) and on the strength of that advice, retained them in the Agency's files.

In July 1972, xerox copies of Hunt's pictures of Fielding's office, as well as of the alias identification given Hunt (contained in TSD's "Mr. Edward" file) were turned over to Helms and Colby. In spite of the well publicized fact that the originals of some of these alias materials had been found on the arrested Watergate burglars, and in spite of requests from the Assistant Attorney General for information about Agency support to Hunt, the Agency apparently did not deliver these materials to the Department of Justice until January 1973. Other material held by the Agency's management and not disclosed or delivered until 1973 included the tape of the Cushman-Hunt conversation of July 22, 1971.

Not only did the Agency continue to hold material relevant to the investigation, but it undertook no comprehensive in-house investigation of its own into its connections with the activities of the men who were coming to trial. No general effort was made until May, 1973, to collect all relevant information and documents from Agency employees.

On December 15, 1972, Helms and Colby went to the White House to

report to Ehrlichman and Dean on the status of the FBI and Department of Justice investigations. Colby's memorandum of the meeting records the CIA's efforts "to respond [to inquiries] at the highest level only". It also reports on the United States Attorney's efforts to learn the name of the person who authorized Hunt's request for support in July 1971, and states that Colby sought to avoid answering these questions but was eventually compelled to disclose Ehrlichman's name. Colby and Helms also showed Dean the package of information (possibly containing the xerox copies of the Hunt photos and alias materials) which had been prepared for delivery to the Assistant Attorney General. The memorandum states: "It was agreed that these would be held up." It was also agreed that Cushman would be asked to call Ehrlichman to discuss his recollection of who had made the July 1971 phone call to him.

In January 1973, this package of information was finally turned over to the Department of Justice.

Conclusions

While the Agency has a legitimate concern to protect sensitive information against disclosure, its response to the investigation of the Watergate burglary cannot be justified by any requirements for secrecy. The Agency failed to turn over to the Department of Justice information in its possession which it should have known could be relevant to the ongoing investigation and preparation for the first Watergate trial in January 1973. Much of the information requested could have been provided with little, if any, risk to the security of Agency activities. Some of it was eventually provided, but only after some delay. The Agency is subject to serious criticism for this conduct.

The basis for the Agency's action appears to have been the Director's opinion that since the Agency was not involved in Watergate, it should not become involved in the Watergate investigation. The Commission considers this to be no justification for the Agency's failure to aid an investigation of possible violations of law by employees or ex-employees with whom it had had recent contacts. The provision of the Agency's charter barring it from exercising "police, subpoena [and] law enforcement powers" does not excuse that failure.

The Commission has found no evidence, however, that leads it to believe that officers of the Agency actively joined in the cover-up conspiracy formed by the White House staff in June 1972. There is no evidence that the Agency sought to block the FBI investigation. General Walters' statement to Gray concerned only the investigation in Mexico, and he has stated that it was based on his belief, supported

by prior experience, that the White House had knowledge of some highly classified activity in Mexico not known to others. Subsequent cover-up overtures by the White House were firmly rejected by him. Later reluctance of Agency management to disclose the identity of White House personnel and provide materials to the Department of Justice are subject to the criticism previously made. The evidence does not indicate, however, that Agency personnel ever knew of or participated in a plan of the White House staff to abort or impede investigation into possible violations of law by members of that staff.

2. Destruction of Helms' Tapes and Transcripts

About January 17, 1973, seven months after the Watergate break-in Director Helms received a letter from Senator Mansfield, dated January 16, 1973, requesting that the Agency retain "any records or documents which have a bearing on the Senate's forthcoming investigation into the Watergate break-in, political sabotage and espionage, and practices of agencies in investigating such activities." At the time the letter arrived, Helms and his secretary were in the process of cleaning out his files preparatory to his departure from the Agency.

Approximately a week after receipt of this letter, Helms' secretary asked him what should be done about the voluminous tapes and transcripts which were then in storage. The tapes were produced by a recording system installed in the offices of the Director, the Deputy Director and what was then an adjoining conference room (the French Room). This system had been installed some ten years earlier. It was removed from the Deputy Director's office in February 1972 and from the office of the Director in January and February 1973.

The taping system permitted the recording of telephone calls and of room conversations on activation by the occupant of the office. Helms used it occasionally, apparently considering it as an efficient way to prepare a memorandum to assist his recollection. Cushman used it only rarely and Walters, who followed him, not at all.

The tapes were transcribed routinely and the transcripts were retained by the respective secretary. Prior to January 1973, tapes were from time to time erased or, if worn out, destroyed.

About January 24, 1973, Helms, in response to his secretary's question, told her to destroy his remaining tapes and transcripts and she so instructed the technicians in charge of the system. At that time there were approximately three file drawers of transcripts covering his years as Director. Both Helms and his secretary made a cursory review of them and recalled none to have related to Watergate. They were then destroyed. Along with the tapes and transcripts the logs identifying them were also destroyed. No tapes were erased.

Director Helms has testified that he considered this destruction of what he regarded as his personal notes to be a routine part of vacating his office. He said that he felt that the Agency had produced whatever Watergate-related materials it had and that these tapes and transcripts had nothing to do with anything he considered relevant to Watergate. He also stated that he assumed that anything of permanent value had been transferred from the tapes to the Agency's records, and he felt obligated that records of confidential conversations between him and others should not become part of Agency files.

Conclusions

It must be recalled that in January 1973 the Watergate affair had not yet assumed the dimensions which subsequent revelations gave it. Neither the activities of the Plumbers nor the extent of the White House involvement in the cover-up had come to light. Accordingly, destruction of Helms' personal office records cannot be judged with the benefit of hindsight, derived from subsequent revelations.

For the same reasons, however, Helms stated interpretation of what was Watergate-related presumably was narrower than it would have been after all the facts disclosed to the Watergate Grand Jury in April, 1973, and other information had come to light. Hence, no comfort can be derived from Helms' assurances that no Watergate-related material was destroyed, since what was destroyed had not been reviewed for relevance in light of the later disclosures.

The destruction of the tapes and transcripts, coming immediately after Senator Mansfield's request not to destroy materials bearing on the Watergate investigation, reflected poor judgment. It cannot be justified on the ground that the Agency produced its Watergate-related papers from other files; there is no way in which it can ever be established whether relevant evidence has been destroyed. When taken together with the Agency's general non-responsiveness to the ongoing investigation, it reflects a serious lack of comprehension of the obligation of any citizen to produce for investigating authorities evidence in his possession of possible relevance to criminal conduct.

3. Miscellaneous Matters Concerning the Investigation

a. Pennington

In the foregoing sections we have discussed the response to the Watergate investigation at the level of the Director's office. A separate failure to respond properly occurred within the Office of Security.

In August 1972, the FBI's Alexandria field office, in the course of its Watergate investigation, asked for information about one Pennington, said to have been an employee who may have been McCord's supervisor a number of years ago. The inquiry was received by an officer of the Office of Security who customarily dealt with the FBI. The officer had personnel files checked and furnished the FBI with information concerning one Cecil B. Pennington, a retired employee of the Office of Security who had had no connection with McCord. The FBI shortly thereafter advised that this was not the person in whom it had an interest.

Meanwhile, officers in the Office of Security knew that one Lee Pennington was a long-time friend of the McCords who, shortly after the Watergate arrests, had helped Mrs. McCord burn some of McCord's papers and effects at his house, probably including McCord's retirement records which showed his past Agency employment.

In addition, some members of the Security Research Staff within the Office of Security also knew that Lee Pennington had for years been a secret informer of that staff who was paid $250 per month to supply clippings, legislative developments and other miscellaneous information. Whether this fact was then known to the Director of Security or his Deputy is disputed.

The undisputed fact, however, is that information in the Office of Security on Lee Pennington was treated as "sensitive" and was deliberately withheld from the FBI when the inquiry about Pennington was received. That information did not come to light until January, 1974, when a proposed response to a Senate inquiry was passed through the Office of Security. That response stated that all information concerning Watergate had been disclosed. Officers who had handled the prior Watergate investigation advised the Inspector General's office of the Pennington file and the facts were then disclosed to the Senate Select Committee.

Investigation has not disclosed any link between Pennington's burning of McCord's papers and the Agency. So far as can be determined, no one at the Agency either directed this action or knew of it in advance. Pennington was not acting for the Agency or with its knowledge or consent but rather seems to have acted simply to help Mrs. McCord dispose of papers which McCord said he considered to be both personal and a fire hazard. McCord had received several bomb threats and was also concerned about his papers and effects falling into the hands of newspapers. The Commission has found no evidence to justify inferring from these events that the CIA was involved in the destruction of files of McCord having possible relevance to Watergate.

b. Payment of Bennett's Attorney's Fees

About June 1973, Robert Bennett, President of the Mullen Company, was again called before the grand jury in connection with questions raised by the recent revelations. Bennett felt that the security problems raised by the Mullen-CIA cover relationship made it necessary for him to obtain the assistance of counsel. When he received a bill for some $800, he asked the Agency to pay half of it, and it agreed.

The investigation has disclosed no evidence of any motive or purpose by the Agency in this connection to withhold information from the grand jury. Nor does the evidence of this transaction indicate any involvement of the CIA or Bennett in Watergate.

Conclusions

The failure to provide information about Pennington to the FBI was in this case the responsibility of officers at the operational level, apparently acting without direction from above. For the reasons discussed in connection with the preceding sections, their conduct was unjustified and subject to criticism.

At the same time, however, there is no evidence that this decision was intended to cover-up any possible connection between the CIA and Watergate—no evidence of such connection has been found.

The Commission concludes that there is no evidence indicating that the CIA either had advance knowledge of or participated in the break-ins into Dr. Fielding's office or the Democratic National Committee at the Watergate.

The Commission also concludes that in providing the disguise and alias materials, tape recorder, and camera to Hunt, as well as in providing the Ellsberg profile, the Agency acted in excess of its authorized foreign intelligence functions and failed to comply with its own internal control procedures.

The Agency provided these materials in response to demands from highly-placed members of the White House staff and, except in the case of the Ellsberg profile, without knowledge that they were intended for improper purposes. Those demands reflect a pattern of actual and attempted misuse to which the CIA was subjected by the Nixon administration.

Finally, the Commission concludes that the Agency was delinquent when it failed, after public disclosure of the improper White House activities, to undertake a thorough investigation of its own and to

respond promptly and fully to the investigations conducted by other departments of the government.

Recommendation (26)

a. A single and exclusive high-level channel should be established for transmission of all White House staff requests to the CIA. This channel should run between an officer of the National Security Council staff designated by the President and the office of the Director or his Deputy.

b. All Agency officers and employees should be instructed that any direction or request reaching them directly and outside of regularly established channels should be immediately reported to the Director of Central Intelligence.

Chapter 15

Domestic Activities of the Directorate of Operations

The Directorate of Operations is the CIA component with primary responsibility for the collection of foreign intelligence overseas and for the conduct of other covert operations outside of the United States.

In support of these missions, the Directorate engages in a variety of activities within the United States. The major domestic activities of the Directorate, including those which raise questions of compliance with the Agency's legislative authority, are discussed in the following sections.

This chapter does not describe all of the Directorate's domestic activities which the Commission has investigated. The national interest in the continued effectiveness of the CIA in the foreign intelligence field requires that a number of those activities be protected from disclosure. Our investigation of these activities has produced no evidence (other than that described in this report) that these activities exceeded the Agency's authority. Very few of these activities continue. To the extent that they do, the Commission is satisfied that they are subject to adequate controls.

Nor does the Commission report include detailed information on the activities of the CIA's Miami Station which, commencing in the early 1960's, conducted a broad range of clandestine foreign intelligence, counterintelligence and operational activities directed at areas outside the United States. Many such activities were conducted with the United States as a base, but the CIA contends, and the Commission has found no evidence to the contrary, that these activities were not directed against American citizens. Since 1966, the scope of the station's activities and the number of its personnel have been gradually reduced and by 1972, except for some collection of foreign intelligence, these activities had been discontinued. Since the Miami operations were the result of a particular series of events not likely to be repeated, and since they have been largely discontinued, the Commission concluded that its resources were better utilized in investigating and analyzing other activities.

A. Overt Collection of Foreign Intelligence within the United States

While the importance of clandestine collection should not be underestimated, many of the pieces of the jigsaw puzzle which is "finished foreign intelligence" can be overtly collected by a well-organized information gathering system. Analysis of intelligence failures during World War II demonstrated that a significant volume of this information was available from the American public and could have been collected by overt methods within the United States. At that time, however, numerous agencies were engaged in domestic collection of foreign intelligence. Their activities were largely uncoordinated.

With the formation of the CIA in 1947, responsibility for the overt collection of foreign intelligence within the United States was centralized in the Agency as a service of common concern to the entire intelligence community. This responsibility is presently discharged by a separate division of the Agency. Through officers stationed in various locations throughout the United States, this division collects foreign intelligence information from United States residents, business firms and other organizations willing to assist the Agency. Contacts with potential sources of foreign intelligence information are overt and officers identify themselves by true name as CIA employees. Only in a few instances have officers of the division used alias credentials for personal protection when responding to unsolicited offers of assistance from foreign nationals or other unknown persons.

Although its collection activities are openly conducted, this division attempts to operate discreetly. Each of its facilities is listed in the local telephone directory, but the offices themselves often do not bear a CIA designation. In addition, the division goes to substantial lengths to protect the fact that an individual or organization is contributing intelligence to the CIA and to protect proprietary interests in any information which is provided.

Generally, the division's procedure consists of contacting United States residents with whom it has an established relationship to seek out available information on specific subjects for which the division has had requests from other components of the Agency. A typical example is the debriefing of an American citizen who has traveled abroad and who, because of a particular expertise or itinerary, could have acquired significant foreign intelligence information.

Most of the United States residents contacted by this component of the Agency are American citizens. Division regulations prohibit contacts with certain categories of individuals including Fulbright Scholars, past or present Peace Corps (ACTION) members, United Nations employees or contractors or representatives of foreign governments. Although not prohibited from doing so, the division will not approach American or foreign students but will interview them if they initiate the contact.

The success of the CIA in collecting such information is entirely dependent upon the voluntary cooperation of the American public. The CIA contends, and the Commission has found no evidence to the contrary, that it neither exerts any pressure to elicit cooperation nor promises or grants favors in return for information. Sources of information are not compensated, but on rare occasions the Agency will pay a portion of a proven source's travel expenses to an area where his presence might fulfill intelligence requirements.

The collection of intelligence within the United States requires that the CIA maintain various records with respect to the individuals and organizations that have provided information or are promising sources. In addition to a master index of approximately 150,000 names, division headquarters presently maintains approximately 50,000 active files. Many of these files reflect relationships with prominent Americans who have voluntarily assisted the Agency, including past and present Members of Congress. A substantial sampling of these files indicates that their contents are limited to: (1) copies of correspondence relating to the individual or organizational source's relationship with the division; (2) intelligence reports contributed by the source; (3) in the case of an organization, a summary of its relationship with the division including any stipulations or limitations imposed by the organization's committing official; and (4) the results of a federal agency name check obtained through the CIA's Office of Security in the event CIA representatives wish to discuss classified matters or contemplate a continuing relationship with a contact. If such a name check produces derogatory information, the Agency may terminate the relationship but it takes no further action. However, a copy of the report in such a case is retained in the individual's contact file.

The CIA asserts that this division's domestic collection efforts are devoted entirely to the collection of foreign economic, political, military and operational information, directly related to the United States foreign intelligence effort. In general, this appears to be true. However, this investigation has disclosed several instances in the past where the division provided other components of the CIA with information about activities of American citizens within the United States.

1. American Dissidents

The first and most significant instance began in March 1969, when the division established a new file or "case" entitled "Activities of United States Black Militants." Field offices were instructed to forward to headquarters, by memorandum, information which came to their attention "concerning the activities of United States Black Militants either in the United States or abroad."

A contemporaneous CIA memorandum indicates that this case was opened to establish a formal procedure for processing and transmitting to the FBI the increasing volume of unsolicited information received by the field offices with respect to militant activities. In written instructions, the Director of the division informed all field offices that he did not intend that such information be actively collected, "since this is primarily an FBI responsibility." Investigation indicates that field offices did not actively seek such information. The very few reports which were filed contained information received primarily from "call-ins" who found the division's offices in local telephone directories.

Initially, the case with respect to militant activities had no relationship to Operation CHAOS, which had already been initiated by the Counterintelligence Staff's Special Operations Group. However, the division's reports were disseminated to an Operation CHAOS representative who quickly recognized the division's capacity to provide useful information with respect to a broader range of dissident or militant groups. Accordingly, in December 1969, the Special Operations Group requested that the division broaden its base to include the activities of "radical student and youth groups, radical underground press and draft evasion/deserter support movements and groups." An Operation CHAOS officer briefed division field chiefs on the Special Operations Group's interest on this information. A memorandum of that meeting explained that:

> CI's interest is primarily to ascertain the details of foreign involvement/support/guidance/training/funding or exploitation of the above groups or movements, particularly through coverage of the foreign travel, contacts and activities of the Americans involved.

Although the emphasis was clearly on information establishing a foreign link with these groups, the division's field officers were also requested to report—for background purposes—on the purely domestic activities of these groups and their members. The Operation CHAOS representative explained that this purely domestic information was necessary to compile a data base essential to full understanding of possible connections between these groups and hostile elements abroad.

Shortly after the briefing, the Director of the division again cau-

tioned all field chiefs that collection of this type of information is an FBI responsibility and should be undertaken only "when these subjects are surfaced . . . during the course of your other activities." This admonition was repeated in virtually all of the Director's memoranda to field offices with respect to this case. The reports made available for the Commission's examination appear to have been obtained by field officers primarily in the course of fulfilling other intelligence requirements. However, there are some indications to the contrary.

During 1970, officers of the Special Operations Group and the division conferred on a number of occasions to discuss what one memorandum described as "over-aggressive positive actions" by the division's personnel in the collection of CHAOS information. The possibility of active collection of CHAOS information was succinctly stated by a field officer in a memorandum dated June 26, 1970:

> To be sure, this case, as originally conceived, was to be only a passive effort on the part of the field, but there is a natural tendency when an interesting report is received to request additional details, then the actions begin. At that point, we are put in the position of investigating or reporting, if you like, the activities of United States citizens in the United States that are inimical to the national security interests of this Country. But that is clearly the function of the Federal Bureau of Investigation, not of CIA.

A number of other officers began to question the propriety of the division's efforts with respect to dissident groups—particularly the collection of purely domestic information about United States citizens. These expressions of concern prompted the Director of the division to prepare a memorandum for the field officers in which he described the dilemma this requirement posed—and the division's rationalization for its collection of purely domestic information. That draft memorandum dated June 6, 1971, reads in part as follows:

> The second type of information concerns the activities of United States radical groups, but *does not* contain any obvious foreign implications. Such information is considered of primary interest to the FBI under its domestic security charter. However, the division has been directed to collect both types of information, with the emphasis on that pertaining to foreign involvement.
>
> We also *accept* the second type of information when it is offered, because its acquisition is essential to our understanding of the entire radical movement (including the involvement of foreign governments). We do not actively solicit this information. however, since active collection against United States citizens is incompatible with CIA's charter. In addition, information of a purely domestic nature is of secondary interest to our consumers in CI Staff.
>
> We recognize that CIA's deliberate acceptance and use of such information (even for background purposes) may seriously be questioned. Several thoughtful . . . [division] officers in the field and in Headquarters have already voiced uneasiness over this aspect of the case. We have concluded, however, that our activity is logically justified in that it provides essential support to the Agency's legitimate mission of overseas counterintelligence.

Before the memorandum was distributed, a copy was provided for review by Operation CHAOS personnel who objected to a written discussion of their oral requests for this type of information. Unable to obtain the Special Operations Group's approval of such a memorandum, the division informed all field officers on March 23, 1971, that thereafter collection of information was to be "focused exclusively upon the collection of information suggesting foreign involvement in United States radical "activities" as well as the identification of persons who could be enlisted by the Operation CHAOS group for penetration of related dissident groups overseas. Field officers were instructed to refer information or sources with information which is "*purely domestic* in its implications" to the local FBI office and not to forward such information to CIA headquarters.

The division's collection efforts with respect to dissidents ceased for all practical purposes in 1973 and the case was formally closed in August 1974. The Commission was provided access to files which, according to the division, contain all of its reports with respect to dissidents. In all, these files contain approximately 400 reports, copies of which were furnished to the Special Operations Group. Many of the reports merely transmit a newspaper clipping or other publication.

2. Foreign Telephone Call Information

The Commission's investigation has disclosed only one other instance where the division has collected information on activities of American citizens for use by the CIA. During 1972 and 1973, the division obtained and transmitted to other components of the Agency certain information about telephone calls between the Western Hemisphere (including the United States) and two other foreign countries. Some of the calls involved American citizens within the United States. The information obtained by the division was limited to the names, telephone numbers and locations of the caller and the recipient. The contents of the calls were not indicated. Shortly after the program commenced, the Office of the General Counsel issued a brief memorandum stating that receipt of this information did not appear to violate applicable statutory provisions.

The Commission could not determine any specific purpose for the initiation or continuance of the program. Although the Agency contends that no use was ever made of the data, a March 25, 1972, memorandum indicates that the names of the Americans participating in such calls were at least checked against other CIA records to determine if they were of "possible operational interest." The memorandum states:

> A review of the parties in the United States involved in these calls discloses that those of possible operational interest are primarily in the CHAOS field,

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i.e., persons connected with such groups as Black Panthers, Revolutionary Union, Committee for Concerned Asian Scholars, Committee for a New China Policy, etc.

Collection of this material by the division was terminated in May 1973, and the CIA claims that all information obtained by the Agency has been destroyed.

The Commission has discovered no other evidence that the division attempts to collect intelligence information with respect to United States citizens or their activities, through surveillance or otherwise. However, such information is occasionally reported to field officers in the course of normal collection activities. For example, established sources or one of numerous "call-ins" periodically report the identities of United States citizens allegedly involved in espionage, drug trafficking or other criminal activity. Written regulations require that the source or a report of the information be promptly referred to the FBI, or other appropriate law enforcement agency. No further action is taken by the division or other components of CIA. Nor is a copy of the information retained in Agency files unless directly related to the function of the Office of Security, in which case it is transmitted to that Office.

Conclusions

The CIA's efforts to collect foreign intelligence from residents of the United States willing to assist CIA are a valid and necessary element of its responsibility. Not only do these persons provide a large reservoir of foreign intelligence; they are by far the most accessible source of such information.

The division's files on American citizens and firms representing actual or potential sources of information constitute a necessary part of its legitimate intelligence activities. They do not appear to be vehicles for the collection or communication of derogatory, embarrassing or sensitive information about American citizens.

The division's efforts, with few exceptions, have been confined to legitimate topics. The collection of information with respect to American dissident groups exceeded legitimate foreign intelligence collection and was beyond the proper scope of CIA activity. This impropriety was recognized in some of the division's own internal memoranda.

The Commission was unable to discover any specific purpose for the collection of telephone toll call information, or any use of that information by the Agency. In the absence of a valid purpose, such collection is improper.

B. Provision and Control of Cover for CIA Personnel

Many CIA activities—like those of every foreign intelligence service—are clandestine in nature. Involved CIA personnel cannot travel, live, or perform their duties openly as CIA employees. Even in countries where the CIA works closely with cooperative foreign intelligence services, Agency personnel are often required by their hosts to conceal their CIA status.

Accordingly, virtually all CIA personnel serving abroad and many of the Agency's professional personnel in the United States assume a "cover." Their employment by the CIA is disguised and, to persons other than their families and coworkers, they are held out as employees of another government agency or of a commercial enterprise.

Cover arrangements frequently have substantial domestic aspects. These include the participation of other United States government agencies, business firms, and private citizens and creation and management of a variety of domestic commercial entities. Most CIA employees in need of cover are assigned "official cover" with another component of the federal government pursuant to formal agreements between the CIA and the "covering" departments or agencies. Where official cover is unavailable or otherwise inappropriate, CIA officers or contract employees are assigned "nonofficial" cover, which usually consists of an ostensible position with CIA-created and controlled business entities known as "proprietary companies" or "devised facilities." On occasion, nonofficial cover is provided for a CIA officer by a bona fide privately owned American business firm.

So-called "proprietary companies" and "devised facilities" are legally constituted corporations, partnerships, or sole proprietorships, owned by the Agency and operated by CIA personnel or contract employees.

Proprietary companies generally are commercial entities with actual assets. These not only provide cover for employees but also for activities or operations required to be performed by the Agency.

Devised facilities are created for cover purposes only, involve no investment of operating funds, and engage in no substantial economic activity.

A separate office of the Agency is charged with responsibility for ensuring that proprietaries and devised facilities comply in all respects with the laws of the state, county, or other jurisdiction under which they are organized.

The CIA utilizes the services of United States citizens with security clearances who are willing to assist with the necessary paperwork and serve as officers and directors of proprietaries and devised facilities. Citizens rendering professional services are paid their ordinary

fees, and all cooperating citizens are fully aware that their assistance is being rendered to the CIA.

Other than administrative activities necessary to maintain cover and the activities of the operating proprietaries discussed below, United States commercial entities formed by the Agency engage in no significant domestic activities. They do not engage in any meaningful economic activity in competition with privately-owned United States firms. Most CIA officers under nonofficial cover are stationed abroad.

Another aspect of the Agency's cover activities involves arrangements by which activities of the Agency are attributed to some commercial entity wholly unrelated to the Agency. Activities of this kind are funded and carried out in the same manner as many other Agency activities, and a high degree of security is maintained. The Commission's investigation in this area has disclosed no improper activities by the Agency.[1]

The functions of the office responsible for all CIA cover arrangements were substantially enlarged in 1973, in order to provide effective centralized control and supervision. That office operates pursuant to written regulations which restrict the use of certain agencies, departments or other organizations for operational purposes; these restrictions are applied also to the use of those organizations for "cover" purposes.

Among other restrictions are prohibitions on "cover" arrangements with the FBI, Secret Service, Drug Enforcement Administration (DEA), state and local police and other law enforcement bodies.

The Agency also is bound by restrictions on the operational use of members of ACTION, Fulbright Scholars and employees of certain foundations and of private detective agencies. The Agency interprets these as generally prohibiting the use of foundations and charitable and student organizations. In addition, approval of the Deputy Director for Operations is required for the use of certain other categories of individuals deemed sensitive.

One salutary effect of the recent enlargement of responsibilities has been the centralization and tightening of control over the issuance and use of alias documentation of the type provided by the Agency to

[1] Among the suspected cover operations investigated by the Commission was the alleged operation by the Agency of the vessel, *Glomar Explorer*. A number of allegations have been published concerning this matter, including allegations of possible violations of Federal securities and tax laws. Since these matters are currently under investigation by appropriate regulatory bodies, the Commission has not investigated them.

E. Howard Hunt. Use of U.S. alias documentation, such as driver's licenses and credit cards, has been severely limited and requires approval of senior officers under the overall control of the Agency. Alias documentation may be issued to other agencies only with approval of the Deputy Director of Operations. All such documentation must be accounted for every six months.

In 1969 the statement of functions of the office responsible for cover arrangements was revised to eliminate the authority, formerly held, to use charitable organizations and individuals for inserting funds into organizations and programs supported by the Agency.

Finally, the occasional provision of cover to other agencies has been terminated.

Growing public familiarity with the Agency's use of cover has led to a tendency to identify many government and some private activities with the CIA—frequently without justification.

This has had an unfortunate tendency to impair the usefulness of some non-Agency related government activities. In addition, it has progressively tended to narrow available cover arrangements for the Agency.

Conclusions

CIA's cover arrangements are essential to the CIA's performance of its foreign intelligence mission. The investigation has disclosed no instances in which domestic aspects of the CIA's cover arrangements involved any violations of law.

By definition, however, cover necessitates an element of deception which must be practiced within the United States as well as within foreign countries. This creates a risk of conflict with various regulatory statutes and other legal requirements. The Agency recognizes this risk. It has installed controls under which cover arrangements are closely supervised to attempt to ensure compliance with applicable laws.

C. Operating Proprietary Companies

In addition to the proprietary companies created solely to provide cover for individual CIA officers, CIA has used proprietary companies for a variety of operational purposes. These include "cover" and support for covert operations and the performance of administrative tasks without attribution to the Agency.

It has been charged that certain of these Agency-owned business entities have used government funds to engage in large-scale com-

mercial operations, often in competition with American private enterprise. There was a limited factual basis for these allegations in the past, but the investigation has disclosed that the Agency has liquidated or sold most of its large operating proprietaries. The remainder engage in activities of limited economic significance, providing little if any competition to private enterprise.

By far the largest part of the Agency's proprietary activity consisted of a complex of aviation companies, including Air America, Southern Air Transport, and Intermountain Aviation, Inc. These companies, which at one time owned assets in excess of $50 million, provided operational and logistic support as well as "cover" for the Agency's foreign covert operations, primarily in Southeast Asia.

The investigation has disclosed that some of the services provided by the air proprietaries were competitive with services of privately owned firms, both at home and abroad. However, most of the aviation companies have been liquidated or sold and the rest are expected to be disposed of shortly. This will end the Agency's commercial involvement in the aviation field. Proceeds of these liquidations and sales are not used by the Agency; they are returned to the United States Treasury as miscellaneous receipts.

Another major proprietary activity consisted of the operation of Radio Free Europe and Radio Liberty, which beamed broadcasts to Eastern Europe. These stations, originally owned and operated by the CIA, provided both facilities and "cover" for the CIA's educational and cultural activities.

Although these stations were funded by the CIA, they appealed for contributions to the public without disclosing their CIA connection.

However, ownership and control of these stations was turned over to the State Department, which operates them today without concealing the government connection.

The major remaining proprietary activity of the Agency involves a complex of financial companies. These companies enable the Agency to administer certain sensitive trusts, annuities, escrows, insurance arrangements, and other benefits and payments provided to officers or contract employees without attribution to the CIA. Their assets presently total approximately $20 million, but the financial holdings of the companies are being reduced.

Most of these funds are invested abroad in time deposits and other interest-bearing securities. Less than 5 percent of these funds are invested in securities publicly traded in the United States, but these investments are being liquidated and the proceeds returned to the Treasury. At no time has one or any combination of these companies owned a controlling interest in any firm with publicly traded securities. The investigation has disclosed no evidence of any violations of law by the CIA in connection with the making or management of these investments.

The Agency continues to maintain a limited number of small proprietaries as well. Their purpose is primarily to provide cover for the activities of certain officers, agents, and contractors and to make nonattributable purchases of equipment and services. These companies are distinct from the so-called devised facilities in that they are engaged in actual commercial or professional activities, although of modest proportions. Generally, they have fewer than 10 employees.

The Agency also provides small amounts of subsidies and operational investments to firms engaged in activities abroad useful to its missions.

With few exceptions, the CIA's operating proprietaries have been unprofitable and have required continuing budgetary support. Revenues derived from operations have been offset against operating costs. Only two proprietaries are reported to have generated significant profits: Air America in the performance of United States government contracts in Southeast Asia, and several of the financial companies in return on investment. In both cases, profits were, in the past, retained for use by the proprietary companies pursuant to the General Counsel's opinion that these funds need not be returned to the Treasury.

The creation, operation and liquidation of operating proprietaries is closely controlled by high Agency officials. All such projects must have the approval of the Deputy Director of Operations or his assistant. Sensitive or substantial cases must be approved by the Director of Central Intelligence. Each requires an administrative plan which must have the concurrence of the Deputy Director of Operations, the Office of General Counsel, the Office of Finance and certain other senior officers. Expenditures or reimbursements must be approved by responsible senior operating and finance officers. All projects are subject to annual review as a part of the budget process and regular audits are made.

A related activity of the Agency has been to support foundations, principally the Asia Foundation, which also served as both a vehicle and cover for educational and cultural activities abroad. The Agency's connection with that foundation has been terminated.

The Agency in the past has also provided a lesser measure of support to other foundations and associations thought to be helpful to its mission. A prime example was the National Student Association, which sponsored American students who participated in international meetings and activities. Until 1967, when *Ramparts* magazine revealed the fact, CIA offered some support to that activity. A resulting

report by a committee under then Deputy Attorney General Nicholas DeB. Katzenbach led to directions to CIA to terminate support of American foundations and voluntary associations. So far as the Commission has been able to determine, the Agency has complied.

Conclusions

Except as discussed in connection with the Office of Security (see Chapters 12 and 13), the Commission has found no evidence that any proprietaries have been used for operations against American citizens or investigation of their activities. All of them appear to be subject to close supervision and multiple financial controls within the Agency.

D. Development of Contacts With Foreign Nationals

Another significant domestic activity of the CIA consists of efforts to develop contacts with foreign nationals who are temporarily within the United States. This activity is within the United States, and its primary purpose is to develop sources of information. As far as the Commission can determine, coercive methods, such as blackmail or compromise, have not been used.

The CIA enlists the voluntary assistance of American citizens in its efforts to meet and develop contacts with foreign nationals. These citizens are not compensated for their services, but may be reimbursed for any expenses they incur. They are fully aware that they are assisting or contributing information to the CIA. At all times, they are free to refuse or terminate their cooperation.

Prior to requesting the aid of an American citizen in this manner, the Agency occasionally obtains a name check through its Office of Security, but does not otherwise investigate such persons. In most cases it will maintain a file on such an individual containing biographical information and a brief history of the person's cooperation with the division. No records are kept by this division with respect to persons who decline to assist the Agency.

Under a written agreement with the FBI, any information of an internal security or counterintelligence nature which comes to the division's attention in the course of these activities is immediately referred to the Bureau.

The Commission's investigation has disclosed no evidence that the division in question has been used to collect information about American citizens or their activities at home or abroad.

Until recently, the Agency component with responsibility for developing contacts with foreign nationals was known as the Domestic Operations Division. The Commission has made an investigation of recent press allegations that, during the late 1960's, the New York office of the Domestic Operations Division conducted covert activities against emigré and dissident groups, including wiretapping, break-ins, surveillance, infiltration and preparation of psychological profiles. The investigation has disclosed no evidence to support these allegations nor any evidence that the division engaged in such activities elsewhere.

Conclusions

These activities appear to be directed entirely to the production of foreign intelligence and to be within the authority of the CIA. We found no evidence that any of these activities have been directed against American citizens.

E. Assistance in Narcotics Control

Through the Directorate of Operations, CIA provides foreign intelligence support to the government's effort to control the flow of narcotics and other dangerous drugs into this country.

Inasmuch as arrest and prosecution of traffickers, including American citizens, is a necessary element of narcotics control, concern has been expressed that CIA's participation in the control effort involves the Agency in domestic enforcement activities expressly excluded from the CIA's authority.

The Commission's investigation has disclosed that the CIA has attempted to insure that it does not thus become involved in the exercise of police or law enforcement powers or in other activities directed against American citizens, either within the United States or overseas.

CIA's involvement in the narcotics field began in October 1969 with President Nixon's formation of the White House Task Force on Narcotics Control. The Task Force was given the mission of formulating and implementing a program to stem the increasing flow of heroin and opium into the United States. The Director of Central Intelligence was appointed to the Task Force and CIA was requested to use its existing intelligence gathering apparatus—to the maximum extent possible—to provide narcotics-related intelligence to other agencies who in turn were involved in diplomatic, enforcement and treatment initiatives coordinated by the Task Force.

In September 1971, President Nixon elevated narcotics control to a

higher priority, establishing the Cabinet Committee on International Narcotics Control (CCINC) to succeed the Task Force. The CCINC was charged with responsibility for properly coordinating all United States diplomatic, intelligence and enforcement activities aimed at curtailing the flow of illegal narcotics and dangerous drugs into the country. The Director of Central Intelligence was appointed as a member, and the Agency was promptly delegated responsibility for coordinating all United States clandestine foreign intelligence gathering with respect to narcotics.

In addition to coordinating clandestine collection, the CIA provided the other components of the CCINC with a wide range of foreign intelligence information directed at two basic objectives:

> To convince foreign nations to curtail production and trafficking; and
> To provide foreign and domestic law enforcement agencies with the identities and methods of operation of the major foreign drug traffickers.

To this end, the CIA cooperated with the Drug Enforcement Administration in the establishment of the Major International Narcotics Traffickers (MINT) Register, a list of major foreign traffickers, and a related system for collating intelligence information about them.

The Commission's investigation disclosed that, from the outset of the Agency's involvement in the narcotics control program, the Director and other CIA officials instructed involved personnel to collect only foreign intelligence and to make no attempt—either within the United States or abroad—to gather information on American citizens allegedly trafficking in narcotics.

These instructions appear to have been respected. Indeed, at CIA insistence, the names of American citizens are excluded from the MINT Register. However, the identities of Americans allegedly trafficking in narcotics or information with domestic law enforcement implications is unavoidably obtained by CIA in the course of its foreign intelligence activities. The Agency has established written procedures for the prompt dissemination of this information to the appropriate law enforcement agencies at the local level. The information is not retained in CIA files.

For a period of approximately six months, commencing in the fall of 1973, the Directorate monitored telephone conversations between the United States and Latin America in an effort to identify foreign drug traffickers.

The intercept was undertaken at the request of the National Security Agency and was not conducted by the CIA component with responsibility for narcotics intelligence collection.

A CIA intercept crew stationed at an East Coast site monitored calls to and from certain Latin American telephone numbers contained on a "watch-list" provided by NSA. Magnetic tapes of narcotics-related conversations were then furnished to NSA. While the intercept was focused on foreign nationals, it is clear that American citizens were parties to many of the monitored calls.

The General Counsel of CIA was not consulted until approximately three months after the program was commenced. He promptly issued an opinion that CIA's conducting the monitoring program was illegal, and the program was immediately terminated.

All of the CIA's clandestine collection with respect to narcotics is conducted overseas. A limited amount of overt collection of this information is conducted within the United States, focusing primarily on economic, agricultural and scientific information, most of which is obtained from legal drug manufacturers.

In addition to the gathering of foreign intelligence, the CIA has provided a limited amount of technical or other operational assistance to the Drug Enforcement Administration (DEA). On frequent occasions, and in response to requests from this agency, the CIA has provided various types of electronic and photographic equipment, alias documentation, and loans of "flash money" for use by enforcement agents to establish bona fides with narcotics dealers. The CIA has also conducted a very limited number of training sessions for federal narcotics agents covering such subjects as the use of intelligence and operational techniques for clandestine collection.

The Agency has adopted and apparently adhered to strict controls on the rendering of technical assistance or issuance of alias documentation to DEA. Such materials are issued only for use in investigation of illicit narcotics activities overseas, and DEA is required to conform to all CIA regulations governing requests for and use of such items. All requests for alias documentation must be approved by the Deputy Director for Operations and both DEA headquarters and the user of the documents must sign receipts. The CIA requires that both equipment and alias documentation be promptly returned. In most cases, DEA requests for assistance have been made and honored overseas where DEA has lacked the necessary facilities and technical expertise. The number of these requests has decreased sharply as DEA has developed its own technical capabilities.

Conclusions

Concerns that the CIA's narcotics-related intelligence activities may involve the Agency in law enforcement or other actions directed against American citizens appear unwarranted.

The monitoring of telephone calls, while a source of valuable in-

formation for enforcement officials, was a violation of a statute of the United States. The fact that before the operation was halted it was conducted for over three months without the knowledge of the Office of the General Counsel demonstrates the need for improved internal consultation. (See Recommendation 10).

Chapter 16

Domestic Activities of the Directorate of Science and Technology

In the past two decades, the CIA has placed increasing emphasis upon gathering foreign intelligence through technical and scientific means.

In 1963, Director John McCone sought to coordinate the scientific development of intelligence devices and systems by creating the Science and Technology Directorate within the CIA. Most of the scientific and technological endeavors had been previously undertaken by the Plans (now Operations) Directorate.

The Science and Technology Directorate is presently responsible for all of the research and development engaged in by the CIA in all fields of science and technology. Projects range from complex satellite systems to the development of miniature cameras and concealed listening devices.

The Directorate also is engaged in developing countermeasures to neutralize new scientific and technological devices developed by foreign intelligence services.

Private industry provides much of the research and development of new intelligence gathering devices on a contractual basis.

In addition to engaging in research and development, some branches of the Science and Technology Directorate provide operational support in the field for use of intelligence gathering devices developed by the Directorate.

Other branches of the Directorate themselves engage in the task of foreign intelligence-gathering abroad, utilizing technical intelligence gathering devices not developed for use by operations agents.

The Commission investigated a number of projects of the Science and Technology Directorate which have affected persons living within the United States.

Most such activities were lawful and proper, although there have been scattered improprieties described below.

A. The Testing of Scientific and Technological Developments Within the United States

While the research and development of new CIA scientific and technical devices is naturally undertaken within the United States, the evidence before this Commission shows that with a few exceptions, the actual devices and systems developed have not been used operationally within this country.[1]

However, the Agency has tested some of its new scientific and technological developments in the United States. One such program included the testing of certain behavior-influencing drugs. Several others involved the testing of equipment for monitoring conversations. In all of the programs described, some tests were directed against unsuspecting subjects, most of whom were U.S. citizens.

1. The Testing of Behavior-Influencing Drugs on Unsuspecting Subjects Within the United States

In the late 1940's, the CIA began to study the properties of certain behavior-influencing drugs (such as LSD) and how such drugs might be put to intelligence use. This interest was prompted by reports that the Soviet Union was experimenting with such drugs and by speculation that the confessions introduced during trials in the Soviet Union and other Soviet Bloc countries during the late 1940's might have been elicited by the use of drugs or hypnosis. Great concern over Soviet and North Korean techniques in "brainwashing" continued to be manifested into the early 1950's.

The drug program was part of a much larger CIA program to study possible means for controlling human behavior. Other studies explored the effects of radiation, electric-shock, psychology, psychiatry, sociology and harassment substances.

The primary purpose of the drug program was to counter the use of behavior-influencing drugs clandestinely administered by an enemy, although several operational uses outside the United States were also considered.

Unfortunately, only limited records of the testing conducted in these drug programs are now available. All the records concerning the program were ordered destroyed in 1973, including a total of 152 separate files.

In addition, all persons directly involved in the early phases of the program were either out of the country and not available for

[1] A few audio-surveillance devices developed by the Science and Technology Directorate have been used by the Office of Security in the course of investigations of persons within the United States. In addition, several devices developed by the Agency have been used by other federal agencies in operations conducted within the United States.

interview, or were decreased. Nevertheless, the Commission learned some of the details surrounding several tests of LSD conducted on unsuspecting subjects between 1953 and 1963.

The possibility, and the importance, of testing potential behavior-influencing drugs (including LSD) on human subjects was first suggested in 1953. It was also suggested at that time that Agency trainees might be utilized as test subjects. Any such testing was to be carefully supervised and conducted only in the presence of a qualified physician.

Following laboratory testing of LSD and other potential behavior-influencing substances, a few tests were run on voluntary participants. Commencing in 1955, under an informal arrangement with the Federal Bureau of Drug Abuse Control, tests were begun on unsuspecting subjects in normal social situations. Testing was originally conducted on the West Coast. In 1961, a similar testing program was initiated on the East Coast.

In 1963, the Agency's Inspector General learned of this program and questioned the propriety of testing on unsuspecting subjects. The Inspector General reported that in a number of instances, test subjects became ill for hours or days following the application of a drug. There was one reported incident of hospitalization, the details of which could not be learned by the Commission because of the destruction of the records and the unavailability of witnesses.

The Commission did learn, however, that on one occasion during the early phases of this program (in 1953), LSD was administered to an employee of the Department of the Army without his knowledge while he was attending a meeting with CIA personnel working on the drug project.

Prior to receiving the LSD, the subject had participated in discussions where the testing of such substances on unsuspecting subjects was agreed to in principle. However, this individual was not made aware that he had been given LSD until about 20 minutes after it had been administered. He developed serious side effects and was sent to New York with a CIA escort for psychiatric treatment. Several days later, he jumped from a tenth floor window of his room and died as a result.[2]

The General Counsel ruled that the death resulted from "circumstances arising out of an experiment undertaken in the course of his official duties for the United States Government," thus ensuring his survivors of receiving certain death benefits. Reprimands were issued by the Director of Central Intelligence to two CIA employees responsible for the incident.

[2] There are indications in the few remaining Agency records that this individual may have had a history of emotional instability.

As a result of the Inspector General's study of this drug program in 1963, the Agency devised new criteria for testing substances on human subjects. All further testing of potentially dangerous substances on unsuspecting subjects was prohibited. Between 1963 and 1967, some testing of drugs continued, but only on voluntary subjects, primarily inmate volunteers at various correctional institutions. In 1967, all projects involving behavior-influencing drugs were terminated.

It is presently the policy at CIA not to test any substance on unsuspecting persons. Current practice in all experimentation is to adhere strictly to Department of Health, Education and Welfare guidelines concerning the use of human subjects, and all current CIA contracts carry language to that effect.

2. The Testing of Communications Intercept Systems Within the United States

Monitoring of foreign conversations is an important aspect of modern intelligence collection. Several new systems developed by the Agency for use overseas have been tested in the United States. In the process of this testing, private communications, presumably between United States citizens, have sometimes been overheard.

In many cases conversations were overheard but not recorded. In other cases, conversations were recorded for evaluation purposes but the recordings were kept only until the testing was concluded, at which time they were destroyed.

No evidence was found that any such tests were ever directed against persons for the purpose of learning the content of any communication. In most instances, the speakers were never identified. Nor was any evidence found that the Agency disseminated or ever attempted to exploit the contents of any intercepted or recorded conversations.

3. Other Testing Within the United States

Various branches of the Science and Technology Directorate are involved in the testing of other new devices and procedures such as chemical warfare detection equipment, new means of measuring physiological responses in humans and photographic interpretation systems.

Conclusions

It was clearly illegal to test potentially dangerous drugs on unsuspecting United States citizens.

The testing of equipment for monitoring conversations should not be directed against unsuspecting persons in the United States. Most of the testing undertaken by the Agency could easily have been performed using only Agency personnel and with their full knowledge.

Recommendation (27)

In accordance with its present guidelines, the CIA should not again engage in the testing of drugs on unsuspecting persons.

Recommendation (28)

Testing of equipment for monitoring conservations should not involve unsuspecting persons living within the United States.

B. Other Selected Activities of the Science and Technology Directorate

1. The Manufacture and Use of Documents

The Agency maintains a capability for producing and providing to its agents and operatives a wide range of "alias" credentials. Most such documents purport to be of foreign origin. Some, however, are documents ordinarily issued by other branches of the U.S. government or by private United States businesses and organizations.

Among the United States "alias" documents furnished from time to time to Agency personnel and operatives are Social Security cards, bank cards, professional cards, club cards, alumni association cards and library cards. The Agency has recently stopped producing alias driver's licenses, credit cards and birth certificates, unless needed in a particularly sensitive operation and approved in advance by the Deputy Director of Operations.

While the Agency does not produce false United States passports, it has in the past altered a few by the addition of entries to evidence travel which had not actually occurred.

The purpose of alias documents is to facilitate cover during CIA operations. These documents are not "backstopped," i.e., manufactured with the consent and knowledge of the company or organization whose card is being manufactured. They are useful only as flash identification. Only the Social Security Administration has been told that the Agency is manufacturing its cards.

The Commission found no evidence that any Agency employee has ever used false documentation of this kind to his personal advantage.

Conclusions

Alias credentials are necessary to facilitate CIA covert operations overseas, but the strictest controls and accountability must be main-

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tained over the use of such documents; recent guidelines established by the Deputy Director for Operations appear adequate to prevent abuse in the future.

2. Overhead Photography of the United States

In 1966, the Special Assistant to the President for Science and Technology commenced a formal study on the use of aerial intelligence photography for civilian purposes. This study was commenced with the approval of the Director of Central Intelligence and in cooperation with the Departments of Agriculture, Commerce, Interior, the Agency for International Development and the National Aeronautics and Space Administration.

In 1967 the study resulted in the establishment of a steering committee in the office of the President's Science Adviser, with membership from the United States Geological survey, the Department of Commerce, the Department of Agriculture, the National Aeronautics and Space Administration and other interested civilian agencies. This committee was designed to act as an interface, by which the intelligence community could assure the public that it was not involved in selecting or determining the end use of its aerial photographs of domestic areas.

The Director of Central Intelligence agreed to provide photography to civilian agencies pursuant to the steering committee's request, provided there would be no interference with intelligence needs nor any significant cost increase.[3]

The photographs of the United States actually turned over to civilian agencies were taken primarily for military mapping purposes. Since that time, aerial photography systems have been used for such diverse civilian projects as mapping, assessing natural disasters such as hurricane and tornado damage and the Santa Barbara, California, oil spill, conducting route surveys for the Alaska pipeline, conducting national forest inventories, determining the extent of snow cover in the Sierras to facilitate the forecast of runoff and detecting crop blight in the Plains States. Limited equipment testing and performance evaluation is also conducted, using photographs taken of areas within the United States.

In 1973, the Office of the President's Science Adviser was abolished, and the special steering committee controlling the civilian use of aerial photography ceased to exist. Efforts are underway to establish a new committee to undertake this activity.[4] In the meantime, the Director of Central Intelligence has entered into agreements with several

[3] While the Agency engineered and developed most of the operational aerial photography systems, it is no longer responsible for the operational aspects of those systems.

[4] The President has recently announced his intention to reestablish the Office of the President's Science Adviser.

federal agencies, including the Environmental Protection Agency, which permits them access to classified overhead photography.

Conclusions

The Commission can find no impropriety in permitting civilian use of aerial photography systems.[5] The economy of operating a single aerial photography program dictates the use of these photographs for appropriate civilian purposes.

Recommendation (29)

A civilian agency committee should be reestablished to oversee the civilian uses of aerial intelligence photography in order to avoid any concerns over the improper domestic use of a CIA-developed system.

[5] It is arguable that at least one present use of aerial photography is law enforcement in nature and outside the scope of proper CIA activity. This use involves photography with infrared sensors to detect areas of high concentrations of industrial pollutants in the air and in various bodies of water. Data obtained from this activity could conceivably be used as the basis for a criminal action brought under environmental legislation. The Commission believes, however, that the legislators, when they prohibited the CIA from engaging in law enforcement activities in their 1947 enactment of the National Security Act, could not have contemplated the systems presently in use. It should be noted that the CIA did turn down a request from the Alcohol and Tobacco Tax Unit of the Treasury Department to help locate moonshine stills in the North Carolina mountains using infrared photography, on the ground that such activity was law enforcement in nature.

Chapter 17

CIA Relationships with Other Federal, State and Local Agencies

Because of its practice of occasionally lending assistance to various federal, state and local law enforcement agencies, questions have been raised as to whether the CIA has engaged in internal security functions or exercised police or law enforcement powers contrary to the restrictions of the National Security Act.

Like other arms of the government, the CIA frequently has occasion either to give assistance to or receive assistance from other federal, state and local agencies.

For example, in gathering foreign intelligence, the Agency might gain access to information concerning international drug traffic which would be of interest to the Drug Enforcement Administration. Or it might receive information of interest to the FBI and the local police concerning the security of government installations. CIA operations touch the interests of many other agencies as well.

This Chapter will explore some of the relationships between the CIA and other agencies over the years—in order to determine whether the CIA has exceeded its authority in connection with those relationships.

A. Relationships With Other Federal Agencies

1. Federal Bureau of Investigation

Many counterintelligence operations undertaken by the FBI also have positive foreign intelligence ramifications. Likewise, legitimate domestic CIA activities occasionally cross the path of ongoing FBI investigations. Consequently, regular daily liaison has customarily been maintained between the CIA and the FBI to coordinate the activities of these two federal agencies.

As a part of such liaison, the CIA furnishes to the FBI much routine information obtained by the CIA in the course of its legitimate foreign

intelligence gathering activities. Included is information concerning suspected criminal activities within the United States and information relevant to the country's internal security. Likewise, the FBI furnishes information to the CIA relating to foreign intelligence matters. From time to time, the CIA and the FBI have cooperated in joint operations touching on both agencies' areas of interest.

The relationship between the CIA and the FBI over the years has not been uniformly satisfactory. At the policy-making level, it has ranged from workable, at its best, to almost nonexistent at its worst. In February 1970, following a seemingly insignificant incident in Denver, all formal liaison between the two agencies was completely severed by the FBI. Formal liaison at the policy level was not restored until November 1972—though a working relationship at lower levels was always maintained.

The Commission is informed that the relationship between the CIA and the FBI has improved considerably in the last few years. Nevertheless, the relationship needs to be clarified and outlined in detail in order to ensure that the needs of national security are met without creating conflicts or gaps of jurisdiction. A better exchange of ideas and more effort by each agency to understand the problems facing the other are essential if the responsibilities of both agencies are to be met.

Recommendation (30)

The Director of Central Intelligence and the Director of the FBI should prepare and submit for approval by the National Security Council a detailed agreement setting forth the jurisdiction of each agency and providing for effective liaison with respect to all matters of mutual concern. This agreement should be consistent with the provisions of law and with other applicable recommendations of this Report.

2. Narcotics Law Enforcement Agencies

The CIA, through a field office in Virginia, carried on at least one domestic operation as a cooperative effort with the Bureau of Narcotics and Dangerous Drugs (BNDD) (now the Drug Enforcement Administration). The operation was an attempt to help BNDD prevent corruption within its ranks by developing sources of information within the Bureau.

The operation began in late 1970 when the Director of BNDD asked the Director of Central Intelligence for assistance in building a "counterintelligence" capacity within BNDD. The request was apparently supported by Attorney General Mitchell.

BNDD stated that it was vitally concerned that some of its employees might have been corrupted by drug traffickers. According to

the CIA officer in charge of the Agency's field office involved, BNDD reported that it did not have the "know-how" to set up a covert operation or to establish a counterintelligence unit. It therefore turned to the CIA for assistance.

The CIA recruited officers for BNDD through a proprietary corporation. The CIA officer in charge performed the contact and interview work. He screened applicants by telling them that a corporate client engaged in the field of law enforcement wanted people to work as research consultants. If the applicants were interested and met the physical requirements for age and size, they were then subjected to further screening. If they passed the security checks and evaluations and were still interested, then the recruits were introduced to the Chief of the Office of Inspections of BNDD. They then learned, for the first time, what job was to be offered to them.

If the applicant was acceptable to BNDD, the CIA provided a short course in clandestine trade crafts and the employee was turned over to BNDD. The CIA relinquished all control over and contact with the employee once he entered upon his duties with BNDD.

The CIA recruited a total of 19 agents for BNDD in the period between December 1970 and July 1973, when Director Colby terminated the CIA's participation.

In addition to recruiting an internal security unit for BNDD, the CIA also assigned two of its agents, working under cover of a commercial corporation, to operate for BNDD between January 1972 and the termination of the project in July 1973. They were directed by BNDD and were not under the operational control of the CIA. The CIA did, however, provide for the salary and administrative requirements of the agents, for which the CIA was reimbursed by BNDD.

These activities violated the 1947 Act which prohibits the CIA's participation in law enforcement activities. The Commission therefore concludes that Director Colby was correct in his written directive terminating the project. The Director and the Inspector General should be alert to prevent involvement of the Agency in similar enterprises in the future.

3. The Department of State

For over 20 years, the CIA conducted a training school for foreign police and security officers. The school, operated within the United States under cover of a private commercial corporation, trained foreign police in highly specialized areas of law enforcement. The CIA school offered training in fingerprinting, security, criminal investigation, instruction methods and patrol operations, among others.

The Agency training operation began in 1952 with courses taught in the United States for foreign security personnel. The school was

not very extensive in nature and operated out of a farmhouse in Virginia.

In addition, in 1960 the State Department, operating in cooperation with the CIA, opened a school in the Panama Canal Zone for Latin American police officers. The CIA supplied the faculty while the other costs of the school were borne by the State Department and the Agency for International Development's Office of Public Safety. The school concentrated on teaching security methods and modern techniques of crime solving.

In 1963, the State Department closed its Canal Zone police training school, and the activities carried on there were transferred to the United States. A commercial contractual arrangement for the training service was established with a domestic private corporation which was a CIA front. The relationship between the CIA and the private corporation was unknown to the Administrator of the AID, although the person in charge of the Office of Public Safety apparently knew he was dealing with a CIA proprietary. The school was shut down and the cover corporation disbanded in 1973.

In addition to operating the foreign police school, the CIA provided the faculty for special courses on countermeasures against terrorists—also in cooperation with the AID Office of Public Safety. During the 20-year period of its operation of the police training school and participation in the special courses, the CIA graduated a total of about 5,000 foreign student police officers.

The CIA proprietary corporation was also a licensed firearms and police equipment dealer. The records of the corporation show that its gross sales of police equipment to foreign police officers and police departments varied from between a low of about $6,000 in one year to a high of $48,000 in another year. Most of the sales, according to the CIA officer in charge of the program, were to the students enrolled in the course who purchased police equipment upon completing their training.

The Commission has concluded that providing educational programs for foreign police was not improper under the Agency's statute. Although the schools were conducted within the United States through a CIA proprietary, they had no other significant domestic impact.

Engaging in the firearms business was a questionable activity for a government intelligence agency. It should not be repeated.

4. Funding Requests from Other Federal Agencies

On at least one occasion, the CIA was requested to fund a project having no intelligence relationship, apparently because its inclusion in the CIA's secret budget provided an opportunity to hide the expenditures.

In the spring of 1970, the CIA was requested by members of the White House staff to contribute funds for payment of stationery and postage for replies to persons who wrote President Nixon after he initiated the invasion of Cambodia. Although CIA officials at first expressed reluctance to use CIA funds for this purpose, the Agency eventually forwarded two checks totaling $33,655.68 to the White House to reimburse its costs. Because of the unique CIA budgetary scheme, no one other than the CIA's internal Audit Staff ever reviewed this unusual expenditure.

This use of CIA funds for a purpose unrelated to intelligence is improper. Steps should be taken to ensure against repetition of this incident.

B. State and Local Police

The primary point of contact between the CIA and state and local law enforcement agencies is, and historically has been, through the Office of Security. Personnel security matters, such as the arrest of Agency employees for criminal offenses, the involvement of employees in automobile accidents, and police assistance requested by employees to resolve such personal problems as burglaries of their belongings, provide the most frequent reasons for CIA dealings with police agencies.

The Agency's closest contacts have been with police departments in the Washington, D.C., metropolitan area—particularly with the Washington Metropolitan Police Department, because of the wide range of CIA activities carried on in Washington—and the Fairfax County, Virginia, Police Department, because of the physical presence of CIA Headquarters within that county. Liaison with other surrounding suburban police departments has been maintained to a lesser extent. Morever, CIA historically has maintained limited contacts with a large number of state and local police departments throughout the country, some on an *ad hoc* basis and others on a continuing basis.

In addition to its ordinary liaison activities, the CIA has on occasion provided other assistance to state and local law enforcement agencies. It has also received significant assistance from such agencies. The following are examples.

1. Assistance Given to State and Local Police

Since 1966, the Office of Security has conducted or arranged for a number of briefings, demonstrations, seminars and training courses for representatives of various police departments throughout the United States. These sessions were generally conducted at facilities operated by the Agency in the Washington, D.C., area. Most of the

courses lasted a day or two and covered such subjects as declassification of materials, foreign weapons, counter-audio measures, explosive devices and detection techniques, basic theories of intelligence and clandestine collection methodology. However, one course in lockpicking, photography (including covert photography, telephotography and photoanalysis) and positive surveillance (both physical and audio) lasted approximately three weeks. This course was given on at least four separate occasions in 1968 and 1969.

Director Helms supported and approved all of these training programs. All, however, were terminated in 1973 upon the passage of an amendment to the Omnibus Crime Control and Safe Streets Act, which prohibits CIA assistance to the Law Enforcement Assistance Administration and evidences congressional disapproval of direct CIA assistance to state and local police departments in general.

Since its inception, the CIA has had a policy against providing assistance in the form of Agency personnel to state and local law enforcement agencies for police-related activities. However, there have been some deviations from that general rule.

On at least three occasions between 1969 and 1971,[1] the Office of Security provided several men and radio-equipped vehicles to the Washington Metropolitan Police Department to assist the police in monitoring crowds during anti-war demonstrations. Such assistance was rendered at the request of an officer of the police department.

In December of 1970, CIA was asked to provide (and did provide) an Arabic interpreter to the Fairfax County Police Department in connection with a homicide investigation. In addition to interpreting, this CIA officer agreed to assist in the actual investigation by pretending to be another police officer in the hope that he might overhear conversations in Arabic carried on by prospective witnesses being confronted by the police. He was provided police identification, including a badge and service revolver, to aid in this investigation.

In 1972, the CIA assisted the Washington Metropolitan Police Department on an actual police surveillance. In the course of a surveillance training exercise for Metropolitan Police personnel, a police informer suspected by the Washington police of having engaged in improper activities was surveilled without her knowledge. Nine CIA agents and six Agency automobiles were utilized in the operation.

The Commission has discovered no other instances where the CIA has provided manpower to any state or local police departments to assist in operations which were of a law-enforcement nature.

The Office of Security has sometimes loaned electronics gear and other equipment (including photographic and riot control equipment)

[1] The 1969 Presidential Inauguration, the anti-war moratorium demonstrations in November 1969, and the 1971 May Day Demonstrations.

to police departments for training or for use in police operations. In addition, the CIA has, on at least one occasion, assisted local police in installing an electronic listening device for use in an actual police operation. Once in the late 1960's, small quantities of explosives were given to the Fairfax County Police Department for use in training dogs to locate explosives.

Other miscellaneous assistance rendered by the CIA to state and local law enforcement agencies includes providing police with technical advice, alias documentation, laboratory assistance, and access to certain CIA facilities for highly sensitive police operations. Further details appear in Appendix VII.

2. Assistance Received from State and Local Police

The CIA receives a great deal of routine assistance from state and local law enforcement agencies, primarily from police departments in the Washington metropolitan area. Examples of such assistance include name checks to determine whether CIA applicants for employment have criminal records, checks to determine the registered owners of vehicles with known license tags, forwarding information concerning planned activities or demonstrations directed against CIA facilities, and providing police protection for CIA facilities located within a local police department's jurisdiction. The CIA has received this type of assistance for many years. It is generally the same assistance that state and local police give to all government agencies.

Because of the extraordinary security precautions exercised by the CIA, it has also made arrangements with state and local police, in all areas of the country where it maintains facilities, to be notified of the arrest of any CIA employee. The CIA uses this information only for preventing breaches of security; there is no evidence suggesting that CIA has ever attempted to intervene in a police investigation concerning one of its own employees.

Only one instance has been discovered where local police actively participated in a CIA operation. In 1971, three police officers from the Fairfax City Police Department accompanied Office of Security personnel while they surreptitiously entered a business establishment in Fairfax, at night, without a warrant, to photograph some papers. (This investigation is among those discussed in Chapter 13.)

The CIA has sometimes received permission from local police authorities to use their facilities or personnel in activities not related to actual CIA operations. For example, between 1951 and 1955, the CIA received some assistance—in the form of manpower—from a number of state police departments. Since the CIA was rapidly expanding at that time, and since it was therefore unable to conduct all of the necessary security background investigations of prospective CIA personnel,

the police from several states agreed to conduct these investigations for the Agency. The state police forces of Colorado, Connecticut, Florida, Indiana, Iowa, Kentucky, Michigan, Minnesota, Missouri, Ohio and Washington conducted approximately 341 investigations during this period.

In 1969, arrangements were made with the Washington Metropolitan Police Department to allow the CIA to conduct certain training exercises using police facilities and personnel. These exercises involved the contrived "arrest" of CIA trainees by a Washington police officer and the lengthy interrogation of those trainees at Washington Police Headquarters by Office of Security personnel. The object of the training was to determine whether CIA trainees, scheduled for covert assignments overseas, would "break" when placed under such pressures—and to give them experiences similar to those which they might be expected to encounter on their assignments.

Approximately four such training exercises—each involving four or five trainees—were conducted through 1974. On at least one occasion several years ago, a similar training exercise was conducted in cooperation with the Fairfax County Police Department.

The CIA has occasionally obtained badges and other identification from local police for the purpose of maintaining cover during CIA operations. Such "cover" has been obtained from police departments in Washington, D.C., Fairfax County (Virginia), and New York City, among others. The evidence before this Commission has shown that the CIA's use of "police cover" has been extremely limited, and we have found no evidence of abuse. (For more detail, see Appendix VII.)

Except for the one occasion when some local police assisted the CIA in an unauthorized entry, the assistance received by the CIA from state and local law enforcement authorities was proper. The use of police identification as a means of providing cover, while not strictly speaking a violation of the Agency's statutory authority as long as no police function is performed, is a practice subject to misunderstanding and should be avoided.

3. Gifts and Gratuities Given to Local Police Officials

For several years, it has been the practice of the Office of Security to offer gratuities to police officials who have been of particular assistance to the CIA. Gratuities have ranged from candy, liquor and twenty-five dollar gift certificates at Christmas, to providing free transportation for vacationing police officials at costs up to eight hundred dollars.

In 1971 the Office of Security made a gift to the police department of Lewes, Delaware, of some radios, flashlights, mace, ammunition and other items in recognition of police assistance to Director Helms,

a summer resident of Lewes, whose life was believed to be in danger at the time. In addition, the Office has on several occasions given retirement gifts to local police officials who have been particularly helpful to the Agency. On several occasions, police officials have been flown to a CIA training facility in southern Virginia for an all expenses paid weekend of relaxation and entertainment.

Most of the gifts and gratuities given to local police officials by the Office of Security were paid for out of a confidential fund made available to the Director of Security for his own miscellaneous use. Expenditures from this fund did not require the approval of any higher authority.

The primary purpose of such "courtesies" to officials of state and local police departments was to recognize the cooperation which those officials or their departments had given the CIA. There is no evidence that any gratuities given to local police officials and paid for out of CIA funds were conditioned upon the recipient's providing the Office of Security with any particular assistance.

Conclusions

In general, the coordination and cooperation between state and local law enforcement agencies and the CIA (primarily the Office of Security) has been excellent. Both the Agency and local police officials have given assistance to each other in a spirit of cooperation based upon a desire to facilitate their respective legitimate aims and goals.

Most of the assistance rendered to state and local law enforcement agencies by the CIA has been no more than an effort to share with law enforcement authorities the benefits of new methods, techniques and equipment developed or used by the Agency. In compliance with the spirit of a recent act of Congress, the CIA, in 1973, terminated all but routine assistance to state and local law enforcement agencies. In view of these recent statutory changes, assistance is now being provided to state and local agencies by the FBI. There is no impropriety in the CIA's furnishing information concerning new techniques and developments to the FBI.

On a few occasions, the Agency has allowed its employees to become involved in actual police investigations. In spite of these lapses, however, the Agency has generally been careful to avoid operations which might be considered police or law enforcement activities.

The assistance received by the CIA from state and local law enforcement authorities did not involve the Agency in any improprieties. However, any practice of giving gratuities to cooperative police officials should be terminated.

Chapter 18

Indices and Files on American Citizens

The collection of information about people is a major function of the CIA. Biographical information is collected not only in response to specific requirements but also to accumulate background of likely relevance to be drawn on when needed. The collection of this information is incidental to the CIA's normal activities, and the inclusion of information about persons who may be American citizens is largely incidental to collecting information about people generally.

For these reasons, biographical information is stored by a number of components throughout the Agency. The nature of the indices and files varies with the missions and capabilities of those maintaining them.

The Operations Directorate maintains a central index of names and certain biographical and subject files in connection with the intelligence collection activities of its various divisions and staffs. In addition, separate project and case files are maintained by these divisions and staffs.

The other major source of biographical files is in the Administration Directorate, where files are maintained by the Office of Security and by other administrative branches such as the personnel and medical offices.

Biographical files also are maintained in the Intelligence Directorate, but few, if any, names of Americans are believed to be in them.

Finally, miscellaneous files on Americans may be found in the offices of the General Counsel and the Legislative Counsel and in other offices which handle dealings with Americans.

The following sections describe the types of files maintained by the CIA which are most likely to contain information on American citizens.

A. Indices and Files of the Operations Directorate

Biographical files are generated by the Directorate of Operations as a result of the indexing of names of persons appearing in documents and communications received by the Directorate. Generally, those documents and communications relate to persons who are of intelligence or counterintelligence interest to the Agency, either because of their actual or possible association with foreign intelligence activities, or because they are actual or potential sources or operatives.

The names of United States citizens have been indexed along with the names of others, based on these criteria. The fact that such names are included does not appear to reflect an effort to conduct surveillance or other investigations of Americans; rather it appears to be the normal result of the Agency's foreign intelligence activities. Names from Operation CHAOS files have not been included in the central index.

The first step in the process of keeping the biographical index and files involves the indexing of incoming documents.

The Operations Directorate maintains a central index and file of documents received, most of which are in the normal course routed through the central index and file. Certain sensitive documents, however, may not be indexed centrally. Each document received is reviewed and names of intelligence interest are entered into the biographical index.

The criteria for indexing a name have changed over the years. In the early years of the Agency, virtually every name in a document was indexed. Eventually the Agency accumulated some 15 million biographical references in its index.

Since the early 1960's, however, the criteria have limited indexing to persons of counterintelligence interest (i.e. those suspected of working on behalf of a hostile intelligence service) and persons of interest as actual or potential sources of information or assistance.

The number of references has since that time been progressively reduced to its present level of about 7,500,000 names (including an indeterminate number of duplicates). Of these, an estimated 115,000 names are of persons who are either known or believed to be United States citizens.

The fact that a name has been entered into the index does not mean that a file exists on that person. Files are opened only at the direction of a division or staff and only when it appears that the person will be of continuing intelligence interest. In that case, a so-called personality (or 201) file is opened; i.e., a manila folder is prepared to hold relevant documents accumulating on that person.

The Operations Directorate has a total of some 750,000 personality files. Of these, the Agency estimates that 57,000 files are of American citizens and an additional 15,000 are of persons who may be American citizens.

No file-by-file review has been made to determine how many of these files contain what might be regarded as derogatory information. However, an analysis by the Agency of a group of files opened on American citizens in 1974, as reported to the Commission's staff, showed that seventy percent of these files were opened on persons who were sources of information or assistance to the Agency, nineteen percent related to Americans of possible use to the Agency, and eleven percent related to Americans who were of foreign counterintelligence interest.

Until 1974, the indexing process made no distinction between United States citizens and others. At that time, regulations were issued restricting the indexing of United States citizens to those involved in "foreign activity detrimental to the national security interests of the United States" such as "espionage, counterintelligence, sabotage, subversion, covert propaganda, psychological or unconventional warfare or paramilitary operations," "terrorist activity and narcotics trafficking," participation in the "illegal apparatus of foreign communist parties," or "other international clandestine activity."

The indexing is done by clerks who determine whether to index a name on the basis of directions contained in the document, supplied by either its originator or its recipient. These persons are expected to comply with the indexing criteria.

In the past, a major source of index references to United States citizens was FBI reports. Whenever an FBI field office felt a report on an individual might be of counterintelligence interest, a copy was routinely furnished the Agency. Many of the names appearing in these raw reports were indexed with relatively little attempt to determine their potential relevance to the CIA. Thus a large number of generally unevaluated index references to Americans were placed in the system.

FBI reports are no longer indexed without a prior determination by an appropriate division or staff that indexing criteria are in fact met. In addition, efforts are being made to work out a procedure under which only reports meeting specified criteria will be sent by the FBI to the CIA.

Names of Americans are also contained in the communications traffic from overseas CIA stations to Headquarters which passes through the indexing process. The information developed by the Commission indicates that in large part these references are to Americans who are actual or potential sources of information or assistance to the Agency.

Of course, names of Americans might turn up in other documents as well. Frequently, the citizenship of a person is not known or disclosed

in the document, so that it is impossible to determine whether the name indexed is that of an American.

An index reference on a person contains a limited amount of biographical data along with references to the filed documents from which it was derived. It may also contain a very brief summary of some of these documents.

Four years ago, the entire index was computerized, and today the information contained in it is accessible by computer. Access is restricted, however, to those officers in the Operations Directorate who are specially authorized for that purpose.

Many of the Agency's files on Americans were opened because a security clearance was required or because the person was involved directly or indirectly in some Agency operation. For example, it is estimated that there are more than ten thousand files on American employees or contractors involved in the Agency's airline operations, which are now being phased out. The Agency believes that many more of these files on Americans are of persons who have had some tangential relationships with the Agency or whose utilization may at one time have been considered by the Operations Directorate but never became a fact.

Most of the files on Americans appear to be inactive. In 1974, only some 250 of these files were on loan to one or another of the divisions or staffs of the Directorate which hold files of active intelligence interest.

Under present regulations, no file may be opened on an American citizen without the written approval of one of the three top ranking officers of a division or staff. In addition, each division and staff is required to make a monthly report to the Deputy Director of Operations on all files opened on Americans.

All of the existing files on Americans are now undergoing review by the divisions and staff responsible for the particular file. Material which does not meet current criteria is placed in sealed envelopes with the announced intention that the envelopes are to be destroyed at the end of the current investigations.

The Directorate also maintains certain specialized indices and files which may contain the names of persons who happen to be American citizens. It has in its index references to documents of the CIA's predecessor agencies. It also has separate files on persons suspected of affiliation with Soviet and other foreign intelligence services, persons engaged in certain kinds of international travel, and persons who by reason of particular affiliations may be potential foreign intelligence sources.

Finally, other components of the Directorate maintain files on American citizens working with those components.

B. Indices and Files of the Administration Directorate

The Administration Directorate maintains biographical files on a large number of U.S. citizens and foreigners living within the United States who have knowingly entered into some type of relationship with the Agency.

The vast majority of these files concern employees, former employees and applicants for employment. Records on these persons must necessarily be maintained, as in any other government agency or private business.

In addition, because of the special nature of its activities, the CIA maintains contact with (and therefore records concerning) many other persons and business firms throughout the country who provide the Agency with needed assistance.

Due to the security restrictions under which the Agency operates, a wide variety of security files must also be maintained on all persons working with or for the Agency who may come into contact with classified information. Some of these persons are aware of the Agency's interest in them; others are not. All files relating to security matters are compiled and maintained by the Office of Security; the others are maintained elsewhere within the Administration Directorate.

The following is a description of the types and kinds of files maintained by the Administration Directorate on persons living within the United States:

1. Indices and Files Outside the Office of Security

Administration Directorate files on CIA employees, former employees and applicants for employment include applicant records (many of which contain considerable biographical data in the form of voluntary personal history statements); personnel files such as records of job assignments, performance assessments, insurance records, commendations and retirement records; financial files such as payroll and travel records; training files; medical files; and other miscellaneous files.

These files are generally maintained in the office primarily responsible for the function involved. In addition, master folders containing pertinent papers from all of the other offices needed to manage each employee properly are maintained by the particular component to which each employee is assigned.

In addition to its relationship with its own employees, the CIA maintains relationships with numerous other individuals who render assistance to the Agency. These include agents, informers, consultants, and persons temporarily assigned to duty with the Agency from other government agencies.

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The Agency also maintains relationships with businesses and other governmental and educational institutions (and their representatives) who have contracts or other dealings with the Agency. Files and indices documenting these relationships are maintained by various components of the Administration Directorate for accounting and record-keeping purposes.

2. *Indices and Files of the Office of Security*

Office of Security files are maintained primarily to record actions taken by the Office in granting or denying security clearances to those persons whose relationship with the Agency gives them access to classified information. The files of the Office of Security are organized on the basis of "subjects." All individuals, organizations, businesses and projects are deemed "subjects" if security files exist on them.

The bulk of the files maintained by the Office of Security consist of approximately 900,000 security files, each relating to the security investigation of a specific "subject" of interest to the Agency.[1] About one-third of these files are retired. About 90 percent of the security files relate to individuals, a majority of whom are United States citizens. The remaining 10 percent relate to impersonal "subjects" such as business firms, organizations and projects.

Security files are maintained on applicants for employment, Agency employees, former Agency employees, independent contractors doing business with the Agency, persons supplying the Agency with positive intelligence information, consultants, non-Agency employees who work on Agency premises, and other individuals and business entities whose relationship with the Agency gives them access to classified information. Among the persons on whom such files are established are numerous past and present Senators, Congressmen, judges and other prominent public officials. For example, the Agency presently maintains security files on 75 sitting Members of Congress.

A few security files are maintained on persons unaware that they have any relationship to the Agency. For example, the employees of an independent contractor doing business with the Agency may know that they are working on a secret government contract (and, in fact, that they have been investigated for a security clearance), but not that they are of interest to the CIA. Records of security clearances on those employees would nonetheless be maintained by the Office of Security. Likewise, clearance information may be maintained by the Office of Security on persons whom the Agency is thinking of contacting, or foreign nationals of potential operational use, even if the Agency subsequently decides not to contact the individual, or contacts him and he refuses to assist the Agency.

[1] A few security files are "multiple subject" files, containing information on two or more subjects in a single file folder. It was estimated by a responsible Agency official that less than five percent of all security file folders are "multiple subject" security files.

Security files are established upon the request of any of numerous officers within the Office of Security. As a practical matter, 95 percent of all requests to establish new files are routine and are undertaken at the request of the Clearance Division of the Office of Security, which ensures that a security clearance is approved before access is granted to classified Agency information. No centralized control exists for screening non-routine requests to determine their propriety.

A security file is most frequently created on an individual when, for any of a variety of reasons, it becomes desirable to give that individual access to classified Agency material. Security files on individuals ordinarily contain the following types of materials: (1) requests that an investigation be conducted; (2) biographical data on the subject, ranging from a few lines on one page to lengthy personal history statements filled out by certain applicants for employment; (3) authorizations for the release of high school and college transcripts and copies of those transcripts; (4) investigative coverage and reports of those investigations; (5) appraisal summaries reflecting the rationale for granting or refusing to grant a security clearance; (6) documentation of the final action taken by the Office of Security concerning any given investigation; (7) secrecy agreements and notices of termination of such agreements; (8) documentation of subsequent actions such as the granting or refusing of special clearances, approvals for assignment overseas, notations that polygraph or other special interviews were performed, notices of transfers and changes in cover assignments; memoranda concerning security violations, and notices of termination of affiliation with the Agency; and (9) miscellaneous documents which might bear on the question whether the individual should have a security clearance.

The reasons for creating security files on "impersonal" subjects such as business firms and organizations differ widely. Most of these files are created at a time when the CIA first contemplates developing with the business entity or organization a relationship which might give it access to classified or sensitive information. The files contain such items as (1) security surveys of a business's premises if it is contemplated that classified activities will be carried on there, or (2) lists of persons from a business or organization assisting the Agency who are cleared to receive classified information or have access to CIA installations.

Some security files have been compiled on organizations and individuals thought to pose a threat to Agency personnel, installations or operations. For example, during the peak of the racial and anti-war disturbances in Washington between 1965 and 1972, security files

were accumulated on many dissident groups and their leaders. Other "impersonal" files were maintained on communist publications and suspected communist front organizations.

A relatively small number of "impersonal" security files deal with specific Office of Security projects. These projects range from a project to provide security during the construction of CIA Headquarters at Langley, Virginia, to investigations conducted of Agency employees or operatives thought to have been security risks. Security files of this type include descriptions of the project or investigation involved, assignments to the field, information collected during the course of the project or investigation, and (some times) the end result of the project or investigation.

The security files maintained by the Office of Security serve a variety of purposes.

In order to protect classified information, the Agency must maintain a substantial body of knowledge about persons who might be assigned to sensitive positions.

The files are also used for periodic reviews of persons who occupy sensitive positions or hold special clearances.

Reports of investigations are occasionally furnished to other government agencies with a legitimate need for the information contained therein.

All pertinent subjects and references identified in security files have been card indexed. Approximately 900,000 of these indices are "subject" indices referencing the subject of a particular security folder bearing the name of the individual, business, organization or group on which the file is maintained.

An additional 950,000 indices are "reference" indices recording names which appear in documents stored in one of the folders indexed to a subject. An index reference is created when note-worthy information concerning the referenced individual is developed in connection with another case, or when it is learned that the referenced individual is connected with some company, organization or project which is of interest to the Agency.

Over the years, there have been changing criteria concerning the type of information which is placed in security files and indices. At one time, files were established simply to hold a collection of reference index cards when the total on a given individual had reached a certain number.

In about 1972, efforts were begun to purge the reference index and "impersonal" files of information which was of no current value. Many security files of dubious value or propriety were destroyed. These purging efforts have been suspended pending completion of the investigations by this Commission and the Congress.

The head of the division within the Office of Security responsible for maintaining all security files recently prepared a list of those materials which should properly be retained in active security files. All materials to be filed are now reviewed by a senior clerk for propriety. As of March, 1974, the head of that division has, for the first time, been given the authority to challenge any input into the index system of the Office of Security if he deems the material to be improper. The criteria for indexing names have also been drastically restricted.

Security files on employees and others are very tightly held within the Agency. Only a few Office of Security personnel have access to these files, and then only on a need-to-know basis. No employee—not even the Director of Central Intelligence or the Director of Security—is ever permitted access to his own security file. This precaution is taken to protect confidential sources of information, who are assured at the time they are interviewed about a prospective employee that whatever they say will never be divulged to the subject of the investigation. Agency officials evidence a very high level of commitment to honoring those assurances.

Even more tightly held are the records of polygraph examinations of employees and prospective employees. While polygraph examinations are a routine part of every security investigation conducted by the Office of Security, the reports are separately and securely maintained because of their potential for embarrassment.

Other relatively voluminous Office of Security files which contain biographical data on American citizens include records of individuals holding special and compartmentalized access approvals to various CIA material, records of persons holding building badges and other credentials issued under Agency cognizance to employees and other individuals, and visitor records on approximately 500,000 persons who have visited Agency installations.

Miscellaneous files maintained by the Office of Security include lists of individuals with known or suspected foreign intelligence connections, files associated with the handling of defectors (some of whom may now be U.S. citizens), lists of individuals from whom crank calls have been received by the Agency, and lists of persons previously charged with security violations. The Office of Security formerly maintained extensive computer lists of approximately 300,000 persons who had been arrested for offenses related to homosexuality, but these lists were destroyed in 1973.

No effort was made by the Commission or its staff to personally review all of the thousands of security files and indices maintained on United States citizens; spot checking was undertaken, however, on a random basis.

C. Office of Legislative Counsel

The Office of Legislative Counsel maintains congressional files for use in its legislative liaison duties.

These files are reestablished at the beginning of each new session of Congress; files on retired or defeated members are transferred to the CIA record center. After five years, they are selectively purged.

Generally, the files contain the following types of documents: correspondence between the member and the CIA, excerpts from the *Congressional Record* dealing with the member, constituent employment or personnel requests forwarded to the Agency by the member, short biographies and political descriptions of the member, and copies of all foreign cables containing the name of the member.

Conclusions

Although maintenance of most of the indices, files, and records of the Agency has been necessary and proper, the standards applied by the Agency at some points during its history have permitted the accumulation and indexing of materials not needed for legitimate intelligence or security purposes. Included in this category are many of the files related to Operation CHAOS and the activities of the Office of Security concerning dissident groups.

Constant vigilance by the Agency is essential to prevent the collection of information on United States citizens which is not needed for proper intelligence activities. The Executive Order recommended by the Commission (Recommendation 2) will ensure purging of nonessential or improper materials from Agency files.

Further, the Office of Security should establish (i) centralized responsibility to control the opening of new security files not routine in nature and (ii) specific criteria controlling the nature of materials to be collected.

Chapter 19

Allegations Concerning the Assassination of President Kennedy

Allegations have been made that the CIA participated in the assassination of President John F. Kennedy in Dallas, Texas, on November 22, 1963. Two different theories have been advanced in support of those allegations. One theory is that E. Howard Hunt and Frank Sturgis, on behalf of the CIA, personally participated in the assassination. The other is that the CIA had connections with Lee Harvey Oswald or Jack Ruby, or both of them, and that those connections somehow led to the assassination. The Commission staff has investigated these allegations.

Neither the staff nor the Commission undertook a full review of the Report of the Warren Commission. Such a task would have been outside the scope of the Executive Order establishing this Commission, and would have diverted the time of the Commission from its proper function. The investigation was limited to determining whether there was any credible evidence pointing to CIA involvement in the assassination of President Kennedy.

A. The Theory That Hunt and Sturgis Participated in the Assassination

The first of the theories involves charges that E. Howard Hunt and Frank Sturgis, both convicted of burglarizing the Democratic National Committee headquarters at the Watergate in 1972, were CIA employees or agents at the time of the assassination of the President in 1963. It is further alleged that they were together in Dallas on the day of the assassination and that shortly after the assassination they were found in a railroad boxcar situated behind the "grassy knoll," an area located to the right front of the Presidential car at the time of the assassination.

Under this theory, Hunt and Sturgis were allegedly in Dallas on November 22, 1963, and were taken into custody by the police, but were mysteriously released without being booked, photographed or fingerprinted by the police—although they were allegedly photographed by press photographers while they were being accompanied to the Dallas County Sheriff's office.

It is further contended that the persons shown in these press photographs bear "striking resemblances" to photographs taken of Hunt and Sturgis in 1972. Portions of two amateur motion picture films of the assassination (Zapruder and Nix) are alleged to reveal the presence of several riflemen in the area of the grassy knoll.

The Hunt-Sturgis theory also rests on the assumption that at least one of the shots that struck President Kennedy was fired from the area of the grassy knoll, where Hunt and Sturgis were alleged to be present. The direction from which the shots came is claimed to be shown by the backward and leftward movement of President Kennedy's body almost immediately after being struck by that bullet. Taken together, these purported facts are cited as the basis for a possible conclusion that CIA personnel participated in the assassination of President Kennedy, and, at least inferentially, that the CIA itself was involved.

The Commission staff investigated the several elements of this theory to the extent deemed necessary to assess fairly the allegation of CIA participation in the assassination. The findings of that investigation follow.

Findings

1. The Allegation that Hunt and Sturgis Were CIA Employees or Agents in 1963

E. Howard Hunt was an employee of the CIA in November 1963. He had been an employee of the CIA for many years before that, and he continued to be associated with the CIA until his retirement in 1970. Throughout 1963 he was assigned to duty in Washington, D.C., performing work relating to propaganda operations in foreign countries. His duties included travel to several other cities in the United States, but not to any place in the South or Southwest. He lived with his family in the Washington, D.C., metropolitan area throughout that year, and his children attended school there.

Frank Sturgis was not an employee or agent of the CIA either in 1963 or at any other time. He so testified under oath himself, and a search of CIA records failed to discover any evidence that he had ever been employed by the CIA or had ever served it as an agent, informant or other operative. Sturgis testified that he had been engaged in various "adventures" relating to Cuba which he believed to have been organized and financed by the CIA. He testified that he had given

information, directly and indirectly, to federal government officials, who, he believed, were acting for the CIA. He further testified, however, that at no time did he engage in any activity having to do with the assassination of President Kennedy, on behalf of the CIA or otherwise.

2. The Allegation That Hunt and Sturgis Were Together in Dallas on the Day of the Assassination

Hunt and Sturgis testified under oath to members of the Commission staff. They both denied that they were in Dallas on the day of the assassination. Hunt testified that he was in the Washington, D.C., metropolitan area throughout that day, and his testimony was supported by two of his children [1] and a former domestic employee of the Hunt family. Sturgis testified that he was in Miami, Florida, throughout the day of the assassination, and his testimony was supported by that of his wife and a nephew of his wife. The nephew, who was then living with the Sturgis family, is now a practicing attorney in the Midwest.

With the exception of the domestic employee of the Hunt family, all witnesses directly supporting the presence of Hunt and Sturgis in Washington, D.C., and Miami, Florida, on the day of the assassination are family members or relatives. Less weight can be assigned to the testimony of such interested witnesses if there is substantial evidence to the contrary. In the absence of substantial conflicting evidence, however, the testimony of family members cannot be disregarded.

Hunt testifies that he had never met Frank Sturgis before they were introduced by Bernard Barker in Miami in 1972. Sturgis testified to the same effect, except that he did not recall whether the introduction had taken place in late 1971 or early 1972. Sturgis further testified that while he had often heard of "Eduardo," a CIA political officer who had been active in the work of the Cuban Revolutionary Council in Miami prior to the Bay of Pigs operation in April 1961, he had never met him and did not know until 1971 or 1972 that "Eduardo" was E. Howard Hunt. Sturgis had also been active in anti-Castro groups in the Miami area before, during and after Hunt's assignment on the political aspects of the Bay of Pigs project in 1960 and early 1961.

Other testimony linked Hunt to Sturgis at a date earlier than 1971. One witness asserted that Sturgis is a pseudonym; that his name is Frank Fiorini; and that he took the name Sturgis from a fictional character (Hank Sturgis) in a novel written by Hunt in

[1] A son who was nine years old at the time could not recall whether his parents were present or absent that day; the fourth (and youngest) Hunt child was not born then. Mrs. Hunt is now deceased.

1949. (*Bimini Run*). Sturgis testified that his name at birth was Frank Angelo Fiorini; that his mother's maiden name was Mary Vona; that his father's name was Angelo Anthony Fiorini; that his parents were divorced when he was a child; that his mother subsequently remarried a man named Ralph Sturgis; and that at his mother's urging he legally changed his name in Norfolk, Virginia, sometime in the 1950's, to take the last name of his stepfather.

A search of the relevant court records disclosed that a petition was filed on September 23, 1952, in the Circuit Court of the City of Norfolk (Virginia) pursuant to which a Frank Angelo Fiorino petitioned to change his name to Frank Anthony Sturgis. The petition recited that his mother had divorced his father about 15 years previously and had married one Ralph Sturgis, that he had been living with his mother all of his life, that his mother was known as Mary Sturgis, and that his stepfather also desired him to change his name to Sturgis. An order of the Court was entered on September 23, 1952 (the same date as the petition) changing his name to Frank Anthony Sturgis. The order appears in the records of the Circuit Court of the City of Norfolk, Virginia. In the petition and the order relating to the change of name, *Fiorini* was misspelled as *Fiorino*.

In the light of this documentary evidence, no weight can be given to the claim that Sturgis took his present name from a character in a Hunt novel—or that the name change was associated in any way with Sturgis' knowing Hunt before 1971 or 1972.

The personnel, payroll and travel records of the CIA were checked with respect to E. Howard Hunt. Daily attendance records for the period are no longer available because they are destroyed in the ordinary course of the Agency's records disposal system three years after completion of the audit for each year. What records remain, including annual leave, sick leave, and travel records, disclose that Hunt had no out-of-town travel associated with his employment in the month of November 1963. He used no annual leave and eleven hours of sick leave in the two-week pay period ending November 23, 1963. The exact date or dates on which the sick leave was taken could not be ascertained. There is some indication, however, that some of these eleven hours of sick leave may have been taken by Hunt on November 22, 1963. He testified that, on the afternoon of that day, he was in the company of his wife and family in the Washington, D.C., area, rather than at his employment duties. That was a Friday, and therefore a working day for employees at the CIA. Hunt could not recall whether he was on duty with the CIA on the morning of that day.

Because Sturgis was never an agent or employee of the CIA, the Agency has no personnel, payroll, leave or travel records relating to him.

In examining the charge that Hunt and Sturgis were together in Dallas on the day of the assassination, the investigators were handicapped by the fact that the allegation was first made in 1974, more than ten years after the assassination. Evidence which might have been available at an earlier time was no longer available. Contacts with relatives, friends, neighbors or fellow employees (who might have known of the whereabouts of Hunt and Sturgis on that particular day) could not be recalled. Some of these persons are now dead. Finally, records which might have been the source of relevant information no longer exist.

It cannot be determined with certainty where Hunt and Sturgis actually were on the day of the assassination. However, no credible evidence was found which would contradict their testimony that they were in Washington, D.C., and Miami, Florida, respectively.

3. The Allegation That Hunt and Sturgis Were Found Near the Scene of the Assassination and Taken to the Dallas County Sheriff's Office

This allegation is based upon a purported resemblance between Hunt and Sturgis, on the one hand, and two persons who were briefly taken into custody in Dallas following the assassination.

The shooting of President Kennedy occurred at about 12:30 p.m., Dallas time, on November 22, 1963, while the Presidential motorcade was passing Dealey Plaza as it headed generally westward on Elm Street. Witnesses to the shooting gave the police varying accounts of where they thought the shots had come from. On the basis of the sound of the shots, some believed that they had come from the Texas School Book Depository building (TSBD), which was behind and slightly to the right of President Kennedy when he was hit. Others thought the shots had come from other directions. Law enforcement officials understandably conducted a widespread search for evidence relating to the assassination.

Several hours after the shooting, officers of the Dallas Police Department checked all railroad freight cars situated on tracks anywhere in the vicinity of Dealey Plaza. About six or eight persons, referred to as "derelicts," were found in or near the freight cars. These persons were taken either to the nearby Dallas County Sheriff's office, or to the Dallas Police Department, for questioning. All were released without any arrest record being made, or any fingerprinting or photographing being done by the authorities.

Among the six or eight "derelicts" found in the vicinity of the freight cars were three men who, according to the arresting officers, were found in a boxcar about one-half mile *south* of the scene of the assassination. They were taken to the Sheriff's office by the Dallas

police officers, who walked northward along the railroad tracks to a point west of the Texas School Book Depository, then north to Houston Street and back south to the Sheriff's office. This somewhat circuitous route was actually the most convenient one available, according to the Dallas policemen. As the police and the "derelicts" passed the TSBD building and headed for the Sheriff's office, they were photographed by several press photographers on the scene. Copies of five of the photographs showing the "derelicts" were submitted to the Commission's staff as evidence.

A witness who volunteered his testimony stated on the basis of hearsay that the three "derelicts" in question were found in a boxcar situated to the near *northwest* of the assassination scene, which would have been to the right front of the Presidential car at the time of the shooting. Between the area in which that boxcar was claimed by this witness to be located and that part of Elm Street where the assassination occurred was a "grassy knoll."

It was alleged by other witnesses (who were associated with the first witness and who also volunteered testimony) that a bullet fired from the area of that "grassy knoll" struck President Kennedy in the head. It was also claimed by the same witnesses that one of the three photographed "derelicts" bears a "striking" facial resemblance to E. Howard Hunt and that another of them bears a "striking" facial resemblance to Frank Sturgis. Finally, it was alleged that if those two "derelicts" were, in fact, Hunt and Sturgis, and if the President was in fact struck by a bullet fired from his right front, the CIA would be shown to be implicated in the killing of President Kennedy.

The photographs of the "derelicts" in Dallas have been compared with numerous known photographs of Hunt and Sturgis taken both before and after November 22, 1963. Even to non-experts it appeared that there was, at best, only a superficial resemblance between the Dallas "derelicts" and Hunt and Sturgis. The "derelict" allegedly resembling Hunt appeared to be substantially older and smaller than Hunt. The "derelict" allegedly resembling Sturgis appeared to be thinner than Sturgis and to have facial features and hair markedly different from those of Sturgis.

The witnesses who testified to the "striking resemblance" between the "derelicts" and Hunt and Sturgis were not shown to have any qualifications in photo identification beyond that possessed by the average layman. Their testimony appears to have been based on a comparison of the 1963 photographs of the "derelicts" with a single 1972 photograph of Sturgis and two 1972 photographs of Hunt.

Over fifty photographs taken of Hunt and Sturgis both before and after November 22, 1963, were submitted to the FBI photographic laboratory for a comparison with all known photographs of the "derelicts." (The FBI assembled a complete set of all photographs of

the "derelicts" taken by the three photographers known to have photographed them.) The comparison was made by FBI Agent Lyndal L. Shaneyfelt, a nationally-recognized expert in photo identification and photo analysis.

The report of Agent Shaneyfelt, embodied in a Report of the FBI Laboratory, dated April 21, 1975, and signed by Clarence M. Kelley, Director of the FBI, concluded that "neither E. Howard Hunt nor Frank Sturgis appear as any of the three 'derelicts' arrested in Dallas, Texas, as shown in the photographs submitted."

With respect to Hunt, it was found that he had a much younger appearance, a smooth and tightly contoured chin, and a more angular or pointed chin, compared with the "derelict" in question. The latter was much older, had a chin with protruding pouches and a more bulbous nose.

With respect to Sturgis, even more distinguishing characteristics were observed. Sturgis looked like a Latin, whereas the "derelict" had the general appearance of a Nordic. Sturgis had very black, wavy hair—and the "derelict" had light or blond and straighter hair. Sturgis had a rather round face with square chin lines; the "derelict" had an oval face with a more rounded chin. Sturgis and the "derelict" had markedly different ratios between the length of their noses and the height of their foreheads. They also had different ear and nose contours.

Hunt is approximately five feet nine inches tall, and Sturgis is approximately five feet eleven inches tall. The FBI laboratory made an on-site study in Dallas, using the cameras with which the photographs of the "derelicts" were originally taken; it concluded from the study that the "derelict" allegedly resembling Hunt was about five feet, seven inches tall, and that the "derelict" allegedly resembling Sturgis was about six feet two inches tall, with a one inch margin for error in each direction. The difference between the height of the two "derelicts" was therefore about seven inches, while the difference between Hunt's height and that of Sturgis is only about two inches.

The photographs of the "derelicts" in Dallas have been displayed in various newspapers in the United States, on national television programs, and in the April 28, 1975, issue of *Newsweek* magazine. But no witnesses have provided testimony that either of the "derelicts" was personally known to be Hunt or Sturgis—and no qualified expert was offered to make such an identification.

4. The Allegation That President Kennedy Was Struck in the Head by a Bullet Fired From His Right Front

The witnesses who presented evidence they believed sufficient to implicate the CIA in the assassination of President Kennedy placed

much stress upon the movements of the President's body associated with the head wound that killed the President. Particular attention was called to the Zapruder film, and especially Frame 312 and the succeeding frames of that film. It was urged that the movements of the President's head and body immediately following the head wound evidenced in Frame 313 established that the President was struck by a bullet fired from the right front of the Presidential car—the direction of the grassy knoll and the freight car in which "Hunt" and "Sturgis" were allegedly found.

By Frame 312 of the Zapruder film, President Kennedy had already been wounded by a bullet which had struck him in the region of his neck. His body is shown to be facing generally toward the front of the Presidential car. He is leaning toward the left. His head is turned somewhat toward the left front, and it is facing downward toward the floor in the rear portion of the car. His chin appears to be close to his chest.

At Frame 313 of the Zapruder film, the President has been struck by the bullet that killed him, and his head has moved forward noticeably. At Frame 314 (which is about 1/18 of a second later) his head is already moving backward. Succeeding frames of the film show a rapid backward movement of the President's head and upper body, and at the same time his head and body are shown to be turning toward his left. Still later frames show the President's body collapsing onto the back seat of the car.

The evidence presented to the Warren Commission revealed that the speed of the Zapruder motion picture camera was 18.3 frames per second. If the film is projected at that speed, the forward movement of the President's head from Frame 312 to Frame 313 is not readily perceived. On the other hand, such forward movement is evident upon careful measurement of still projections of the relevant frames. It is very short, both in distance and duration. The backward movement and the turning of the President's head toward the left are rapid, pronounced and readily apparent during a running of the film at either normal or slow speed.

It was claimed that the movement of the President's head and body backward and to the left is consistent only with a shot having come from the right front of the Presidential car—that is, from the direction of the grassy knoll.

Medical and ballistics experts were consulted. Also considered were (1) the autopsy report on the body of President Kennedy, and (2) the report of a panel of medical experts who, in February 1968, at the request of Attorney General Ramsey Clark, reviewed the autopsy report and the autopsy photographs, x-ray films, motion picture

films of the assassination, the clothing worn by President Kennedy and other relevant materials.

The autopsy report of James J. Humes, M.D., J. Thornton Boswell, M.D., and Pierre A. Finck, M.D., described the President's head wounds as follows:

> The fatal wound entered the skull above and to the right of the external occipital protuberance. A portion of the projectile traversed the cranial cavity in a posterior-anterior direction (see lateral skull roentgenograms) depositing minute particles along its path. A portion of the projectile made its exit through the parietal bone on the right carrying with it portions of the cerebrum, skull and scalp. The two wounds of the skull combined with the force of the missile produced extensive fragmentation of the skull, laceration of the superior sagittal sinus, and of the right cerebral hemisphere.

In February 1968, a panel of physicians met in Washington, D.C., at the request of Attorney General Ramsey Clark, to examine the autopsy report, the autopsy photographs and x-rays, the Zapruder, Nix and Muchmore motion picture films of the assassination, and various other evidence pertaining to the death of President Kennedy. Each of the four physicians constituting the panel had been nominated by a prominent person who was not in the employment of the federal government. They were:

William H. Carnes, M.D., Professor of Pathology, University of Utah, Salt Lake City, Utah; Member of Medical Examiner's Commission, State of Utah. Nominated by Dr. J. E. Wallace Sterling, President of Stanford University.

Russel S. Fisher, M.D., Professor of Forensic Pathology, University of Maryland; and Chief Medical Examiner of the State of Maryland, Baltimore, Maryland. Nominated by Dr. Oscar B. Hunter, Jr., President of the College of American Pathologists.

Russel H. Morgan, M.D., Professor of Radiology, School of Medicine, and Professor of Radiological Science, School of Hygiene and Public Health, The Johns Hopkins University, Baltimore, Maryland. Nominated by Dr. Lincoln Gordon, President of The Johns Hopkins University.

Alan R. Moritz, M.D., Professor of Pathology, Case Western Reserve University, Cleveland, Ohio; and former Professor of Forensic Medicine, Harvard University. Nominated by Dr. John A. Hannah, President of Michigan State University.

After reviewing the autopsy photographs, and making their findings concerning them, the Panel said in its report:

> These findings indicate that the back of the head was struck by a single bullet traveling at high velocity, the major portion of which passed through the right cerebral hemisphere, and which produced an explosive type of fragmentation of the skull and laceration of the scalp. The appearance of the entrance wound

in the scalp is consistent with its having been produced by a bullet similar to that of Exhibit CE 399.[2]

After a review of the autopsy x-rays, the Panel's report states:

The foregoing observations indicate that the decedent's head was struck from behind by a single projectile. It entered the occipital region 25 mm. to the right of the midline and 100 mm. above the external occipital protuberance. The projectile fragmented on entering the skull, one major section leaving a trail of fine metallic debris as it passed forward and laterally to explosively fracture the right frontal and parietal bones as it emerged from the head.

The Panel discussed its findings as follows:

The decedent was wounded by two bullets both of which entered his body from behind.

One bullet struck the back of the decedent's head well above the external occipital protuberance. Based upon the observation that he was leaning forward with his head turned obliquely to the left when this bullet struck, the photographs and x-rays indicate that it came from a site above and slightly to his right.

The absence of metallic fragments in the left cerebral hemisphere or below the level of the frontal fosse on the right side together with the absence of any holes in the skull to the left of the midline or in its base and the absence of any penetrating injury of the left hemisphere eliminate with reasonable certainty the possibility of a projectile having passed through the head in any direction other than from back to front as described in preceding sections of this report.

Certain other evidence relating to the source of the bullets that struck President Kennedy was noted. This included the following:

a. The bullet fragments found in the Presidential car which were large enough to bear ballistics marks were determined by the FBI to have been fired by the Oswald rifle found on the sixth floor of the Texas School Book Depository building, and not from any other weapon. CE 399 was also fired from that rifle.

b. No physical evidence, such as a rifle, shell casings, bullets, or damage to the Presidential car, was ever found which would support a theory that one or more shots were fired from a direction other than from behind and above the President.

c. Most eyewitnesses testified that three shots were fired. Three shell casings were found near the window at the southeast corner of the sixth floor of the Texas School Book Depository building, and all of them were determined by the FBI to have been fired by the Oswald rifle to the exclusion of any other weapon. That window was also the one in which a man firing a rifle was seen by witnesses who testified before the Warren Commission. The

[2] CE 399 was Warren Commission Exhibit 399, a nearly whole bullet found in Parkland Memorial Hospital in Dallas on the day of the assassination. It was established by ballistics experts as having been fired by the rifle found on the sixth floor of the TSBD building and found by the Warren Commission to have belonged to Lee Harvey Oswald. The Warren Commission determined that bullet passed through President Kennedy's neck and then struck Governor Connally, who was sitting directly in front of President Kennedy, and who was taken to Parkland Hospital.

Oswald rifle was found on the sixth floor of the TSBD building within an hour after the assassination.

d. No witness at the scene was found who saw any other assassin, or who saw anyone firing, or disposing of a weapon in any other location, or who heard the bolt of a rifle being operated at any other location. Three TSBD employees testified before the Warren Commission that they had been watching the motorcade from open windows near the southeast corner of the fifth floor of the TSBD building. One of them testified that he heard not only the three shots, but also the sound above him of a rifle bolt in action and the sound of empty shells hitting the floor. All three of them testified that "debris" fell down from above them at the time of the shots, and that they talked to each other at that time about the shots having come from above them.

e. A shot fired from the direct front of the Presidential car can be ruled out. Such a bullet would have had to pass through the windshield of the car unless fired from above the overpass just ahead of the Presidential car. There were no holes in the windshield, and the overpass was guarded by two policemen in the presence of some fifteen railroad employees. None of them saw or heard any shooting take place from the overpass.

Nonetheless, a re-examination was made of the question whether the movements of the President's head and body following the fatal shot are consistent with the President being struck from (a) the rear, (b) the right front, or (c) both the rear and the right front. The Zapruder, Nix and Muchmore films, a set of all relevant color slides of the Zapruder film, the autopsy photographs and x-rays, the President's clothing and back brace, the bullet and bullet fragments recovered, and various other materials, were reviewed at the request of the Commission staff by a panel of experts consisting of:

Lieutenant Colonel Robert R. McMeekin, MC, USA; Chief, Division of Aerospace Pathology, Armed Forces Institute of Pathology, Washington, D.C.

Richard Lindenberg, M.D., Director of Neuropathology & Legal Medicine, Department of Mental Health, State of Maryland, Baltimore, Maryland.

Werner U. Spitz, M.D., Chief Medical Examiner, Wayne County, Detroit, Michigan.

Fred J. Hodges III, M.D., Professor of Radiology, The Johns Hopkins School of Medicine, Baltimore, Maryland.

Alfred G. Olivier, V.M.D., Director, Department of Biophysics, Biomedical Laboratories, Edgewood Arsenal, Aberdeen Proving Grounds, Maryland.[3]

The Panel members separately submitted their respective conclusions. They were unanimous in finding that the President was struck by only two bullets, both of which were fired from the rear, and that there is no medical evidence to support a contention that the President was struck by any bullet coming from any other direction.

They were also unanimous in finding that the violent backward and leftward motion of the President's upper body following the head shot was not caused by the impact of a bullet coming from the front or right front.

Drs. Spitz, Lindenberg and Hodges reported that such a motion would be caused by a violent straightening and stiffening of the entire body as a result of a seizure-like neuromuscular reaction to major damage inflicted to nerve centers in the brain.

Dr. Olivier reported that experiments which have been conducted at Edgewood Arsenal disclosed that goats shot through the brain evidenced just such a violent neuromuscular reaction. There was a convulsive stiffening and extension of their legs to front and rear, commencing forty milliseconds (1/25 of a second) after the bullet entered the brain. In the past two decades, Dr. Olivier and his associates have conducted extensive tests on the effects of high velocity bullets fired into live animals, using high speed photography to record the results.

Dr. Olivier reported that the violent motions of the President's body following the head shot could not possibly have been caused by the *impact* of the bullet. He attributed the popular misconception on this subject to the dramatic effects employed in television and motion picture productions. The *impact* of such a bullet, he explained, can cause some immediate movement of the *head* in the direction of the bullet, but it would not produce any significant movement of the *body*. He also explained that a head wound such as that sustained by President Kennedy produces an "explosion" of tissue at the area where the bullet exits from the head, causing a "jet effect" which almost instantly moves the head back in the direction from which the bullet came.

[3] Dr. McMeekin is a forensic pathologist who has done extensive studies in the field of accident reconstruction, utilizing computer-assisted analysis of the reactions of human body components to the application of various forces. Dr. Lindenberg is a prominent authority in the field of neuropathology, i.e., the pathology of the brain and nervous system. Dr. Spitz is a forensic pathologist who has had extensive experience with gunshot wounds and is an editor of a textbook on forensic pathology. Dr. Hodges is a specialist in radiology and surgery associated with the brain and nervous system. In 1973–1974 he served as President of the American Society of Neuroradiology. Dr. Olivier has conducted numerous experiments to study the effects on animals and humans of penetrating wounds from high velocity bullets. Drs. Spitz, Lindenberg and Hodges hold faculty positions in the Medical Schools of Wayne State University, the University of Maryland, and The Johns Hopkins University, respectively.

Drs. Olivier and McMeekin, utilizing enlargement of the film and an accurate measuring device, made measurements of the movement of the President's head associated with the head shot. They found that in the interval between Zapruder Frames 312 and 313, the President's head moved forward significantly; at Frame 314 (1/18 of a second later) it was already moving backward and it continued to move backward in the succeeding frames.

Dr. Olivier was of the opinion that the start of the backward movement resulted from both a neuromuscular reaction and a "jet effect" from the explosion at the right front of the head where the bullet exited. Thereafter, the violent backward and leftward movement of the upper body, he believes, was a continuing result of the neuromuscular reaction. Dr. McMeekin's report to the Commission contained no reference to the subject of a "jet effect."

Dr. Olivier credited Dr. Luis Alvarez with originating studies into the "jet effect" produced by high velocity bullets fired into the head. Dr. Alvarez is a Nobel Prize-winning physicist at the Lawrence Berkeley Laboratories, University of California at Berkeley. An article describing his experiments is soon to be published.

Dr. John K. Lattimer of New York and Dr. Cyril H. Wecht of Pittsburgh were also interviewed. Each of them has studied in detail the autopsy photographs, x-rays, and other materials, as well as the motion pictures of the assassination, and has published the results of his findings.

Dr. Lattimer testified that there was no medical evidence to support a theory that the President had been hit by a bullet from any direction other than from the rear and above. The medical evidence showed that the President had not been hit from the front or right front. Had a second and nearly simultaneous bullet from the front or right front hit the President's head after Frame 313 of the Zapruder film, it would either have encountered no skull (in which case it would have passed through the brain and exited elsewhere) or it would have struck the skull. In either case, it would have left evidence which would be revealed by the autopsy photographs and x-rays.

Dr. Lattimer also testified that he has performed experiments to test both the damage effects of a bullet fired into the rear of the head (in the precise area where the President was hit) and the principle of the "jet effect." He utilized a Mannlicher-Carcano 6.5 millimeter rifle of the same model as the one found by the Warren Commission to belong to Lee Harvey Oswald, and ammunition from the same manufacturer and lot number as that found to have been used by Oswald. The results, he said, confirmed both the head injuries shown in the autopsy photographs and x-rays and the principle of the "jet-effect." Dr. Lattimer presented to the Commission staff as evidence a

motion picture film and still photographs showing the results of his experiments.

Dr. Wecht testified that the available evidence all points to the President being struck only by two bullets coming from his rear, and that no support can be found for theories which postulate gunmen to the front or right front of the Presidential car.

In a 1974 article written by Dr. Wecht and an associate, an article which was made an exhibit to his testimony, Dr. Wecht stated that "if any other bullet struck the President's head, whether before, after, or simultaneously with the known shot, there is no evidence for it in the available autopsy materials." He testified that on the autopsy photographs of the back of the President's head, there was something above the hairline which he could not identify at all, and he thought it was possible that this was an exit wound. He stated that the other autopsy photographs and the autopsy x-rays provided no support to that possibility, but he thought it was possible that the physicians who performed the autopsy could have missed finding such a wound.

Dr. Wecht said that there was some question about the backward and leftward movement of the President's head and upper body after Frame 313, but he also said that a neuromuscular reaction could occur within about one-tenth of a second.

The Commission staff also interviewed by telephone Dr. E. Forrest Chapman of Michigan, the only other physician who is known to have studied the autopsy photographs and x-rays. Dr. Chapman declared that if there were any assassins firing at the President from the grassy knoll, "they must have been very poor shots because they didn't hit anything."

No witness who urged the view that the Zapruder and other motion picture films proved that President Kennedy was struck by a bullet fired from his right front was shown to possess any professional or other special qualifications on the subject.

On the basis of the investigation conducted by its staff, the Commission believes that there is no evidence to support the claim that President Kennedy was struck by a bullet fired from either the grassy knoll or any other position to his front, right front or right side, and that the motions of the President's head and body, following the shot that struck him in the head, are fully consistent with that shot having come from a point to his rear, above him and slightly to his right.

5. The Allegation That Assassins (Allegedly Including "Hunt" and "Sturgis") Are Revealed by the Zapruder and Nix Films To Be Present in the Area of the Grassy Knoll

In further support of his contention that shots were fired at President Kennedy from the grassy knoll—and inferentially by "Hunt" and "Sturgis"—a witness called attention to certain frames of motion picture films taken at the time of the assassination. He asserted that these frames, including Frames 413 and 454–478 of the Zapruder film, reveal the presence of other "assassins" bearing rifles in the area of the grassy knoll.

The Zapruder and Nix films have been carefully reviewed. Frames alleged to reveal the presence of assassins in the area of the grassy knoll have received particularly close attention, together with those frames immediately preceding them and immediately following them. In addition, the Commission has had the benefit of a study of these films by the photographic laboratory of the FBI, and a report on that study.

The Commission staff members who reviewed the films were of the opinion that the images allegedly representing assassins are far too vague to be identifiable even as human beings. For example, Zapruder Frames 412, 413, and 414, which have tree foliage in the foreground, show combinations of light and shadow along their lower margins which are varyingly shaped somewhat in the form of a rain hat or a German army helmet of World War II vintage. In Frames 411 and 415, however, the contours of the shadows are markedly different and bear no resemblance to a human head—with or without a rain hat or helmet.

Since each frame of the film is only about 1/18 of a second removed in time from its adjacent frame, it was not believed reasonable to postulate that an assassin's head would come into view, and then disappear, directly in front of the Zapruder camera, in the space of about ¼ of a second (the elapsed time between Frames 411 and 415), or that the shape of a head would change so rapidly and markedly.

The conclusion was that the alleged assassin's head was merely the momentary image produced by sunlight, shadows, and leaves within or beyond the foliage. The same was true of the "rifle" allegedly in evidence in Frame 413. Even to make out the rough image of a rifle in that frame required imagination—and in the adjacent frames, it is nowhere in evidence.

From the extensive photographic work done in connection with the Warren Commission investigation, the FBI has a substantial library of both its own photographs and copies of the photographs and motion pictures of others taken at the assassination scene.

The place where Abraham Zapruder was standing when he took his famous motion picture has been established. (He was standing on a concrete wall elevated approximately four feet, two inches above the ground to his front.) Based upon an analysis of the direction in which the Zapruder camera was facing at Frame 413, the FBI Laboratory was able to identify from other photographs

the exact tree shown in that frame. With the aid of reports from the FBI Laboratory, it was concluded that: (1) The tree was between 6 feet and 6½ feet high; (2) it was barren of any branches or leaves to a height of about 4 feet to 4½ feet above the ground; (3) its foliage was about 2 feet high and 4 feet wide; (4) the near side of its foliage was about five feet directly in front of Mr. Zapruder's legs; (5) its trunk was only a few inches in diameter; (6) only the top of the tree came within view of the Zapruder camera; (7) it was the only tree in the immediate vicinity; (8) a human head (even without a helmet) 5 feet in front of Mr. Zapruder would have occupied about one-half of the total area of Frame 413 (many times as much as is occupied by the image of the alleged assassin's head); and (9) it is not reasonable to postulate an assassin in or behind that tree.

An assassin would be unlikely to hide himself behind the barren trunk of a tree only a few inches in diameter, with only his head and shoulders behind the foliage, and with his whole person almost within arm's length in front of a spectator taking movies of the motorcade. Neither would such an assassin go unseen and undiscovered, able to make his escape over open ground with a rifle in hand, again unseen by anyone among the numerous motorcade police, spectators and Secret Service personnel present.

A clear photograph of the tree in question, taken on May 24, 1964 (about six months after the assassination), was made a part of the FBI Laboratory Report. It was marked to show the place where Zapruder was standing as he took his motion picture.

The FBI photography laboratory was also able to identify the tree in question on some of the frames of the Nix film, which was also being taken at the time of the assassination. An examination of those frames of the Nix film reveals that there was nobody in or behind that tree. Also made a part of the FBI Laboratory Report was a series of frames from the Nix film, with the tree in question, Mr. Zapruder, and the alleged positions of "assassins" separately marked.

A similar examination was made by the FBI photography laboratory of other frames of the Zapruder and Nix films alleged to reveal assassins in the area of the grassy knoll. Frames 454 through 478 of the Zapruder film were found to reveal no formation "identifiable as a human being or an assassin with a rifle or other weapon." With respect to the Nix film, the FBI reported that "no figure of a human being could be found in the area" of another alleged rifleman, which was determined to be "approximately nineteen feet to the right of where Mr. Zapruder was standing and clearly visible to him." The FBI concluded that the configuration described as a rifleman was actually produced by some "clump type shrubbery" in the background.

On the basis of its staff investigation, the Commission believes that there is no credible basis in fact for the claim that any of the known

motion pictures relating to the assassination of President Kennedy reveals the presence of an assassin or assassins in the area of the grassy knoll.

B. The Theory That the CIA Had Relationships With Lee Harvey Oswald and Jack Ruby

The second theory advanced in support of allegations of CIA participation in the assassination of President Kennedy is that various links existed between the CIA, Oswald and Ruby. Lee Harvey Oswald was found by the Warren Commission to be the person who assassinated the President. Jack Ruby shot and killed Oswald two days after the President's assassination.

There is no credible evidence that either Lee Harvey Oswald or Jack Ruby was ever employed by the CIA or ever acted for the CIA in any capacity whatever, either directly or indirectly.

Testimony was offered purporting to show CIA relationships with Oswald and Ruby. It was stated, for example, that E. Howard Hunt, as an employee of the CIA, engaged in political activity with elements of the anti-Castro Cuban community in the United States on behalf of the CIA prior to the Bay of Pigs operation in April 1961. In connection with those duties, it was further alleged that Hunt was instrumental in organizing the Cuban Revolutionary Council and that the Cuban Revolutionary Council had an office in New Orleans. Finally, it was claimed that Lee Harvey Oswald lived in New Orleans from April to September 1963, and that a pamphlet prepared and distributed by Oswald on behalf of the Fair Play for Cuba Committee during that period indicated that the office of the Fair Play for Cuba Committee was situated in a building which was also the address of the New Orleans office of the Cuban Revolutionary Council.[4]

It was therefore implied that Hunt *could* have had contact with Lee Harvey Oswald in New Orleans during the spring or summer of 1963. No evidence was presented that Hunt ever met Oswald, or that he was ever in New Orleans in 1963, or that he had any contact with any New Orleans office of the Cuban Revolutionary Council.

Hunt's employment record with the CIA indicated that he had no duties involving contacts with Cuban exile elements or organiza-

[4] Each of these statements is substantially true, but many other relevant facts disclosed in the Warren Commission Report are omitted. It is not mentioned, for example, that Oswald made up the Fair Play for Cuba Committee pamphlets; that the address he stamped on the pamphlets was never an office of that Committee; that he fabricated a non-existent New Orleans Chapter of the Committee, a non-existent President of that Committee, and a non-existent office for it; that the building in question was a *former office*, rather than a current office, of an anti-Castro organization when Oswald made up his pamphlets, and that Oswald had tried to infiltrate the anti-Castro organization.

tions inside or outside the United States after the early months of 1961. This was more than two years before Oswald went to New Orleans in April 1963 and more than a year before Oswald returned to the United States from the Soviet Union, where he had lived for almost three years.

An example of the testimony relating to an alleged relationship between the CIA and Jack Ruby consisted of a statement that Frank Sturgis was engaged in a series of revolutionary activities among Cuban exiles in the United States in the 1950's and 1960's and that the CIA also sponsored and organized anti-Castro activities among Cuban exiles in the United States in 1959 and the early 1960's.

It was further stated that someone once reported to the FBI that Jack Ruby had engaged in supplying arms to persons in Cuba in the early 1950's in association with a former Cuban President, Carlos Prio, and that Frank Sturgis also had connections with Carlos Prio during the 1950's and 1960's.

In addition, it was alleged that Frank Sturgis was at one time (before he escaped from Cuba in June 1959) a director of gambling and gaming establishments in Havana for the Castro government, and that in August or September, 1959, Jack Ruby made a trip to Havana at the invitation of a friend who had interests in gambling establishments in Cuba and the United States.

Moreover, both Sturgis and Ruby were alleged to have had connections with underground figures who had interests in the United States and Cuba.

From this group of allegations, the witness inferred that Sturgis and Ruby *could* have met and known each other—although no actual evidence was presented to show that Ruby or Sturgis ever met each other.

Even if the individual items contained in the foregoing recitations were assumed to be true, it was concluded that the inferences drawn must be considered farfetched speculation insofar as they purport to show a connection between the CIA and either Oswald or Ruby.

Even in the absence of denials by living persons that such connections existed, no weight could be assigned to such testimony. Moreover, Sturgis was never an employee or agent of the CIA.

A witness, a telephone caller, and a mail correspondent tendered additional information of the same nature. None of it was more than a strained effort to draw inferences of conspiracy from facts which would not fairly support the inferences. A CIA involvement in the assassination was implied by the witness, for example, from the fact that the Mayor of Dallas at that time was a brother of a CIA official who had been involved in the planning of the Bay of Pigs operation

in Cuba several years previously, and from the fact that President Kennedy reportedly blamed the CIA for the Bay of Pigs failure.

The same witness testified that E. Howard Hunt was Acting Chief of a CIA station in Mexico City in 1963, implying that he *could* have had contact with Oswald when Oswald visited Mexico City in September 1963. Hunt's service in Mexico City, however, was twelve years earlier—in 1950 and 1951—and his only other CIA duty in Mexico covered only a few weeks in 1960. At no time was he ever the Chief, or Acting Chief, of a CIA station in Mexico City.

Hunt and Sturgis categorically denied that they had ever met or known Oswald or Ruby. They further denied that they ever had any connection whatever with either Oswald or Ruby.

Conclusions

Numerous allegations have been made that the CIA participated in the assassination of President John F. Kennedy. The Commission staff investigated these allegations. On the basis of the staff's investigation, the Commission concluded there was no credible evidence of any CIA involvement.

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Appendix I

Executive Order

ESTABLISHING A COMMISSION ON CIA ACTIVITIES WITHIN THE UNITED STATES

The Central Intelligence Agency as created by the National Security Act of 1947 fulfills intelligence functions vital to the security of our nation, and many of its activities must necessarily be carried out in secrecy. Such activities are nevertheless subject to statutory limitations. I have determined that in order to ensure scrupulous compliance with these statutory limitations, while fully recognizing the statutory missions of the Agency, it is advisable to establish a Commission on CIA Activities Within the United States.

NOW, THEREFORE, by virtue of the authority vested in me by the Constitution and statutes of the United States, and as President of the United States, I hereby order as follows:

SECTION 1. *Establishment of the Commission.* There is hereby established a Commission on CIA Activities Within the United States (hereinafter referred to as the "Commission"), to be composed of a Chairman and other members to be appointed by the President.

SECTION 2. *Functions of the Commission.* The Commission shall:

(a) Ascertain and evaluate any facts relating to activities conducted within the United States by the Central Intelligence Agency which give rise to questions of compliance with the provisions of 50 U.S.C. 403;

(b) Determine whether existing safeguards are adequate to prevent any activities which violate the provisions of 50 U.S.C. 403;

(c) Make such recommendations to the President and to the Director of Central Intelligence as the Commission deems appropriate.

SECTION 3. *Cooperation by and with Executive Departments and Agencies.* The Commission is authorized to request, at the direction of the Chairman, from any executive department or agency, any information and assistance deemed necessary to carry out its functions

under this order. Each department or agency shall furnish such information and assistance to the Commission, to the extent permitted by law. The Commission shall furnish to the Attorney General any evidence found by the Commission which may relate to offenses under the statutes of the United States.

SECTION. 4. *Compensation, Personnel and Finance.*

(a) Each member of the Commission may receive compensation for each day he or she is engaged upon the work of the Commission at not to exceed the daily rate now or hereafter prescribed by law for persons and positions in GS-18, as authorized by law and may also receive travel expenses, including per diem in lieu of subsistence, as authorized by law (5 U.S.C. 5703) for persons in the government service intermittently employed.

(b) The Commission shall have an Executive Director who shall be designated by the President and shall receive such compensation as may hereafter be specified. The Commission is authorized to appoint and fix the compensation of such other personnel as may be necessary to enable it to carry out its functions, and is authorized to obtain services in accordance with the provisions of 5 U.S.C. 3109.

(c) All necessary expenses incurred in connection with the work of the Commission shall be paid from the appropriation for "Unanticipated Personnel Needs" P.L. 93-331, 88 Stat. 617, or from such other funds as may be available.

SECTION 5. *Administrative Services.* The General Services Administration shall provide administrative services for the Commission on a reimbursable basis.

SECTION 6. *Report and Termination.* The Commission shall present its final report to the President not later than three months from the date of this order. It shall terminate within one month after presenting its final report.

GERALD R. FORD.

THE WHITE HOUSE, *January 4, 1975.*

Appendix II

Statement by the President

January 4, 1975

I have today established a Commission to ascertain and evaluate any facts relating to activities conducted within the United States by the Central Intelligence Agency that give rise to questions as to whether the Agency has exceeded its statutory authority. I will soon be naming a distinguished group of members to serve on this "Blue Ribbon" Panel.

In the world in which we live, beset by continuing threats to our national security, it is vital that we maintain an effective intelligence and counterintelligence capability. This capability is fundamental in providing the safeguards that protect our national interests and help avert armed conflict. The Central Intelligence Agency has had a notable record of many successes in this field, but by nature of its operations, such successes and achievements cannot be divulged publicly.

It is essential in this Republic that we meet our security requirements and at the time time avoid impairing our democratic institutions and fundamental freedoms. Intelligence activities must be conducted consistently with both objectives.

To that end, in addition to asking the panel to determine whether the CIA has exceeded its statutory authority, I have asked the panel to determine whether existing safeguards are adequate to preclude Agency activities that might go beyond its authority and to make appropriate recommendations. The Commission will immediately have the benefit of the report already furnished to me by Director W. E. Colby of the CIA. The Justice Department is, of course, also looking into such aspects of the matter as are within its jurisdiction.

I am aware of current plans of various Committees of the Congress to hold hearings on matters similar to those which will be addressed by the Commission. Whether hearings are undertaken by existing oversight Committees, or should the Congress deem a joint House-Senate Committee to be the best approach to avoid a prolifera-

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tion of hearings, it is my strong hope that the Committee consider the findings and recommendations of the Commission.

I am confident that through the cooperative efforts of the Executive Branch, particularly by the new Commission, and of the Congress, the results will be beneficial both to our national security and to the traditions and institutions of this Republic.

Moreover, I am writing to those Department and Agency heads who are responsible for the overall intelligence activities of the United States as related to our national security and to the conduct of our foreign policy, for the purpose of emphasizing that they are at all times to conduct their activities within the scope of their respective statutory authorities.

Appendix III

National Security Act of 1947, as amended

Title 1—Coordination for National Security

NATIONAL SECURITY COUNCIL

SECTION 101. (a) There is established a council to be known as the National Security Council (hereinafter in this section referred to as the "Council").

The President of the United States shall preside over meetings of the Council: *Provided*, That in his absence he may designate a member of the Council to preside in his place.

The function of the Council shall be to advise the President with respect to the integration of domestic, foreign, and military policies relating to the national security so as to enable the military services and the other departments and agencies of the Government to cooperate more effectively in matters involving the national security.

The Council shall be composed of—

(1) the President;

(2) the Vice President;

(3) the Secretary of State;

(4) the Secretary of Defense;

(5) the Director for Mutual Security [now abolished];

(6) the Chairman of the National Security Resources Board [now abolished];

(7) the Secretaries and Under Secretaries of other executive departments and of the military departments, the Chairman of the Munitions Board [now abolished]; and the Chairman of the Research and Development Board [now abolished]; when appointed by the President by and with the advice and consent of the Senate, to serve at his pleasure.

CENTRAL INTELLIGENCE AGENCY

SEC. 102. (a) There is established under the National Security Council a Central Intelligence Agency with a Director of Central Intelligence who shall be the head thereof, and with a Deputy Director of Central Intelligence who shall act for, and exercise the powers of, the Director during his absence or disability. The Director and the Deputy Director shall be appointed by the President, by and with the advice and consent of the Senate, from among the commissioned officers of the armed services, whether in an active or retired status, or from among individuals in civilian life: *Provided, however,* That at no time shall the two positions of the Director and Deputy Director be occupied simultaneously by commissioned officers of the armed services, whether in an active or retired status.

(b) (1) If a commissioned officer of the armed services is appointed as Director, or Deputy Director, then—

(A) in the performance of his duties as Director, or Deputy Director, he shall be subject to no supervision, control, restriction, or prohibition (military or otherwise) other than would be operative with respect to him if he were a civilian in no way connected with the Department of the Army, the Department of the Navy, the Department of the Air Force, or the armed services or any component thereof; and

(B) he shall not possess or exercise any supervision, control, powers or functions (other than such as he possesses, or is authorized or directed to exercise, as Director, or Deputy Director) with respect to the armed services or any component thereof, the Department of the Army, Department of the Navy, or the Department of the Air Force, or any branch, bureau, unit, or division thereof, or with respect to any of the personnel (military or civilian) of any of the foregoing.

(2) Except as provided in paragraph (1) of this subsection, the appointment of the office of Director, or Deputy Director, of a commissioned officer of the armed services, and his acceptance of and service in such office, shall in no way affect any status, office, rank, or grade he may occupy or hold in the armed services, or any emolument, perquisite, right privilege, or benefit incident to or arising out of any such status, office, rank, or grade. Any such commissioned officer shall, while serving in the office of Director, or Deputy Director, continue to hold rank and grade not lower than that in which serving at the time of his appointment and to receive the military pay and allowances (active or retired, as the case may be, including personal money allowance) payable to a commissioned officer of his grade and length of service for which the appropriate department shall be reimbursed from any funds available to defray the expenses of the Central Intelligence Agency. He also shall be paid by the Central Intelligence

Agency from such funds an annual compensation at a rate equal to the amount by which the compensation established for such position exceeds the amount of his annual military pay and allowances.

(3) The rank or grade of any such commissioned officer shall, during the period in which such commisioned officer occupies the office of Director of Central Intelligence, or Deputy Director of Central Intelligence, be in addition to the numbers and percentages otherwise authorized and appropriated for the armed service of which he is a member.

(c) Notwithstanding the provisions of section 652 [now 7501] of Title 5, or the provisions of any other law, the Director of Central Intelligence may, in his discretion, terminate the employment of any officer or employee of the Agency whenever he shall deem such termination necessary or advisable in the interests of the United States, but such termination shall not affect the right of such officer or employee to seek or accept employment in any other department or agency of the Government if declared eligible for such employment by the United States Civil Service Commission.

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

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

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

(3) to correlate and evaluate intelligence relating to the national security, and provide for the appropriate dissemination of such intelligence within the Government using where appropriate existing agencies and facilities: *Provided,* That the Agency shall have no police, subpoena, law-enforcement powers, or internal-security functions: *Provided further,* That the departments and other agencies of the Government shall continue to collect, evaluate, correlate, and disseminate departmental intelligence: *And provided further,* That the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure;

(4) to perform, for the benefit of the existing intelligence agencies, such additional services of common concern as the National Securtiy Council determines can be more efficiently accomplished centrally;

(5) to perform such other functions and duties related to intelligence affecting the national security as the National Security Council may from time to time direct.

(e) To the extent recommended by the National Security Council and approved by the President, such intelligence of the departments and agencies of the Government, except as hereinafter provided, relating to the national security shall be open to the inspection of the Director of Central Intelligence, and such intelligence as relates to the national security and is possessed by such departments and other agencies of the Government, except as hereinafter provided, shall be made available to the Director of Central Intelligence for correlation, evaluation, and dissemination: *Provided, however*, That upon the written request of the Director of Central Intelligence, the Director of the Federal Bureau of Investigation shall make available to the Director of Central Intelligence such information for correlation, evaluation, and dissemination as may be essential to the national security.

(f) Effective when the Director first appointed under subsection (a) of this section has taken office—

(1) the National Intelligence Authority (11 Fed. Reg. 1337, 1339, February 5, 1946) shall cease to exist; and

(2) the personnel, property, and records of the Central Intelligence Group are transferred to the Central Intelligence Agency, and such Group shall cease to exist. Any unexpended balances of appropriations, allocations, or other funds available or authorized to be made available for such Group shall be available and shall be authorized to be made available in like manner for expenditure by the Agency.

Appendix IV

Biographical Information and Acknowledgements

Members of Commission

The Honorable Nelson A. Rockefeller, Vice President of the United States, was graduated from Dartmouth College with a B.A. degree in 1930, where he was elected to Phi Beta Kappa. Vice President Rockefeller was elected Governor of New York in 1958 and was re-elected in 1962, 1966 and 1970. In 1973, he resigned to organize the Commission on Critical Choices for Americans and to serve as its Chairman. From 1940–44, he served as Coordinator of Inter-American Affairs. He was Assistant Secretary of State for American Republic Affairs from 1944 to 1945; served as Chairman of the Development Advisory Board (Point 4 Program) from 1950–51 and as Under Secretary of Health, Education and Welfare from 1953 to 1954. He also served as Special Assistant to President Dwight D. Eisenhower from 1954 to 1955.

The Honorable John T. Connor received his A.B. degree (magna cum laude) from Syracuse University in 1936, where he was elected to Phi Beta Kappa, and his J.D. degree from Harvard Law School in 1939. He served as U.S. Secretary of Commerce from 1965 to 1967. After practicing law in New York City from 1939 to 1942 with the firm now known as Cravath, Swaine and Moore, he served the federal government from 1942 to 1947 as General Counsel of the Office of Scientific Research and Development; Air Combat Intelligence Officer, U.S. Marine Corps; Counsel, Office of Naval Research; and Special Assistant to the Secretary of the Navy. Mr. Connor joined Merck & Co., Inc. in 1947 as General Attorney and became President and Chief Executive Officer in 1955. He is presently Chairman and Chief Executive Officer of Allied Chemical Corporation.

The Honorable C. Douglas Dillon received his B.A. degree from Harvard University (magna cum laude) in 1931. He served as Secretary of the Treasury from 1961 to 1965. In 1953 Mr. Dillon was ap-

pointed as Ambassador to France where he served until 1957 when he became Deputy Under Secretary of State for Economic Affairs, which office was raised to the Under Secretary level in 1958. From 1959 to 1961 he served as Under Secretary of State. During 1968 and 1969 he was a member of the General Advisory Committee on U.S. Arms Control and Disarmament. Mr. Dillon served as Chairman of the Board of Dillon, Read & Co., Inc., of New York City from 1946–53, and is presently a Managing Director of that firm.

The Honorable Erwin N. Griswold received his A.B. and A.M. degrees from Oberlin College in 1925, where he was elected to Phi Beta Kappa, and his LL.B. degree from Harvard Law School in 1928 and his S.J.D. in 1929. From 1967 to 1972 he was Solicitor General of the United States, after having served as Assistant Professor of Law at Harvard Law School from 1934–35, Professor of Law from 1935–46 and Dean of the Harvard Law School from 1946–67. He was an attorney in the Office of the Solicitor General and Special Assistant to the Attorney General from 1929 to 1934, and he was a member of the United States Civil Rights Commission from 1961 to 1967. He is now a partner in the Washington, D.C. firm, Jones, Day, Reavis and Poague.

Lane Kirkland was graduated from the United States Merchant Marine Academy in 1942 and served as a licensed deck officer aboard various merchant ships. He received a B.S. degree from Georgetown University School of Foreign Service in 1948. Since 1969 he has served as Secretary-Treasurer of the AFL–CIO, with which he has been associated in various positions since 1948, serving as Executive Assistant to the President of the AFL–CIO from 1961 to 1969.

General Lyman L. Lemnitzer served as the Chairman of the Joint Chiefs of Staff from 1960 to 1962, when he became NATO's Supreme Allied Commander in Europe, serving in that capacity until his retirement in 1969. General Lemnitzer is a 1920 graduate of the United States Military Academy and during World War II served on the staffs of General Eisenhower, General Mark Clark and Field Marshal Alexander. He was Commander-in-Chief of the Far East and United Nations Commands from 1955 to 1957. From 1959 to 1960 General Lemnitzer served as Army Chief of Staff.

The Honorable Ronald Reagan received his A.B. degree from Eureka College, Illinois, in 1932. He served as Governor of the State of California from 1966 until the completion of his second term in 1974. Governor Reagan was a motion picture and television actor from 1937 to 1966, except for service as an officer in the United States Air Force from 1942 to 1945. He was the President of the Screen Actors Guild from 1947 to 1952 and again in 1959, and served two terms as President of the Motion Picture Industry Council which was composed of all labor and management groups in the Motion Picture Industry.

Dr. Edgar F. Shannon received his A.B. degree in 1939 from Washington & Lee University, where he was elected to Phi Beta Kappa, and received an A.M. degree from Duke University in 1941 and from Harvard University in 1947. He received his Ph.D. degree from Oxford University, England, where he was a Rhodes Scholar. He was a member of the Harvard University faculty from 1950 to 1956, when he joined the faculty of the University of Virginia, where he is presently Commonwealth Professor of English. From 1959 until 1974 he served as President of the University of Virginia and was President of the National Association of State Universities and Land-Grant Colleges in 1966. He served in World War II from 1941 to 1946 as an officer in the Naval Reserve and is a Captain, USNR (Ret.). He was a member of the Board of Visitors of the United States Naval Academy from 1962–1964 and of the Board of Visitors of the United States Air Force Academy from 1965 to 1967.

Executive Director

David W. Belin is a graduate of the University of Michigan where in six years he earned A.B. (1951), M.Bus. Adm. (1953) and J.D. (1954) degrees—all with high distinction. He is a member of the Des Moines, Iowa, law firm of Herrick, Langdon, Belin, Harris, Langdon and Helmick, where he has practiced since 1954. From the University of Michigan Law School he received the Henry M. Bates Memorial Award, made to each of the "two most outstanding seniors in the law school" and is a member of the Phi Beta Kappa and the Order of the Coif. In 1953–54 he was Associate Editor of the Michigan Law Review. In 1964 he served as Assistant Counsel with the President's Commission on the Assassination of President Kennedy (Warren Commission).

Senior Counsel

Harold A. Baker is a graduate of the University of Illinois (A.B. 1951) and the University of Illinois Law School (J.D. 1956). Mr. Baker is a partner in the Champaign, Illinois, law firm of Hatch and Baker, where he has practiced law since 1956. He also is a lecturer in Advocacy at the University of Illinois Law School. Mr. Baker is a member of the Order of the Coif and he is a Fellow of the American College of Trial Lawyers.

Ernest Gellhorn was graduated with a B.A. degree from the University of Minnesota (1956) and was graduated magna cum laude

from the University of Minnesota Law School with a J.D. degree (1962). He is a member of Phi Beta Kappa and the Order of the Coif and was Note Editor of the Minnesota Law Review in 1961–1962. After practicing law in Cleveland, Ohio, he entered the teaching profession and since 1970 he has been Professor of Law at the University of Virginia Law School.

Robert B. Olsen was graduated from the University of Michigan (A.B. 1953) and from the University of Michigan Law School (J.D. 1955), where he served as Editor-in-Chief of the Michigan Law Review. He is a member of Phi Beta Kappa and the Order of the Coif. He has practiced law in Kansas City, Missouri, since 1955 and he is a member of the law firm of Olsen, Talpers and Welte.

William W Schwarzer was graduated cum laude from the University of Southern California (A.B. 1948) and cum laude from Harvard Law School (LL.B. 1951), where he was a teaching fellow until 1952. He then entered the practice of law in San Francisco and is a member of the law firm of McCutchen, Doyle, Brown & Enersen. Mr. Schwarzer is a Fellow of the American College of Trial Lawyers.

Counsel

Marvin L. Gray, Jr. was graduated from Princeton University (A.B. 1966) and Harvard Law School magna cum laude (J.D. 1969), where he was Articles Editor of the Harvard Law Review. From 1969–70 he served as Law Clerk to Judge Henry J. Friendly and 1970–71 he served as Law Clerk to Mr. Justice John M. Harlan of the United States Supreme Court. He is an Assistant United States Attorney, Seattle, Washington.

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Secretaries and Support Personnel

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APPENDIX V

Highlights of Civil Disturbances and Other Disorders in the United States—January 1966 through January 1973

This Appendix reviews major social and political unrest, disturbances, disorder and violence in the United States during the late 1960's and early 1970's.

It is offered by way of perspective on the Presidential initiatives that influenced activities of the Central Intelligency Agency during that period with respect to dissidents and dissident groups.

The chronology that follows covers representative items from the period between January 1966 and the end of direct United States military involvement in the Vietnam War in January 1973. That period was preceded by other episodes of disorder and violence earlier in the 1960's. In 1963 and 1964, civil rights disturbances occurred in Birmingham, Savannah, Cambridge (Maryland), Chicago and Philadelphia. Early in 1965, serious disorder took place in Selma, Alabama, and in August of 1965 the Watts section of Los Angeles became the scene of massive rioting and destruction. By 1966, news coverage of domestic turmoil had almost become a part of everyday life in the United States.

1966

Jan. 31	The resumption of United States bombing raids against North Vietnam after a 37-day pause brought a series of demonstrations across the country.
Apr. 9	The Berkeley, California, headquarters of the anti-war Vietnam Day Committee was blown up.
May 14	Student protests against draft procedures broke out at several universities, and in some cases students seized their school's administration buildings.
May 15	A demonstration for peace in Vietnam brought 8,000–11,000 demonstrators to Washington.

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June 6 — James H. Meredith, who had integrated the University of Mississippi in 1962, was shot from ambush. Rallies and demonstrations followed.

June 29 — The bombing of oil installations on the outskirts of Hanoi and Haiphong set off a series of protests in the United States.

July — Destruction and widespread rioting swept Omaha's Near North Side, Chicago's West Side, the Brooklyn neighborhood known as East New York, and the Cleveland neighborhood of Hough.

Aug. 6 — Anti-Vietnam war protests were staged across the country.

Aug. 16–19 — At least 50 persons were arrested for disorderly conduct at hearings held in Washington by the House Un-American Activities Committee. The Committee was investigating Americans who aided the Viet Cong in Vietnam.

September — Rioting swept sections of Atlanta, Dayton and San Francisco.

1967

Jan. 21 — About 2,000 people marched in front of the White House in Washington, demanding a halt to the bombing of North Vietnam and a de-escalation of the ground war in South Vietnam.

Mar. 8 — A bill declaring Congress' intention of supporting United States Armed Forces in Vietnam, of supporting efforts to end the war honorably, and of preventing its expansion was passed by both Houses and was signed by the President on March 16.

Apr. 15 — Massive demonstrations and parades were held in New York and San Francisco to protest United States policy in Vietnam.

May 13 — A parade in support of United States troops in Vietnam was held in New York. *The New York Times* estimated that there were about 70,000 participants. The parade was organized to counter anti-war demonstrations.

May 16–17 — Police and students exchanged rifle fire at Texas Southern University. 486 students were arrested.

May 19 — United States jets bombed the center of Hanoi for the first time.

Summer of 1967 — The summer of 1967 was marked by the worst racial disturbances in the history of the United States. The Senate Permanent Investigations Subcommittee on November 1 made public these statistics on riots in 1967:

Number of riots	75
Persons killed	83
Persons injured	1,397
Number arrested	16,389
Number convicted	2,157
Estimated cost (in millions)	$664.5

Although severe racial rioting had occurred in United States cities in previous summers, it never had been as widespread or as intense as it became in 1967. In the two cities hardest hit, Newark (26 dead) and Detroit (43 dead), conditions of near-insurrection developed in ghetto areas, and police and National Guardsmen with weapons fire.

Stokely Carmichael, the former Chairman of the Student Non-Violent Coordinating Committee, and H. Rap Brown, the Chairman of the SNCC, called for "guerrilla warfare" in urban ghettos.

June — Violence and rioting broke out in Tampa, Dayton, Boston, Cincinnati and Buffalo.

June 21 — Sixteen alleged members of the Revolutionary Action Movement (RAM), were arrested on charges of plotting to murder moderate civil rights leaders.

July — Rioting swept sections of Los Angeles, Detroit, Newark, Plainfield, New York, Rochester and Cambridge. In Detroit the disturbances brought the first use of Federal troops to quell civil strife in 24 years.

July 27 — A Special Advisory Commission on Civil Disorders was appointed by President Johnson to "investigate the origins of the recent disorders in our cities." The President said that the Nation had "endured a week such as no nation should live through; a time of violence and tragedy."

Aug. 1 — Arson, vandalism and looting occured in northwest Washington, D.C.

Aug. 3 — President Johnson announced plans to send an additional 45,000 to 50,000 troops to Vietnam by July 1968.

Aug. 6 — SNCC Chairman R. Rap Brown told a rally in New York that the summer's racial riots were only "dress rehearsals for revolution."

Aug. 11 — United States planes launched an intensified air offensive against North Vietnam.

Aug. 15 — Martin Luther King, Jr. called for a campaign of massive civil disobedience in Northern United States cities.

April–August — Among other cities and communities around the country where racial rioting was reported (in order of date):

Nashville (8–10 April); Cleveland (16 April); Jackson, Mississippi; Lansing, Michigan (14–15 June); Kansas City, Missouri (9 July); Waterloo, Iowa (9 July); Erie, Pennsylvania (11–12 July and 18 July); Fresno, California (16–17 July); Des Moines, Iowa (16 July); Nyack, New York (19 July); Birmingham, Alabama (22 July); Youngstown, Ohio (22 July); New Britain, Connecticut (22–23 July); Toledo, Ohio (24–26 July); Mount Vernon, New York (24–28 July); Phoenix, Arizona (25–26 July);

April–August—Continued

Saginaw, Michigan (25–26 July); South Bend, Indiana (25–28 July); Peekskill, New York (27–28 July); San Francisco, California (27–28 July); Long Beach, California (28 July); Marin City, California (28 July); Memphis, Tennessee (28 July); Wilmington, Delaware (28–29 July); Newburgh, New York (29–30 July); New Castle, Pennsylvania (29–30 July); Rockford, Illinois (29–30 July); West Palm Beach, Florida (30 July); Portland, Oregon (30–31 July); San Bernardino, California (30–31 July); Riviera Beach, Florida (31 July); Wichita, Kansas (31 July, 3–5 August); Peoria, Illinois (2 August); Wyandanch, New York (2–4 August).

Aug. 25 — George Lincoln Rockwell of the American Nazi Party was shot to death in Arlington, Virginia.

Aug. 27 — SNCC Chairman H. Rap Brown told a cheering crowd in riot-stricken Detroit: "You did a good job here." But he said the riots in Detroit would "look like a picnic" when blacks united to "take their due."

Aug. 28 — The Reverend James E. Groppi led a series of daily open-housing demonstrations in Milwaukee. The drive was frequently marked by violence.

Sept. 20 — About 500 members of the Women's Strike for Peace clashed with Washington police in front of the White House.

Oct. 16–21 — Demonstrations against the draft were held through the United States by opponents of United States policy in Vietnam.

October — A massive demonstration took place in Washington, D.C. in a protest against United States policy in Vietnam. Many demonstrators at the Pentagon were arrested after clashing with United States Army troops and Federal Marshals. Demonstrations supporting United States troops in Vietnam were held in the New York area and other parts of the United States. Demonstrations occurred in various parts of the country in 1967 to protest job recruitment by Dow Chemical Company, which manufactured napalm used in Vietnam. The protests reached their peak in October.

Oct. 27 — FBI agents in Baltimore arrested three persons, including a Roman Catholic clergyman, for pouring duck blood on records at the city's Selective Service headquarters.

Nov. 12 — President Johnson cancelled plans to attend the annual meeting on November 13 of the National Grange in Syracuse, New York, to avoid a threatened anti-war demonstration.

Nov. 14 — Hundreds of anti-war demonstrators clashed with police in New York during a rally in protest against Secretary of State Rusk, who was attending a dinner there.

Dec. 4 — Martin Luther King announced plans in Atlanta for a massive civil disobedience campaign to disrupt federal activities in Washington in April, 1968.

Dec. 4–8 — A coalition of about 40 anti-war organizations staged "Stop the Draft Week" demonstrations throughout the United States. The marchers sought to disrupt United States Armed Forces induction centers.

Dec. — The build-up of United States forces in Vietnam reached approximately 500,000 men by the end of 1967. In an overview of the situation in December 1967, the FBI reported:

"One of the most significant features of the American scene of the 1960's is the evolution and growth of what has become known as the 'new left.' This movement of rebellious youth, involving and influencing an estimated 100,000 to 300,000 college students, is having a jarring impact upon contemporary society and portends serious trouble for this country. * * *"

1968

Apr. 4 — Assassination of Martin Luther King, Jr., followed by widespread rioting.

Apr. 26 — Secretary of Defense Clark Clifford announces establishment of Riot Control Center at the Pentagon.

June 5 — Senator Robert F. Kennedy shot in Los Angeles and dies the following day.

June 19 — More than 50,000 persons demonstrate in Washington, D.C. in Poor People's Compaign. Resurrection City set up near Lincoln Memorial.

July — By the middle of July serious racial disorders had occurred in 211 cities.

Aug. 26–29 — Widespread disorder in Chicago, concurrent with Democratic National Convention.

Sept. 29 — CIA Recruiting Office in Ann Arbor, Michigan, destroyed by bomb.

Nov. — Dozens of United States college campuses explode with violence.

Nov. 20 — CIA recruiter routed from South Bend, Indiana, in connection with recruiting at Notre Dame University.

1969

January — Extensive disturbances at San Francisco State College.

February — Rioting at University of Wisconsin and Duke University.

Apr. 2 — 21 Black Panther Party members charged with plotting to bomb New York City stores.

Apr. 9 — Harvard University students seize University Hall.

Apr. 20 — Students from Cornell University seize University Building, carrying rifles and shotguns.

May 15 — Rioting at University of California in Berkeley.

Oct. 15 — Massive observances of anti-war moratorium throughout the United States.

Nov. 13	46,000 persons engage in "March Against Death" past the White House.
Nov. 15	More than 250,000 persons stage peaceful march and rally against war in Washington, D.C.
	During 15-month period from 1 January 1969 to 15 April 1970 United States experienced 4,330 bombings, 1,475 unsuccessful bombing attempts, and 35,129 threatened bombings. Included were a number of bomb threats at CIA buildings.

1970

Feb. 26	Governor Reagan declares state of emergency in Santa Barbara after student rioting and bombing of a bank.
Mar. 6	Greenwich Village townhouse demolished by explosions—thought to be bomb factory for Weatherman faction of SDS.
May 4	Four students killed and others wounder at Kent State University in clash with National Guardsmen.
May 9	A crowd of 100,000 in Washington, D.C. protest United States actions in Cambodia.
May 10	448 United States universities and colleges on strike or closed over Cambodia action protest.
May 15	Two youths killed by police fire during demonstration at Jackson, Mississippi, State College.
June 13	President Nixon names nine-member commission to explore campus violence and student grievances.
Aug. 7	California Judge Harold Haley and his three kidnappers killed in escape attempt at San Rafael Courthouse. Warrant later issued for arrest of Angela Davis.
Aug. 24	Research Building at University of Wisconsin destroyed by bomb.
Sept. 11	President Nixon orders use of Federal armed guards on overseas flights of United States airlines, following numerous skyjacking incidents.
Oct. 3	United States Commission on Campus Unrest issues report warning of growing crisis.

1971

Jan. 12	Father Berrigan and five others charged with conspiracy to kidnap Dr. Kissinger and to blow up heating systems of Federal Buildings in Washington.
Mar. 1	Powerful bomb explodes in Senate Wing of the Capitol.
Mar. 8	Break-in at FBI Office at Media, Pennsylvania, resulting in theft of numerous sensitive documents.
Apr. 8	Administration Building at Santa Cruz campus of University of California destroyed by arsonists. There followed fires and fire bombs at Tufts University of Hawaii, and Cornell University.
Apr. 22	110 demonstrating veterans arrested at Supreme Court Building.

Apr. 24	Massive, but peaceful, anti-war rallies held in Washington crowd at 200,000, San Francisco crowd at 150,000.
May 3–5	Thousands of anti-war protesters arrested in Washington, D.C. in connection with attempts to disrupt traffic and immobilize Government.
June 13	New York Times begins publication of Pentagon Papers.
Aug. 21–22	25 persons arrested in raids on Selective Service Offices in Buffalo, New York, and Camden, New Jersey.

1972

Apr. 10	United States begins deep penetration raids into North Vietnam for the first time since November 1967, provoking new wave of protests.
May 8	President Nixon announces mining of North Vietnamese harbors, touching off another intense wave of anti-war protests and widespread violent clashes with police.
May 19	Bomb explodes in the Pentagon Building.
May 21–22	More than 400 protesters arrested in Washington, D.C., during battles with police.
Aug. 12	Last United States combat troops leave South Vietnam. Heavy air raids conducted over North Vietnam.
July and August	Democratic and Republican National Conventions take place in Miami Beach with only minor incidents.

1973

January 23 and 27	President Nixon announces signing of agreement in Paris to end the war in Vietnam.

Appendix VI
Proposed Amendments to Statute

In Recommendation (1), the Commission proposes that 50 U.S.C. Section 403(d) be amended to read (Additions are italicized; deletions are marked through):

(d) For the purpose of coordinating the *foreign* intelligence activities of the several government departments and agencies in the interest of national security, it shall be the duty of the [Central Intelligence] Agency, under the direction of the National Security Council—

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

(2) to make recommendations to the National Security Council for the coordination of such *foreign* intelligence activities of the departments and agencies of the government as relate to the national security;

(3) to *collect*, correlate and evaluate *foreign* intelligence relating to the national security, and provide for the appropriate dissemination of such *foreign* intelligence within the government using where appropriate existing agencies and facilities:

Provided, that except as specified by the President in a published Executive Order, in collecting foreign intelligence from United States citizens in the United States or its possessions, the Agency must disclose to such citizens that such intelligence is being collected by the Agency.

Provided further, that the Agency shall have no police, subpoena, law enforcement powers, or internal security functions:

Provided further, that the departments and other agencies of the government shall continue to collect, evaluate, correlate and disseminate departmental intelligence:

~~And provided further, that the Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure;~~

(4) to perform, for the benefit of the existing intelligence agencies, such additional *foreign intelligence* services of common

concern as the National Security Council determines can be more efficiently accomplished centrally;

(5) to perform such other functions and duties related to *foreign* intelligence affecting the national security as the National Security Council may from time to time direct.

(6) *to be responsible for protecting sources and methods of foreign intelligence from unauthorized disclosure. Within the United States, this responsibility shall be limited (a) to lawful means used to protect against disclosure by (i) present or former employees, agents or sources of the Agency or (ii) persons, or employees of persons or organizations, presently or formerly under contract with the Agency or affiliated with it, and (b) to providing guidance and technical assistance to other government departments and agencies performing intelligence activities.*

Appendix VII
Assistance To and From Federal, State and Local Agencies

The following information is provided as a supplement to that material set forth in Chapter 17, Section B, involving CIA assistance to and from state and local law enforcement agencies. Its purpose is to provide additional detail and identify some additional contacts between the CIA and state and local police authorities not referred to in the chapter. As specific Agency files on relations with state and local law enforcement agencies were not established as such until 1970, this summary does not purport to be an exhaustive description of all such activities.

A. Other Assistance Given to State and Local Police

Among those police departments sending representatives to Agency training courses referred to in Chapter 17 were the Washington Metropolitan Police Department, most Washington suburban police departments, the Maryland and Virginia State Police, and the police of Los Angeles, Miami, and Chicago. CIA records show that in 1968 and 1969, four three-week training programs in lockpicking and positive audio surveillance were given to an aggregate of 24 police officials from in and around the Washington, D.C., area. In July and August of 1972, two one-week courses in lockpicking were presented to Washington area police. In September 1972, twelve representatives from the New York Police Department attended a seminar on clandestine collection methodology, the basic theories of intelligence, and the Office of Security's role in the intelligence effort. Other shorter briefings, seminars and demonstrations—on a wide variety of topics—have been sponsored by the Agency.

In 1970 the Office of Security, with the approval of the Director of Central Intelligence, provided six men to the Law Enforcement

Assistance Administration to brief police and local officials on a "trace metal detecting technique" developed by the Agency. These six men, operating as Law Enforcement Assistance Administration consultants, conducted a number of briefings on the technique in different locations throughout the country.

For several years training in explosives detection and disarmament has been given to local police representatives at an isolated Agency facility in North Carolina. That facility was established to provide the Agency with a capability for detecting, handling and disarming all types of explosive devices. Police departments from all over the country have funneled information concerning new types of explosive devices to this CIA facility, which in turn has studied the information and attempted to ascertain the most appropriate methods of detecting and disarming each type of explosive device studied. In turn, the CIA has periodically brought representatives to the facility from local law enforcement agencies to share with them the knowledge it has learned concerning new devices.

Just before the Presidential Inauguration in January of 1969, a representative of the Washington Metropolitan Police Department's Intelligence Division asked the Office of Security to provide the police with several radio-equipped automobiles to assist the Department in monitoring the large groups expected to congregate during the inauguration ceremonies. The purpose of obtaining the CIA equipment was to provide the police department with an additional assigned radio frequency for use in connection with the planned activities during the inauguration, and to open up the Department's own radio frequency for ordinary police communications. Other agencies normally able to assist were fully utilizing their radio equipment during this period. From six to nine radio-equipped automobiles—some privately owned and others Agency owned—were furnished the Department by the CIA under the condition that these vehicles remain totally under the control of Office of Security employees.

The police agreed to this condition and both the vehicles and drivers were provided by the Office of Security. Command posts for monitoring intelligence reports were established at both the headquarters building of the Central Intelligence Agency and the Intelligence Division headquarters of the police department. The CIA also provided footmen radios for other police officers to utilize while on the street, enabling them to communicate with the CIA vehicles or either command post. Similar assistance was rendered by CIA to the Metropolitan Police Department on at least two other occasions (the antiwar moratorium demonstrations in November 1969 and the May Day demonstrations in 1971) and possibly a third.

As is discussed in Chapter 17, the Office of Security has occasionally loaned electronics equipment to police departments for training or for use in police operations. Some equipment has been given outright. Technical assistance on the proper use of such equipment has also been given on occasion. As a general rule, the Office of Security has restricted the availability of this electronics equipment to police departments in the Washington, D.C. metropolitan area (primarily to the Montgomery County and Metropolitan Police Departments). However, in isolated incidents, electronics equipment has also been loaned to the New York and San Francisco police departments. Included in the type of electronic equipment loaned or given to police were transmitters, telephonic decoders, touchtone dial recorders, tunable receivers, Kelcom SK–7 audio devices (for use in audio surveillance), amplifiers, transmitter beacons, and receivers. In addition, some nonelectronic equipment, including cameras and photographic gear, gas masks, tear gas grenades, and protective flack jackets has been furnished to Washington metropolitan area police departments, primarily for use during the period when the dissident groups were at their peak of activity from 1967 through 1971.

The CIA has on at least one occasion provided some technical assistance in an actual police operation being carried out by the Metropolitan Police Department. In late 1968 or early 1969, CIA was asked to provide the Department with transmitters which could be planted in several lamps to be placed in the apartment of a police informer who frequently met with members of dissident groups. CIA agreed to provide the requested equipment. The lamps were provided to CIA and the transmitter devices were installed in the lamps by personnel from the Office of Security. The lamps were then placed back in the police informer's apartment by the police. The police informer was aware that the apartment was being bugged and consented to the operation.

In early 1973 the CIA permitted the Metropolitan Police Department to use one of its safe houses in the Washington metropolitan area during the course of a police investigation. The safe house was used on a part-time basis in an attempt to purchase an extremely large quantity of heroin from out-of-town interests. This use of the safe house was approved by the Director of Security and continued until June of 1973.

On one other occasion the Office of Security made special arrangements to allow three policemen to use an Office of Technical Services photography facility to develop some police film taken during an operational police assignment. The film was considered to be so sensitive that the normal police facilities could not be used without the possibility of compromising the entire police investigation.

On at least three separate occasions, alias documents (including social security and draft cards) were provided to police officers representing police departments in Washington, Miami, and Baltimore. The purpose of providing this documentation was to permit the recipients to engage in undercover police work. The alias documentation given to the Metropolitan Police Department was never used and has been turned over to, and been made a part of the record of, this Commission. It is not known whether the documentation provided to the Miami and Baltimore Police Departments was ever utilized.

In 1968, the Office of Security provided copies of a reference document entitled "Where's What" to a number of local police departments. "Where's What" is a publication compiled by a CIA Office of Security employee during the period of March 1965 to March 1966, as the recipient of a Brookings Institution Federal Executive Fellowship. It is a comprehensive reference work designed as a guide for the federal investigator and is classified "confidential." The Office of Security distributed 1,000 copies of the book, the majority going to various federal agencies. Records reflect, however, that five copies each were given to the Arlington and Fairfax County Police; two copies to the Maryland State Police; and a total of 32 copies to the Washington Metropolitan Police Department. Although a request was made in 1970 by the Law Enforcement Assistant Administration to republish a second unclassified edition of this booklet, the suggestion was rejected since the CIA felt that it would not be proper for it to publish law enforcement material for general usage and unclassified purposes.

B. Other Assistance From State and Local Police

In 1966, CIA contracted with a private company to undertake an extensive study on the use of polygraph machines as a tool in personnel investigations. The purpose of the study was to determine what kind of individuals could "beat the polygraph." During the period of the study (1966–1967), CIA's contractor drew upon the resources of the San Mateo County, California, sheriff's office to find subjects for the study. Various inmates of the San Mateo County jail were used in connection with this experiment.

Police cover in the form of badges and other identification has, on several occasions, been obtained from local police departments. In 1960, nine CIA officers attached to the New York Field Office of the Office of Security were provided with New York Police Department badges in connection with assignments directed against several foreign intelligence targets in New York City.

In connection with the surreptitious entry of a business establishment in Fairfax County, CIA officers were provided with a metal badge obtained from the Fairfax City Police Department for use as "flash" identification in the event that any one should question their activities. It never became necessary for the officers engaged in the operation to use the badge for identification purposes.

During the 1971 May Day demonstrations in Washington, D.C., the CIA was provided with approximately twenty Metropolitan Police Department identification cards for use while monitoring the crowds in cooperation with Washington police officers. The purpose of obtaining these identification cards was to permit CIA agents to cross police lines during the anti-war demonstrations. The credentials were subsequently destroyed.

In September of 1971 a representative of the Office of Security's Washington Field Office approached the Fairfax County Police Department and requested the use of several sets of identification (including badges and identification cards) for "national security" purposes. These badges were, in fact, requested to facilitate a CIA surveillance then underway within Fairfax County of a former Agency employee threatening to make a public allegedly classified material. It was thought that any questionable activity on the part of those conducting the surveillance could be alleviated by showing the police badges to any concerned citizen. After some delay, the request was approved by the Chief of the Fairfax County Police Department. Nine patrolmen's and one sergeant's badge were delivered to CIA. In fact, these badges were never used in any CIA operation and were returned to the Fairfax County police in early 1973.

While no evidence of additional use of police credentials by CIA officers has been found, it is the opinion of a former director of the Office of Security that additional police credentials may have been obtained from time to time from police departments in cities where the Office of Security maintains field offices.

C. Gifts and Gratuities Given to Local Police Officials

In addition to the items covered in Chapter 17, the Commission has learned of the following instances in which gifts or gratuities were given by the Office of Security to state or local police officials for their cooperative attitude towards CIA.

On two occasions CIA furnished transportation to police officials while those officials were vacationing. In one instance, a rental vehicle was made available to a particularly cooperative police official while he was vacationing in the Los Angeles area. The bill for the rental of that vehicle came to approximately $800 and was paid from CIA

funds. The second instance involved the furnishing of a rental car to the Chief of that police department while he was vacationing in Puerto Rico. This car was used for approximately two days and was subsequently returned as the Chief obtained access to other transportation. The amount expended by the Office of Security for this vehicle is unknown.

In about 1965 or 1966, the Office of Security sponsored dinners honoring two retiring inspectors of the Washington Metropolitan Police Department who had been particularly helpful in providing assistance to CIA. Several contemporaries of the two inspectors from local police departments were invited guests. On each occasion the honoree was presented with a service revolver valued at about $75 or $80 as a gift from the Office of Security. In 1970 or 1971, a similar dinner was sponsored by the Office of Security for a captain of the Fairfax County Police Department. On this occasion, the captain was presented with a gift from the Office of Security of a watch valued at about $150. One retiree from the Metropolitan Police Department who desired to safeguard certain files in his home was also given a four drawer combination safe to facilitate the storage of these materials.

In about 1969 or 1970 an inspector from another police department was given the use, free of charge, of a safe house maintained by the Office of Security in Miami, Florida, for about one week while he was on vacation there. The inspector had been helpful to the Agency in making personnel investigations and in other respects.

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