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CONGRESSIONAL OVERSIGHT  
A JOINT COMMITTEE ON INTELLIGENCE

I. Premise

A. Objective

1. Reverse trend of proliferation of sensitive operational information.
2. Assure public of effective oversight.

B. Jurisdictional Form

1. Parallel Executive Branch structure
2. Intelligence community via DCI
3. CIA

II. Congressional Oversight - DCI/CIA

A. General

1. Statutory Basis
  - a. National Security Act of 1947
  - b. CIA Act of 1949
  - c. Security for intelligence activities
2. Oversight Responsibilities
  - a. General legislation
  - b. Appropriations
  - c. Economy and efficiency
3. Committees
  - a. Legislative and General Oversight
    1. Armed Services
    2. Appropriations
    3. Historical Note - Government Operations



b. Others

1. Government Operations Committees, particularly Legislative and National Security Subcommittees.
2. Senate Foreign Relations
  - a. Oversight of all activities abroad via Ambassador/State.
  - b. Covert actions reporting.
3. International Relations Committee, Subcommittee on Oversight.
  - a. Special oversight of intelligence activities relating to foreign policy.
  - b. Covert action reporting.

c. Summary.

1. Access to sensitive intelligence information expanded dramatically, 93rd to 94th Congresses.
2. With Select Committees, 10 committees are laying claim to oversight of all or part of CIA activities.
3. Members have access to all committee records under House Rule XI 2(e)(2).

B. Chronological Developments

1. Benign Period - Early 1950's.
2. Late 1950's.
  - a. Sen. Mansfield's initiative for Joint Committee
  - b. Sputnik Era - interest - Soviet threat
3. Early 1960's.
  - a. Increased substantive intelligence interest.
    1. "Missile Gap"
    2. Cuban Missile Crisis
  - b. Continued Pressure to Increase Oversight
    1. U-2 flight of Gary Powers
    2. Bay of Pigs
    3. Sen. Russell consolidates CIA Armed Services and Appropriations hearings.

4. Late 1960's.
  - a. Joint Committee bill defeated.
  - b. Funding of National Student Association exposure.
  - c. ABM debate.
  - d. Bill to circumscribe executive action through CIA.
  
5. 1970's.
  - a. Oversight committees fading in strength.
  - b. House oversight reinvigorated by appointment of Lucien Nedzi as Chairman of Intelligence Subcommittee.
  - c. Oversight committees keeping more detailed records.
  - d. Increased use of substantive intelligence product within Congress.

C. Current Congressional Procedures.

1. Operational/Agency Matters.
  - a. Limit to Armed Services and Appropriations subcommittees.
  - b. Covert action (P. L. 93-559) report to foreign relations committees.
  
2. Substantive Intelligence.
  - a. Any committee within their jurisdiction.
  - b. Sanitize transcripts.
  
3. Legislation.
  - a. Armed Services for amendments to 1947 and 1949 Acts.
  - b. General Legislation impinging upon DCI/CIA authorities/responsibilities requires cooperation of other committees.

D. Options for Increased Security.  
(Sine qua non - protect supporting sources and methods)

1. Committees not maintain records of sensitive information:
  - a. Criticism of committees.
  - b. Help committees distance selves from responsibilities.
2. Change House Rules to Limit Access to Sensitive Operational Information.
3. Continue present course and assume sensitive material will be handled with wisdom and restraint.
4. Joint Committee on Intelligence.
  - a. Rules to deny access to sensitive information beyond committee membership.
  - b. Incorporate into Joint Committee resolution Intelligence Sources and Methods legislation.

III. Pros and Cons of a Joint Committee on Intelligence.

A. Pros.

1. Reverse trend towards proliferation.
2. Consolidate into one committee all oversight except for Appropriations
  - a. Improve the exercise of legislative leadership
  - b. Improve credibility of oversight
  - c. Source of credible spokesmen to defend Agency.
  - d. Opportunity for frequent, in depth briefing.
  - e. Elimination of redundant briefing
  - f. Full-time professional staff to assist both committees and intelligence community.
3. Opportunity to limit access to sensitive intelligence information to membership of committee by rule change.
4. Opportunity to enact as part of the resolution more effective deterrents against the disclosure of sensitive intelligence sources and methods information.

5. Provide a strong base within Congress to withstand accommodations on sensitive matters
6. Satisfy a number of present critics who believe oversight is ineffectual and silence their criticism at least on this issue.
7. Those who have been in the forefront of defending the Agency are nearing the end of their service and replacements in the present structure of oversight are unlikely to wield equivalent power.

B. Cons.

1. May not necessarily resolve jurisdictional battles, special overview authority.
2. Present committee leadership could react negatively to the proposal.
3. Improved chances for encroachment upon executive responsibilities, intrusion into policy areas and doctrine of separation of powers.
4. Create Board of Directors which may curtail executive initiatives and creativeness.
5. Full-time professional staff with possible attendant problems of interference with management.
6. Some sentiment within Congress against joint Committees in principle as violating the bicameral legislature under the Constitution.

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IN THE SENATE OF THE UNITED STATES

Mr.                   introduced the following bill; which was read twice  
and referred to the Committee on Rules

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BILL

To establish a Joint Committee on Central Intelligence, to  
amend the National Security Act of 1947, and for other purposes.

1           Be it enacted by the Senate and the House of Representatives  
2           of the United States of America in Congress assembled, that  
3           ESTABLISHMENT OF JOINT COMMITTEE ON CENTRAL  
4           INTELLIGENCE

5           SEC. 2. (a) There is hereby established a Joint Committee  
6           on    Central Intelligence           (hereinafter referred to as the  
7           "joint committee") which shall be composed of twelve members  
8           appointed as follows:

1 (1) two members of the Committee on Armed  
2 Services of the Senate;

3 (2) two members of the Committee on Foreign  
4 Relations of the Senate;

5 (3) two members of the Committee on Government  
6 Operations of the Senate;

7 (4) two members of the Committee on Armed  
8 Services of the House of Representatives;

9 (5) two members of the Committee on Foreign  
10 Affairs of the House of Representatives; and

11 (6) two members of the Committee on Government  
12 Operations of the House of Representatives.

13 (b) The joint committee shall select a chairman and a vice  
14 chairman from among its members at the beginning of each Congress.  
15 The vice chairman shall act in the place instead of the chairman in the  
16 absence of the chairman. The chairmanship shall alternate with each  
17 Congress between the Senate and the House of Representatives, and the  
18 chairman shall be selected by the joint committee members of the house  
19 entitled to the chairmanship. The vice chairman shall be chosen from  
20 the house other than that of the chairman by members of the joint  
21 committee from that house.

22 (c) Vacancies in the membership of the joint committee shall

1 not effect the power of the remaining members to execute the  
2 functions of the joint committee and shall be filled in the same  
3 manner as in the case of an original selection.

4 (d) A majority of the members of the joint committee shall  
5 constitute a quorum for the transaction of business, except that  
6 the joint committee may fix a lesser number as a quorum for the  
7 purpose of taking testimony.

#### 8 DUTIES OF THE JOINT COMMITTEE

9 SEC. 3. (a) The joint committee shall make continuing studies of  
10 the activities and operations of the Director of Central Intelligence and  
11 the Central Intelligence Agency. The Director of Central Intelligence sha  
12 keep the joint committee fully and currently informed with respect to all  
13 his activities and those of the Central Intelligence Agency.

14 (b) All bills, resolutions, and other matters in the Senate or House  
15 of Representatives relating to the Director of Central Intelligence and the  
16 Central Intelligence Agency or to the foreign intelligence activities of the  
17 United States Government shall be referred to the joint committee, and  
18 except for the Appropriations Committees, the joint committee shall have  
19 exclusive jurisdiction and access to information on the operations  
20 of the Central Intelligence Agency, its programs and functions.

21 (c) Information obtained or furnished pursuant to this section  
22 shall be subject to specific rules and instructions regarding



1 protection and further dissemination as established by the joint  
2 committee. These rules and instructions shall take precedent<sup>2</sup> over  
3 any other rules or instructions of the Senate or the House of  
4 Representatives, with which they may conflict.

5 (d) The chairman and vice chairman of the joint committee or  
6 their designees shall from time to time report to their respective  
7 houses, by bill or otherwise, their recommendations with respect  
8 to matters within the jurisdiction of the joint committee.

#### 9 POWERS OF THE JOINT COMMITTEE

10 SEC. 4. (a) The joint committee, or any subcommittee  
11 thereof, is authorized, in its discretion: to make expenditures; to  
12 employ personnel; to hold hearings; to sit and act at any time or place;  
13 to subpoena witnesses and documents; to take depositions and other  
14 testimony; to use, on a reimbursable basis, the facilities and services  
15 of personnel of the Central Intelligence Agency, with the prior consent  
16 of said Agency; to procure printing and binding; to procure the  
17 temporary or intermittent services of individual or organizational  
18 consultants; and to provide for the training of its professional staff.

19 (b) Subpoenas may be issued over the signature of the chairman



1 of the joint committee or by any member designated by him or  
2 the joint committee, and may be served by such person as may be  
3 designated by such chairman or member. The chairman of the  
4 joint committee or any member thereof may administer oaths to  
5 witnesses. The provisions of sections 102 to 104 of the Revised  
6 Statutes (2 U. S. C. 192-194) shall apply in the case of any failure  
7 of any witness to comply with a subpoena to testify when summoned  
8 under authority of this subsection.

#### 9 CLASSIFICATION OF INFORMATION

10 SEC. 5. The joint committee may classify information  
11 originating within the committee in accordance with standards  
12 used generally by the executive branch of the Federal Government  
13 for classifying defense information or other information relating to  
14 the national security of the United States, including information  
15 relating to intelligence sources and methods.

#### 16 RECORDS OF THE JOINT COMMITTEE

17 SEC. 6. The joint committee shall keep a complete record  
18 of all information it receives pursuant to section 3. All committee  
19 records, data, charts and files shall be the property of the joint  
20 committee and shall be kept in the office of the joint committee,  
21 or such other places as the joint committee may direct,



1 under such security safeguards as the joint committee shall  
2 determine to be in the interest of national security but not less than  
3 the standards prescribed for the Executive branch.

4 EXPENSES OF JOINT COMMITTEE

5 SEC. 7. The expenses of the joint committee shall be paid  
6 from the contingent fund of the Senate from funds appropriated for  
7 the joint committee, upon vouchers signed by the chairman of the  
8 joint committee or by any member of the joint committee  
9 authorized by the chairman.

10 PROTECTION OF INTELLIGENCE SOURCES AND METHODS

11 SEC. 8. Section 102 of the National Security Act of 1947, as  
12 amended, (50 U.S.C.A. 403) is further amended by adding the  
13 following new subsection (g):

14 (g) In order further to implement the proviso of  
15 section 102(d)(3) of this Act that the Director of Central  
16 Intelligence shall be responsible for protecting intelligence  
17 sources and methods from unauthorized disclosure--

18 (1) Whoever, being or having been in duly  
19 authorized possession or control of information  
20 relating to intelligence sources and methods, or  
21 whoever, being or having been an officer or employee  
22 of the United States, or member of the Armed Services



1 of the United States, or a contractor of the United States  
2 Government, or an employee of a contractor of the United  
3 States Government, and in the course of such relationship  
4 becomes possessed of information relating to intelligence  
5 sources and methods, knowingly communicates such information  
6 to a person not authorized to receive it shall be fined not more  
7 than \$5,000 or imprisoned not more than five years, or both;

8 (2) For the purposes of this subsection, the term  
9 "information relating to intelligence sources and methods"  
10 means information concerning

11 (a) methods of collecting foreign intelligence;

12 (b) all sources of foreign intelligence, whether  
13 human, technical, or other; and

14 (c) methods and techniques of analysis and  
15 evaluation of foreign intelligence

16 and which for reasons of national security, or in the interest  
17 of the foreign relations of the United States, has been specifically  
18 designated for limited or restricted dissemination or distribution,  
19 pursuant to authority granted by law, Executive order, or  
20 Directive of the National Security Council, by a department or  
21 agency of the United States Government which is expressly  
22 authorized by law or by the President to engage in intelligence  
23 activities for the United States;



1 (3) A person not authorized to receive information relating  
2 to intelligence sources and methods is not subject to prosecution as an  
3 accomplice within the meaning of section 2 and 3 of Title 18, United  
4 States Code, or to prosecution for conspiracy to commit an offense  
5 under this subsection, unless he became possessed of the information  
6 relating to intelligence sources and methods in the course of his relation-  
7 ship with the United States Government;

8 (4) No prosecution shall be instituted under this subsection  
9 unless, prior to the return of the indictment or the filing of the  
10 information, the Attorney General and the Director of Central Intelligence  
11 jointly certify to the court that the information was lawfully designated  
12 for limited or restricted dissemination or distribution within the meaning  
13 or paragraph (2) of this subsection at the time of the offense;

14 (5) It is an affirmative defense to a prosecution under this  
15 subsection that the information was communicated only to a regularly  
16 constituted subcommittee, committee, or joint committee of Congress,  
17 pursuant to lawful demands;

18 (6) Whenever in the judgment of the Director of Central Intelligence  
19 any person has engaged, or is about to engage, in any acts or practices  
20 which constitute, or will constitute, a violation of this subsection, or  
21 any rule or regulation issued thereunder, the Attorney General, on  
22 behalf of the United States, may make application to the appropriate court  
23 for an order enjoining such acts or practices, or for an order enforcing



1 compliance with the provisions of this subsection, and upon a showing  
2 that such person has engaged, or is about to engage, in any such acts  
3 or practices, a permanent or temporary injunction, restraining order,  
4 or other order may be granted.

5 (7) In any judicial proceeding under this subsection, the  
6 court may review, in camera, information relating to intelligence  
7 sources and methods designated for limited or restricted dissemination  
8 or distribution for the purpose of determining if such designation was  
9 lawful and the court shall not invalidate the designation unless it  
10 determines that the designation was arbitrary and capricious.



CIA SUBCOMMITTEES

SENATE APPROPRIATIONS

INTELLIGENCE OPERATIONS

John L. McClellan (D., Ark.), Chairman

John C. Stennis (D., Miss.)

Milton R. Young (R., N. Dak.)

John O. Pastore (D., R. I.)

Roman L. Hruska (R., Neb.)

SENATE ARMED SERVICES

CIA SUBCOMMITTEE

John C. Stennis (D., Miss.), Chairman

Stuart Symington (D., Mo.)

Barry Goldwater (R., Ariz.)

Howard W. Cannon (D., Nev.)

Strom Thurmond (R., S. C.)

Thomas McIntyre (D., N. H.)

HOUSE ARMED SERVICES

SPECIAL SUBCOMMITTEE ON INTELLIGENCE

Lucien N. Nedzi (D., Mich.), Chairman

Melvin Price (D., Ill.)

Bob Wilson (R., Calif.)

F. Edward Hebert (D., La.)

William L. Dickinson (R., Ala.)

Charles E. Bennett (D., Fla.)

Samuel S. Stratton (D., N. Y.)

HOUSE APPROPRIATIONS

DEFENSE SUBCOMMITTEE

George H. Mahon (D., Tex.), Chairman

Robert L. F. Sikes (D., Fla.)

Jack Edwards (R., Ala.)

Daniel J. Flood (D., Pa.)

J. Kenneth Robinson (R., Va.)

Joseph P. Addabbo (D., N. Y.)

Jack F. Kemp (R., N. Y.)

John J. McFall (D., Calif.)

Elford Cederberg (R., Mich.)

John J. Flynt (D., Ga.)

(ex-officio member)

Robert N. Giaimo (D., Conn.)

Bill Chappell (D., Fla.)

Bill D. Burlison (D., Mo.)



House Foreign Affairs Committee

Subcommittee on Oversight

(Covert Action Only)

Thomas E. Morgan (D., Pa.), Chairman

Clement J. Zablocki (D., Wis.)

Wayne L. Hays (D., Ohio)

Leo J. Ryan (D., Calif.)

Helen S. Meyner (D., N.J.)

William S. Broomfield (R., Mich.)

Edward J. Derwinski (R., Ill.)



A B I L L

To establish a Joint Committee on Intelligence Oversight.

Be it enacted by the Senate and House of Representatives of the  
United States of America in Congress Assembled,

Establishment

Section 1. (a) There is established a Joint Committee on  
Intelligence Oversight to be composed of fourteen members as follows:

(1) seven Members of the House of Representatives  
appointed by the Speaker of the House of Representatives of  
which four shall be of the majority party and three shall be  
of the minority party; and

(2) seven Members of the Senate appointed by the  
President pro tempore of the Senate of which four shall be



of the majority party and three shall be of the minority party.

(b) The joint committee shall select a chairman and a vice chairman from among its members at the beginning of each Congress. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman. The chairmanship and the vice chairmanship shall alternate between the Senate and the House of Representatives with each Congress. The chairman during each even-numbered Congress shall be selected by the Members of the House of Representatives on the joint committee from among their number and the chairman during each odd-numbered Congress shall be selected by the Members of the Senate on the joint committee from their number. The vice chairman during each Congress shall be chosen in the same manner from that House of Congress other than the House of Congress of which the chairman is a Member.

(c) A majority of the members of the joint committee shall constitute a quorum for the transaction of business, except that the joint committee may fix a lesser number as a quorum for the purpose of taking testimony. Vacancies in the membership of the joint committee shall not affect the power of the remaining members to execute the functions of the joint committee and shall be filled in the same manner as in the case of the original appointment.



(d) Service of a Senator as a member or as chairman of the joint committee shall not be taken into account for the purposes of paragraph 6 of rule XXV of the Standing Rules of the Senate.

#### Duties of the Joint Committee

Sec. 2. (a) It shall be the duty of the joint committee to conduct a continuing study and investigation of the activities and operations, and budgets of (1) the Central Intelligence Agency, (2) the Federal Bureau of Investigation, Department of Justice, (3) the United States Secret Service, (4) the Defense Intelligence Agency, the National Security Agency, and other intelligence components of the Department of Defense, and, (5) the related intelligence functions of all other departments and agencies of the Federal Government. Except for the Appropriations Committees and the existing legislative oversight committees, the joint committee shall have exclusive jurisdiction and access to information on the activities, operations, and budgets of the aforementioned departments and agencies.

(b) The joint committee is authorized to report to the House of Representatives and the Senate by bill or otherwise no later than June 30, 1977, with respect to the reorganization and improvement of agencies and departments of the United States within the jurisdiction of the joint committee as described in subsection (a).

(c) The Director of the Central Intelligence Agency, the Director



of the Federal Bureau of Investigation, the Director of the Secret Service, the Director of the Defense Intelligence Agency, and the Director of the National Security Agency shall keep the joint committee fully and currently informed with respect to all of the activities of their respective organizations, and the heads of all other departments and agencies of the Federal Government conducting intelligence activities or operations or the surveillance of persons shall keep the joint committee fully and currently informed of all intelligence and surveillance activities and operations carried out by their respective departments and agencies. The joint committee shall have authority to require from any department or agency of the Federal Government periodic written reports regarding activities and operations within the jurisdiction of the joint committee.

#### Powers

Sec. 3. (a) The joint committee, or any subcommittee thereof, is authorized, in its discretion (1) to make expenditures, (2) to employ personnel, (3) to adopt rules respecting its organization and procedures, (4) to hold hearings, (5) to sit and act at any time or place, (6) to subpoena witnesses and documents, (7) with the prior consent of the agency concerned, to use on a reimbursable basis the services of personnel, information, and facilities of any such agency, (8) to procure printing and binding, (9) to procure the temporary services (not in excess of one year) or intermittent services of individual consultants, or organizations thereof, and to



provide assistance for the training of its professional staff, in the same manner and under the same conditions as a standing committee of the Senate may procure such services and provide such assistance under subsections (i) and (j), respectively, of section 202 of the Legislative Reorganization Act of 1946, and (10) to take depositions and other testimony. No rule shall be adopted by the joint committee under clause (3) providing that a finding, statement, recommendation, or report may be made by other than a majority of the members of the joint committee than holding office.

(b) Subpenas may be issued over the signature of the chairman of the joint committee or by any member designated by him or the joint committee, and may be served by such person as may be designated by such chairman or member. The chairman of the joint committee or any member thereof may administer oaths to witnesses. The provisions of sections 102-104 of the Revised Statutes (2 U. S. C. 192-194) shall apply in the case of any failure of any witness to comply with a subpoena or to testify when summoned under authority of this section.

(c) With the consent of any standing, select, or special committee of the Senate or House, or any subcommittee, the joint committee may utilize the services of any staff member of such House or Senate committee or subcommittee whenever the chairman of the joint committee determines that such services are necessary and appropriate.



### Classification of Information

Sec. 4. The joint committee may classify information originating within the committee in accordance with standards used generally by the executive branch of the Federal Government for classifying defense information or other information relating to the national security of the United States, including information relating to intelligence sources and methods.

### Protection of Information

Sec. 5. (a) The joint committee shall institute and carry out such rules and procedures as it may deem necessary to prevent (1) the disclosure, outside the joint committee, of any information relating to the activities and operations, and budgets of the agencies and departments described in section 2, obtained by the joint committee during the course of its study and investigation, not authorized by the joint committee to be disclosed; and (2) the disclosure, outside the joint committee, of any information protected from unauthorized disclosure by statute, including but not limited to Restricted Data (42 U. S. C. 2162), communication information (18 U. S. C. 798), and intelligence sources and methods (50 U. S. C. 403(d)(3) and (g)), or of any information which would otherwise adversely affect the intelligence activities of the Central Intelligence Agency in foreign countries or the intelligence activities in foreign countries of any other department or agency of the Federal Government.

(b) No employee of the joint committee or any person engaged by



contract or otherwise to perform services for the joint committee shall be given access to any classified information by the joint committee unless such employee or person has received an appropriate security clearance as determined by the joint committee. The type of security clearance to be required in the case of any such employee or person shall, within the determination of the joint committee, be commensurate with the sensitivity of the classified information to which such employee or person will be given access by the joint committee.

(c) As a condition for employment as described in section 3, each person shall agree not to accept any honorarium, royalty, or other payment for a speaking engagement, magazine article, book, or other endeavor connected with the investigation and study undertaken by this committee.

(d) Information obtained or furnished pursuant to section 2(c) shall be subject to specific rules and instructions regarding protection and further dissemination as established by the joint committee in conformance with this section. These rules and instructions shall take precedent over any other rules or instructions of the Senate or the House of Representatives, with which they may conflict.

#### Records of Joint Committee

Sec. 6. The joint committee shall keep a complete record of all information it receives pursuant to section 2. All committee records,



data, charts and files shall be the property of the joint committee and shall be kept in the office of the joint committee, or such other places as the joint committee may direct, under such security safeguards as the joint committee shall determine to be in the interest of national security but not less than the standards prescribed within the Executive branch.

#### Expenses of Joint Committee

Sec. 7. The expenses of the joint committee shall be paid one-half from the contingent fund of the Senate and one-half from the contingent fund of the House of Representatives, upon vouchers signed by the chairman or the vice chairman of the joint committee.

#### Amendment to H. Res. 138; Transfer of Data

Sec. 8. (a) Section 9 of H. Res. 138 of the Ninety-fourth Congress is amended to read as follows:

"Sec. 9. The authority granted herein shall expire on January 4, 1976."

(b) The Select Committee on Intelligence is authorized and directed to transfer to the joint committee all data, information, transcripts, and other documents in its possession or under its control.

#### Effective Date

Sec. 9. This Act and the amendment made by it shall take effect on January 3, 1976.



Proposals on Congressional Oversight of Intelligence

SENATE

- S. 99 [H.R. 54] [Humphrey] Joint Committee on National Security  
S. 189 [Nelson] Joint Committee on Agencies Conducting Surveillance  
S. 317 [H.R. 463] [Baker and 25] Joint Committee on Intelligence Oversight  
  
S. Con. Res. 4 [H. Con Res. 313] [Hathaway] Joint Committee on Information  
and Intelligence

HOUSE

- H.R. 54 [S. 99] [Zablocki] Joint Committee on National Security  
H.R. 261 [Biester] Joint Committee on Intelligence Operations  
H.R. 463 [S. 317] [Frenzel] Joint Committee on Intelligence Oversight  
H.R. 2232 [McCloskey] Joint Committee on Intelligence Information  
H.R. 7959 [Biester] --identical to H.R. 261--  
H.R. 8198 [Biester] --identical to H.R. 261--  
H.R. 8199 [Broomfield] Joint Committee on Intelligence Oversight  
  
H. Res. 51 [Roe] House Committee on CIA  
H. Res. 78 [Harrington] House Committee on Intelligence Operations  
  
H. J. Res. 656 [Sisk] Joint Committee on Intelligence Operations  
H. J. Res. 657 [Hyde] --identical to H. J. Res. 656--  
  
H. Con. Res. 18 [Kastenmeier] Joint Committee on Central Intelligence  
H. Con. Res. 313 [S. Con. Res 4] [Boland] Joint Committee on Information  
and Intelligence



## CIA OVERSIGHT PROPOSALS

The longstanding congressional oversight procedure of reporting on Agency operations only to the Armed Services and Appropriations Committees of both houses was significantly altered by the Foreign Assistance Act of 1974, which requires reporting on covert action to the foreign affairs committees of both Houses. This means six committees now receive reports on covert operations. Other, more far-reaching proposals have been introduced in the 94th Congress. The Senate Subcommittee on Intergovernmental Relations of the Committee on Government Operations held hearings on 9 and 10 December 1974 regarding CIA oversight. Senator Muskie, Chairman of this Subcommittee, originally announced additional hearings for early 1975, but is deferring to the Senate Select Committee.

Following are sketches of proposals to alter the permanent CIA oversight mechanism. All House bills on oversight have been referred to the Rules Committee. Jurisdiction of the Senate bills is split between the Armed Services, Government Operations, and Rules Committees.

### 1. Joint Committee on Intelligence Oversight (S. 317, H.R. 463)

Senators Baker and Weicker and twenty-five co-sponsors introduced the Senate proposal in the 93rd Congress and again in January. Senators Baker and Weicker spoke in favor of their bill during the Muskie hearings last December. Representatives Frenzel and Steelman introduced the companion House bill. The Joint Committee on Intelligence Oversight would have fourteen members, appointed by the leadership, and the chairmanship would alternate between the House and Senate members for each Congress. The legislative jurisdiction of the Committee would extend to CIA, FBI, Secret Service, DIA, NSA, and all other governmental activities pertaining to intelligence gathering or surveillance of persons. Heads of all named departments would be required to keep the Committee fully and currently informed of all activities.

### 2. Joint Committee on National Security (S. 99, H.R. 54)

This bill was introduced in the 93rd and 94th Congresses by Senator Humphrey. Representative Zablocki is the House sponsor. Dr. Ray Cline, formerly a CIA official and later the Director of the Bureau of Intelligence and Research, Department of State, spoke in favor of this proposal during the Muskie hearings.

The Joint Committee on National Security would consist of the Speaker, Majority and Minority members of each house, the chairman and ranking Minority members of the Armed Services, Appropriations, foreign affairs, Joint Atomic Energy Committees, three other Representatives, and three other Senators.



Proposed functions of the Committee are to study foreign, domestic, and military national security policies, study the National Security Council, and study government classification practices, and report periodically to each House on the Committee's findings. This bill would apparently not change any present jurisdiction (e.g., the Armed Services Committees would retain legislative jurisdiction over CIA); it would merely supplement it.

3. Joint Committee on the Continuing Study of the Need to Reorganize the Departments and Agencies Engaging in Surveillance (S. 189)

Senators Nelson, Jackson, and Muskie introduced this proposal. Senator Nelson introduced a similar proposal last Congress, and supported it during the Muskie hearings. This committee would be composed of eight Senators and eight Representatives, with an equal party split. The Committee would be empowered to study the need to reorganize U. S. agencies engaged in investigation or surveillance of individuals (citizenship not specified), the extent, methods, authority, and need for such investigation or surveillance, and the state-federal relationship in this area. The Joint Committee would not have jurisdiction to examine activities conducted outside the United States, but may recommend means for Congress to oversee such extraterritorial activity.

4. Joint Committee on Information and Intelligence (S.Con.Res. 4)

Senator Hathaway is the sponsor of this proposal. It would create a fourteen-member joint committee to study the activities of each information and intelligence agency and their interrelationships.

5. Several other House bills or resolutions would create joint committees to assume CIA oversight and would either have members appointed by the leadership or drawn from specified committees (such as Armed Services, Appropriations, Foreign Relations, International Relations, and Government Operations). Among this group are H.R. 261, H.Con.Res. 18, H.R. 2232. H.Res. 51 would create a new standing committee of the House entitled the Committee on the Central Intelligence Agency.

6. Mr. Dellums has reintroduced the "Central Intelligence Agency Disclosure Act," H.R. 1267, amending certain statutory authorities to modify Agency exemptions in the area of reporting to Congress. The bill would impose a positive duty on the Agency to report to congressional committees and subcommittees upon request sensitive details on prospective activities, contracts, and covert funding, information already available to appropriate oversight committees under current procedures. The Agency would also be required upon request to provide any substantive and operational information to any congressional committee or subcommittee relating to any matter within its jurisdiction. These provisions would proliferate sensitive information on Agency operations throughout the Congress and fragment oversight responsibilities.

Joint Committee on National Security

H. R. 54            Referred to Rules Committee  
[Zablocki]

S. 99              Referred to Armed Services Committee  
[Humphrey]

Membership

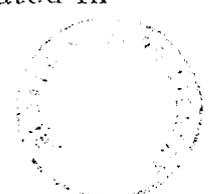
25 Members of Congress, including:

1. Speaker of the House of Representatives;
2. Majority and Minority Leaders of the Senate and the House;
3. Chairmen and Ranking Minority members of the Senate Committees on Appropriations, Armed Services, and Foreign Relations;
4. Chairmen and Ranking Minority members of the House Committees on Appropriations, Armed Services, and Foreign Affairs;
5. Chairman and Ranking Minority members of the Joint Committee on Atomic Energy;
6. Two Majority and one Minority members of the Senate as appointed by the President of the Senate;
7. Two Majority and one Minority members of the House as appointed by the Speaker of the House.

The Joint Committee shall select a chairman and a vice-chairman from among its members.

Functions

1. To make a continuing study of the foreign, domestic, and military policies of the U. S. to determine if they are integrated in furtherance of the national security;



Joint Committee on National Security

- H. R. 54            Referred to Rules Committee  
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4. Chairmen and Ranking Minority members of the House Committees on Appropriations, Armed Services, and Foreign Affairs;
5. Chairman and Ranking Minority members of the Joint Committee on Atomic Energy;
6. Two Majority and one Minority members of the Senate as appointed by the President of the Senate;
7. Two Majority and one Minority members of the House as appointed by the Speaker of the House.

The Joint Committee shall select a chairman and a vice-chairman from among its members.

Functions

1. To make a continuing study of the foreign, domestic, and military policies of the U. S. to determine if they are integrated in furtherance of the national security;



2. To make a continuing study of the National Security Council with particular emphasis on the goals, strategies, and alternatives of foreign policy considered by the Council;

3. To make a continuing study of, and make recommendations regarding government practices of classification and declassification of documents.

### Reports

The Joint Committee shall make reports not less than once each year to the Senate and House with respect to its studies. The reports shall contain such findings, statements, and recommendations as the Joint Committee considers appropriate.

### Powers

Make expenditures; employ personnel; adopt rules respecting its organization and procedures; hold hearings; subpoena witness and documents (subpoenas may be issued over signature of the chairman or any member designated by him or the Joint Committee); use on a reimbursable basis the services of personnel, information, and facilities of an agency with the prior consent of the agency concerned; procure printing and binding; hire consultants; utilize the services of any staff member of House or Senate committees or subcommittees with the consent of the committee concerned.

OVERSIGHT

Joint Committee on the Continuing Study of the Need to Reorganize  
the Departments and Agencies Engaging in Surveillance

S. 189 Referred to Government Operations Committee  
[Nelson, Jackson, Muskie]

Membership

16 members as follows:

1. Eight Senators; four to be appointed by the Senate Majority leader, four by the Minority leader.
2. Eight Representatives; four to be appointed by the House Majority leader, four by the Minority leader.
3. The Joint Committee shall select a chairman and vice-chairman from its members.

Function

Study the need to reorganize U. S. agencies engaged in investigation or surveillance of individuals [note: citizenship of individuals not specified], the extent, methods, authority and need for such investigation or surveillance; study the state-federal relationship in this area; file reports with Congress on relevant matters at least annually.

Proviso: The Joint Committee does not have jurisdiction to examine activities conducted outside United States, but may recommend means for Congress to oversee such extraterritorial activity.

Powers

1. The Joint Committee shall receive, subject to the above proviso, testimony of representatives of agencies engaged in surveillance or investigations of individuals concerning scope, nature and guidelines of such activity.



2. The Committee has the authority to subpoena witnesses and documents (issued under Chairman of the Committee or any subcommittee or any member designated by such chairman when authorized by a majority of the members of such committee or subcommittee).

3. The U. S. District Court for D. C. shall have jurisdiction in the enforcement of committee subpoenas.

Joint Committee on Intelligence Oversight

S. 317 Referred to Government Operations Committee  
[Baker, Weicker, and 25 others]

H. R. 463 Referred to Rules Committee  
[Frenzel and Steelman]

Membership

14 members as follows:

1. Seven members of the Senate, four to be appointed by the Senate Majority Leader and three to be appointed by the Senate Minority Leader;

2. Seven members of the House, four to be appointed by the House Majority Leader and three to be appointed by the House Minority Leader.

Leadership

Chairmanship shall alternate between a Senator and Representative with each Congress. Chairman and Vice-chairman can't be from same house.

Functions and Powers

1. To conduct a continuing study and investigation of the activities and operations of CIA, FBI, Justice, the Secret Service, DIA, DOD, NSA, and the intelligence gathering or surveillance activities of all other agencies; and to consider proposals for the improvement and reorganization of agencies and departments within the Joint Committee's jurisdiction.

2. The directors of the relevant agencies shall keep the Joint Committee fully and currently informed on all their intelligence and surveillance activities. The Joint Committee shall have authority to require from any department or agency periodic written reports regarding activities and operations within the jurisdiction of the Joint Committee.

3. All bills, resolutions, and other matters in the House or Senate relating primarily to the intelligence or surveillance activities of any government organization shall be referred to the Joint Committee.

4. OPEN BUDGET--No funds may be appropriated for the purpose of carrying out any intelligence or surveillance activity or operation by any office, or any department or agency unless such funds for such activity or operation have been specifically authorized by legislative enactment.

5. Nothing in this subsection shall be construed to deprive any committee of either house from exercising legislative oversight with respect to intelligence and surveillance activities related to the jurisdiction of such committee.

6. The proposed Committee has the authority to subpoena witnesses and documents (issued over the signature of the chairman, or any member designated by him or the Joint Committee); and use the services of personnel, information, and facilities of any federal department or agency with the prior consent of the agency.

#### Reports

Senate and House members of the Joint Committee shall from time to time report to their respective houses, by bill or otherwise, their recommendations concerning matters within the jurisdiction of the Joint Committee.

#### Certification of Information

The Joint Committee may classify information originating within the Committee in accordance with standards used generally by the executive branch for classifying restricted data or defense information.

The Joint Committee shall keep a complete record of all actions.

"Joint Committee on Information and Intelligence"

S. Con. Res. 4 Referred to Government Operations Committee  
[Hathaway]

H. Con. Res. 313

[Boland]

Membership

14 members as follows:

7 Senators appointed by the President of the Senate; 7  
Representatives appointed by the Speaker of the House; in each  
instance not more than four members shall be from the same party.

#### Leadership

The Joint Committee shall select a chairman and vice-  
chairman. Chairmanship and vice-chairmanship shall alternate  
between House and Senate with each Congress, and the chairman  
shall be selected by the members of the Joint Committee from  
the house entitled to the chairmanship.

#### Functions

1. Study the activities of each information and intelligence  
agency of the U. S., CIA included, and their interrelationship.
2. Each information and intelligence agency of the U. S. shall  
give the Joint Committee such information regarding its activities  
as the committee may require. Such information shall include  
data on the amounts, purposes and recipients of expenditures made  
by each agency.
3. All Joint Committee records shall be the property of the  
Joint Committee, and shall be kept in the committee offices or such  
other places as the committee may direct in the interest of national  
security.
4. All bills, resolutions and other matters relating primarily  
to any U. S. information or intelligence agency shall be referred to  
the Joint Committee. The Joint Committee shall report to Congress  
its recommendations on matters within its purview.

## Powers

Make expenditures; employ personnel; use the services, information, facilities and personnel of the executive departments [no prior consent required]; adopt its organizational and procedural rules--but no measure shall be reported from the Joint Committee unless a majority of the members thereof assent; hold hearings; subpoena witnesses, books, papers, etc.--subpoenas to be issued over the Joint Committee Chairman's signature, his designee's or by the Joint Committee.

## Classification of Information

The Joint Committee is authorized to classify information originating within the Joint Committee in accordance with standards used generally by the executive branch.

Joint Committee on Intelligence Operations

H. R. 261 Referred to Rules Committee  
[Biester and Anderson (Ill. )]

Membership

18 Members as follows:

1. Nine Representatives of whom five shall be appointed by the House Majority Leader to include one member from each of the Committees on Armed Services, Foreign Affairs, and Appropriations; four members to be appointed by the House Minority Leader including one from each of the above committees;

2. Nine members of the Senate of whom five shall be appointed by the Senate Majority Leader to include one member from each of the Committees on Armed Services, Foreign Relations, and Appropriations; four members to be appointed by the Senate Minority Leader to include one from each of the above-named committees.

Leadership

The Chairmanship shall alternate between the Senators and Representatives. The Chairman and the Vice-Chairman can't be members of the same house.

Functions and Powers

1. Conduct continuing oversight of and exercise exclusive jurisdiction over the legislative authorization with respect to the foreign intelligence activities and operations of CIA, DIA, DOD, NSA, INR, Army, Navy, and Air Force intelligence, and the foreign intelligence activities of other agencies.

2. The directors of the above-named organizations and the directors of all other departments conducting foreign intelligence activities, shall keep the Joint Committee fully and currently informed with respect to all of the foreign intelligence activities and operations of their respective organizations. The Joint Committee shall have authority to require from any department or agency periodic reports regarding activities and operations within the jurisdiction of the Joint Committee.

HOUSE



3. All bills, resolutions, and other matters in the House or Senate relating primarily to foreign intelligence activities shall be referred to the Joint Committee.

4. Nothing in this subsection shall be construed to deprive any committee of either house from exercising legislative oversight with respect to foreign intelligence activities and operations related to the jurisdiction of such committee.

5. The Committee is authorized to subpoena witnesses and documents (issued over the signature of the chairman or any member designated by him or the Joint Committee); and use the services of personnel, information, and facilities of any federal department or agency with the prior consent of the agency.

#### Reports

House members and Senate members of the Joint Committee shall from time to time report to their respective houses by bill or otherwise their recommendations regarding foreign intelligence activities.

#### Classification of Information

The Joint Committee shall be charged with establishing guidelines for its information in accordance with standards used generally by the Executive branch. The Joint Committee shall be charged with establishing guidelines under which its data and records shall be maintained and be made available to any member of Congress who requests such data or any officer or employee of the House or Senate who has been designated by a member to have access to such records and who has the appropriate security clearances.

The Joint Committee shall keep a complete record of all actions.

OVERSIGHT

Joint Committee on Intelligence Information and Amendment to the National Security Act

H. R. 2232      Referred to Rules Committee  
[McCloskey]

I.      Joint Committee on Intelligence Information

Membership

10 Members as follows:

1. Five Senators appointed by the President pro tempore. No more than three may be of the same political party.
2. Five Representatives appointed by the Speaker, of whom no more than three may be of the same political party.

Leadership

Chairmanship shall alternate between a Senator and Representative with each Congress. Chairman and Vice-chairman can't be from same house.

Functions and Powers

1. Conduct continuing review of the effectiveness and problems of the intelligence gathering activities of the Government relating to national security; provide Congress with an annual report of, and general body of knowledge with respect to, the intelligence gathering activities of the Government relating to national security.
2. Nothing in this act shall be construed to authorize the Joint Committee to report to either house any proposed bill, resolution, or measure, or to have referred to the Joint Committee any proposed bill, resolution, or measure.
3. The Joint Committee, or any duly authorized subcommittee thereof, is authorized to: subpoena witnesses and documents (issued over the signature of the chairman or of any member designated by him or by the Joint Committee); and use [no consent required] the services, information, facilities, and personnel of government departments and establishments.

The Joint Committee shall keep a record of all its actions.

II. National Security Act Amendment

[Identical to McCloskey's H. R. 628]

1. Amend Section 102(d)(5) to read:

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

2. Add after Section (d)(5) the following paragraph:

"Nothing in this subsection shall be construed to authorize the Agency to engage in any manner or to any extent in the incitement, organization, supervision, assistance, or conduct of any military, paramilitary, or political activity."

OVERSIGHT

Joint Committee on Intelligence Oversight

H.R. 8199  
[Broomfield]

Referred to Rules Committee

Membership:

14 members:

7 Senators - 4 of majority party, 3 of  
minority party, all appointed by President pro tempore

7 Representatives - 4 of majority party,  
3 of minority party, all appointed by the Speaker

Leadership:

Chairmanship and Vice Chairmanship shall alternate between Houses.

Duties:

1. Conduct a continuing study and investigation of the budgets of CIA, FBI, Secret Service, DIA, NSA, other DOD intelligence components, and related intelligence functions of all other federal agencies and departments.

2. Authorized to report by June 30, 1977 its recommendations regarding reorganization and improvement of agencies within its jurisdiction.

3. Heads of all agencies within the jurisdiction of the committee shall keep the committee fully and currently informed of all activities.

Classification:

Committee may classify information in accordance with Executive Branch standards.

Protection of Information:

Committee shall institute and carry out rules necessary to prevent disclosure of its classified information. Members of the staff must have security clearances. As a condition of employment, each person shall agree not to accept any payment for a speaking arrangement on article connected with the investigation and study of a Joint committee. Rules of this committee take precedence over other rules of House and Senate.

Standing House Committee on the Central Intelligence Agency

H. Res. 51                      Referred to Rules Committee  
[Roe]

Membership:

15 members as follows:

1. Five members currently serving on the Committee on Armed Services;
2. Five members currently serving on the Committee on Foreign Affairs; and
3. Five other members.

Jurisdiction:                      CIA



OVERSIGHT

Standing House Committee on Intelligence Operations

H. Res. 78                      Referred to Rules Committee  
    [Harrington]

Membership:

15 Representatives, including:

5 serving concurrently on Armed Services

5 serving concurrently on Appropriations

5 serving concurrently on International Relations

Jurisdiction:

Oversight jurisdiction over CIA; DIA; NSA; INR; Army, Navy and Air Force intelligence; and matters relating generally to foreign intelligence activities.

Reports:

Committee shall keep records of all its actions to be maintained "under appropriate security safeguards in the national interest." Pursuant to whatever security safeguards the committee deems necessary, it shall make records and data available to members and employees designated by members.



Joint Committee on Intelligence Operations

H. J. Res. 656                      Referred to Rules Committee  
[Sisk]

H. J. Res. 657                      Referred to Rules Committee  
[Hyde]

Membership:

20 Members, including:

10 Representatives and 10 Senators,  
including chairmen and ranking minority members  
from Committees on Armed Services, Appropriations,  
and International and Foreign Relations.

Duties:

Exercise oversight for all U. S. intelligence-gathering and  
covert activities and operations, including but not limited to CIA;  
DIA; NSA; Army, Navy, Air Force intelligence; INR.

Agency Reporting:

All intelligence agencies must keep the committee fully and  
currently informed with respect to all activities and operations.

Power to Secure Information:

Joint Committee is authorized to secure any information relating  
to intelligence from any executive agency.

Classification:

Joint Committee will establish classification for all material  
originating with the committee. The committee shall determine appropriate  
security clearances.



## OVERSIGHT

### Joint Committee on Central Intelligence

H. Con. Res. 18      Referred to Rules Committee  
[Kastenmeier]

#### Membership

1. Nine members of the Senate, appointed by the President of the Senate. Not more than five of the members are to be members of the majority party.

2. Nine members of the House, appointed by the Speaker, Not more than five of the members are to be from the majority party.

#### Functions

1. To make a continuing study of national security intelligence activities and the coordination and utilization of intelligence by the various agencies of the Government.

2. CIA and all other agencies engaged in foreign intelligence shall keep the Joint Committee fully and currently informed of all their activities.

3. All bills, resolutions, and other matters relating primarily to CIA or to the foreign intelligence activities of other agencies shall be referred to the Joint Committee.

#### Powers

The Joint Committee is authorized to hold hearings; subpoena witnesses and documents; and to utilize the services, information, facilities, and personnel of the departments of Government on a reimbursable basis with prior consent of the head of the department or agency concerned.

#### Reports

The members of the Joint Committee from each house must report to their respective houses from time to time, but no less than once every three months, their recommendations regarding matters within the jurisdiction of the committee.



COMMENTS ON S. 2893 ESTABLISHING A  
SENATE INTELLIGENCE COMMITTEE

Sections 1 and 2 Comment: The terms "oversight" and "provide vigilant legislative oversight" represent a significant departure from the usual charters of Congressional committees. They imply a closer supervision of Executive Branch activities than seems appropriate under our Constitutional system.

Suggested Provision: Substitute "Committee" for "oversight" in Section 1 and "maintain vigilant legislative review" for "maintain vigilant legislative oversight over" in Section 2.

Section 3 Comment: This provision breaks the legislation into two parts: (a) a statute (presumably Sections 2 and 13-19) and (b) a Senate resolution. The strategy seems designed to require the President to "sign" or "veto" the document as a whole. Since some of the most objectionable provisions are in those sections specified as "an exercise of a rule-making power of the Senate, "the constitutionality of a "veto" based on objections to those sections could presumably be challenged. On the other hand, the President's signature on a one-House resolution seems Constitutionally inappropriate. A signature based on acceptability of the "statute" sections only would inevitably be taken as approval of (or at least acquiescence in) the "Senate Resolution" sections as well.

Suggested Provision: The difficulties referred to above could be avoided by dividing the legislation into a resolution and a statute. Such a division would avoid the problem for the President of having to determine whether or not to accept Section 10, which gives the Senate declassification authority, and other objectionable sections.

Section 7 Comment: The information covered by this provision limiting disclosure would not encompass all sensitive information likely to be held by the Committee. Much substantive intelligence would not "relate" to the activities of the intelligence agencies.

Also, neither this section nor any other section contains a provision allowing referral to the Standards and Conduct Committee of cases of unauthorized disclosures for disciplinary action. Previous drafts contained such a provision.

Suggested Provision: There are several options for alternate language to be substituted for the words "relating to the activities of the Central Intelligence Agency or any other department or agency of the United States engaged in intelligence activities":

(a) Delete the above words; insert the word "sensitive" before "information". This represents a broad category of information. However, no clear test is provided as to whether certain information is

covered. Leakers could argue that information, even if properly classified and clearly relating to intelligence activities, was not truly "sensitive".

(b) Delete the above words; insert the word "classified" before "information". Under this option, the existence of protection depends on the formal act of classification, presumably by the Executive Branch.

(c) Delete the above words; insert in their place the words "whose unauthorized disclosure could reasonably be expected to cause damage to the national security." This option embodies the test of classifiability taken from E. O. 11652, but presumably the Committee and not the Executive would make the decision as to what information passes this test. This option also protects classified information appearing on a document which was inadvertently not classified.

Section 10 Comment: Although Section 10's procedure for the Senate to reveal information that the Executive Branch wishes to keep confidential may in practice constitute an improvement over the present system that allows a Committee alone to make such declassifications,

such an official recognition of one branch of Congress' authority to make information public may raise Constitutional problems and detract from Presidential authority.

The standard of certification should either be made "important to national interests" or deleted altogether. The advantage of deletion of the standard would be that the President could make his arguments for nondisclosure unfettered by a standard which might be inappropriate in a particular case. For instance, release of files on what some public official did on a 1937 trip to Moscow would not be gravely damaging to national security, but could be undesirable nonetheless.

The language of this provision is somewhat ambiguous and could be interpreted as allowing the Committee to decline to refer a Presidential certification to the full Senate and merely release the contested information on its own. See Section 10(a)(1) and (2). If this result is intended, the provision becomes much more objectionable.

The language on Senate declassification should be changed to require an affirmative act by two-thirds of the Senators to disclose information. Such a determination by the Senate reversing a finding of the President would be similar to a veto, which requires a two-thirds vote.

Section 12 Comment: This section makes no exception for the return of documents which were provided "on loan" to the Senate Select Committee.

Section 13(a) Comment: The bill states that the Intelligence Committee is to be kept "fully and currently" informed. This proviso would only be as strong as the Committee chairman, who would periodically have to agree with each agency head about the means by which the Committee would be kept informed. However, this language seems to inject Congress into day-to-day government operations to a greater degree than is appropriate under our Constitutional system.

Section 13 (b) Comment: Despite the language in this section that the Executive Branch will furnish any information to the Committee, the staff of the Senate Select Committee agreed that the President will continue to be able to invoke Executive Privilege to withhold documents. Such a recognition of this privilege should be explicit. Such a recognition, however, would in itself not answer worries that Executive Privilege will not very effectively protect some types of information such as files on criminal investigations.

Section 13 (c) Comment: This section requires that the Committee be given prior notice and be fully informed of any significant covert or clandestine operation abroad. Several problems exist: (1) prior notification requirements would unduly limit Executive flexibility in emergency situation; (2) the requirement that the Committee be fully informed enables Congress to claim always that it was not given enough prior information; (3) the definition of covert or clandestine operations is unclear; (4) any prior notice requirement would make possible unauthorized disclosures that would force cancellation of the activity.

Two alternatives for dealing with this problem would be preferable. The first option would delete the section altogether, relying on the Committee's authority in Section 13 (a) to instruct agency heads to keep it fully and currently informed as a means of receiving whatever notification was considered appropriate. The second option would be to limit this section's coverage explicitly to covert actions and to couple the section with an explicit repeal of the Hughes-Ryan requirement that six committees be briefed in a timely manner.

Section 14 Comments: The current drafts authorization requirement is for periodic, but not necessarily annual, authorizations. Any authorization process will of course encourage more legislative interference in the way the intelligence community is run, but the Senate apparently sees a clear need for this closer scrutiny. There would, of course, be the problem of continuing secrecy of intelligence budgets under an authorization system. One alternative would be to require merely authorization of one aggregate sum for all activities covered in subsections (A) through (F).

This section also presents the difficulty of distinguishing between the "national" and "tactical" activities of the Defense Department; this is an issue that would have to be negotiated periodically between the Committee and DoD.

## Key Problems in Draft Bill on Intelligence Oversight of Senate Select Committee

### - Release of Classified Information by Committee or Full Senate.

Section 10 establishes a procedure whereby, despite opposition by the President, the Senate (by a majority vote) may reveal classified information. The Committee itself may disclose such information unless the President certifies that "the threat to national security posed by such disclosure outweighs any public interest in disclosure." (The draft of January 23 uses different language in this provision than appears in earlier drafts. It is somewhat ambiguous but could be interpreted to allow the Committee to decline to refer a Presidential certification to the full Senate and merely release the contested information on its own. See Section 10 (a)(1) and (2). If this result is intended, the new draft is substantially more objectionable to the Executive Branch than the earlier ones.)

This provision, even if construed to require full Senate approval for information release, presents a serious constitutional question, especially when viewed together with other provisions of the bill requiring the executive to keep the Committee "fully and currently informed" and allow it access to "any" information. It can be argued

that such a provision would frustrate the President's exercise of his powers as the nation's sole organ in foreign affairs and as commander-in-chief.

On a more practical level, it is unrealistic to think that, in any case where the full Senate considers in secret session whether to release a certain piece of information, the information in question would not appear in the press on the following day.

- Requirement that Department Heads Keep Committee "Fully and Currently Informed" and Allow it Access to "Any" Information in their Possession.

Section 13 (a) and (b) would have the force of law and not merely that of a Senate Rule. It imposes these two affirmative obligations on the Executive Branch in completely unqualified terms. Even if it were practically possible to comply with these obligations, substantial constitutional problems would remain. First, the section makes no exception for documents or information which are covered by the doctrine of Executive Privilege recognized in U. S. v. Nixon, 418 U. S. 683 (1974). Second, practical experience and Section 10 of this bill suggest that much information passed to this Committee would eventually be made public. It is arguable that the President has a Constitutional obligation to decline

to supply sensitive information to a Congressional Committee under circumstances indicating a substantial probability of its disclosure.

- Requirement for Prior Notice of Significant Covert or Clandestine Operation in Foreign Countries

Section 13 (c) (carrying the force of law) states that no departments or agencies shall "engage in, directly or indirectly, any significant covert or clandestine operation in foreign countries" until the Intelligence Committee has been "fully informed." Several problems exist with this section.

First, the definition of "significant covert or clandestine operation" is unclear. The subsection states that it does not apply to "activities intended solely for collecting necessary intelligence." It appears that the Committee would require prior notice only for covert actions, but that is not clear.

Second, the bill has no provision for repeal of the Hughes Amendment, so the result is to add a seventh committee to the Congressional committees aware of covert actions.

Third, this requirement, combined with the absence of sanctions on Committee members would allow any member to exercise a unilateral veto of a covert action through disclosure of any planned activity reported to the Committee. If, as can be argued with some force, the President derives authority to conduct covert action and clandestine intelligence collection from the Constitution, this provision would seem to be constitutionally invalid.

- Law/Senate Rule Hybridization

Section 3 breaks the legislation into two parts: (a) a statute and (b) a Senate resolution. The strategy seems designed to require the President to "sign" or "veto" the document as a whole. Since some of the most objectionable provisions are in those sections specified as "an exercise of a rule-making power of the Senate," the constitutionality of a "veto" based on objections to those sections could presumably be challenged. On the other hand, the President's signature on a one-House resolution seems constitutionally inappropriate. A signature based on acceptability of the "statute" sections only would inevitably be taken as approval of (or at least acquiescence in) the "Senate Resolution" sections as well.

- Sanctions for Disclosure

Section 8 (b) of the previous draft detailed possible sanctions against Senators or their staffs for unauthorized disclosures of sensitive information. This section has been deleted.

# S. 2893

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## IN THE SENATE OF THE UNITED STATES

JANUARY 29, 1976

Mr. CHURCH (for himself, Mr. GARY W. HART, Mr. PHILIP A. HART, Mr. HUDDLESTON, Mr. MATTHIAS, Mr. MONDALE, Mr. MORGAN, and Mr. SCHWEIKER) introduced the following bill; which was read twice and by unanimous consent referred to the Committee on Government Operations, to report not later than March 1, 1976, then to the Committee on Rules and Administration, to report not later than March 20, 1976

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## A BILL

To establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*  
3       That this Act may be cited as the "Intelligence Oversight  
4       Act of 1976".

5       SEC. 2. It is the purpose of this Act to establish a new  
6       standing committee of the Senate, to be known as the Com-  
7       mittee on Intelligence Activities, to oversee and make con-  
8       tinuing studies of the intelligence activities and programs of  
9       the United States Government. In carrying out this purpose,

1 the Committee on Intelligence Activities shall make every  
2 effort to assure that the appropriate departments and agencies  
3 of the United States provide informed and timely intel-  
4 ligence necessary for the executive and legislative branches  
5 to make sound decisions affecting the security and vital  
6 interests of the Nation. It is further the purpose of this Act  
7 to provide vigilant legislative oversight over the intelligence  
8 activities of the United States to assure that such activities  
9 are in conformity with the Constitution and laws of the  
10 United States.

11 SEC. 3. Sections 4 through 12 of this Act are enacted—

12 (1) as an exercise of the rulemaking power of the  
13 Senate, and as such they shall be considered as part of the  
14 Standing Rules of the Senate, and such rules shall super-  
15 sede other rules only to the extent that they are in-  
16 consistent therewith; and

17 (2) with full recognition of the constitutional right  
18 of the Senate to change such rules at any time, in the  
19 same manner, and to the same extent as in the case of  
20 any other rule of the Senate.

21 SEC. 4. Rule XXIV of the Standing Rules of the Senate  
22 is amended by adding at the end thereof a new paragraph  
23 as follows:

24 "3. (a) Five members of the Committee on Intelligence  
25 Activities shall be appointed by the majority leader of the

1 Senate and four shall be appointed by the minority leader of  
2 the Senate.

3 “(b) No Senator may serve on the Committee on In-  
4 telligence Activities for more than six years, exclusive of  
5 service by any Senator on such committee during the Ninety-  
6 fourth Congress. To the greatest extent practicable, the re-  
7 quirements of this section shall be met by selecting three  
8 Senators to serve on such committee at the beginning of the  
9 Ninety-sixth Congress and each Congress thereafter who did  
10 not serve on such committee during the preceding Congress.

11 “(c) At the beginning of each Congress, the members  
12 of the Committee on Intelligence Activities appointed by the  
13 majority leader shall select a chairman and the members of  
14 such committee appointed by the minority leader shall select  
15 a vice chairman. The vice chairman shall act in the place and  
16 stead of the chairman in the absence of the chairman.”.

17 SEC. 5. (a) Paragraph 1 of rule XXV of the Standing  
18 Rules of the Senate is amended by adding at the end thereof  
19 the following new subparagraph:

20 “(s) (1) Committee on Intelligence Activities, to which  
21 committee shall be referred all proposed legislation, messages,  
22 petitions, memorials, and other matters relating to the  
23 following:

24 “(A) The Central Intelligence Agency and the  
25 Director of Central Intelligence.

1           “(B) Intelligence activities of all other departments  
2 and agencies of the Government, including, but not lim-  
3 ited to, the intelligence activities of the Defense Intelli-  
4 gence Agency, the National Security Agency, and other  
5 agencies of the Department of Defense; the Department  
6 of State; the Department of Justice; and the Department  
7 of the Treasury.

8           “(C) The organization or reorganization of any  
9 department or agency of the Government to the extent  
10 that the organization or reorganization relates to a func-  
11 tion or activity involving intelligence activities.

12           “(D) Authorizations for appropriations for the  
13 following:

14           “(i) The Central Intelligence Agency.

15           “(ii) The Defense Intelligence Agency.

16           “(iii) The National Security Agency.

17           “(iv) The intelligence activities of other agen-  
18 cies and subdivisions of the Department of Defense.

19           “(v) The intelligence activities of the Depart-  
20 ment of State.

21           “(vi) The intelligence activities of the Federal  
22 Bureau of Investigation, including all activities of  
23 the Domestic Intelligence Division.

24           “(vii) Any department, agency, or subdivision  
25 which is the successor to any agency named in item

1 (i), (ii), or (iii); and the activities of any depart-  
 2 ment, agency, or subdivision which is the successor  
 3 to any department or bureau named in item (iv),  
 4 (v), or (vi) to the extent that the activities of such  
 5 successor department, agency, or subdivision are  
 6 activities described in item (iv), (v), or (vi).

7 “(2) The Committee on Intelligence Activities shall  
 8 have exclusive jurisdiction over all matters described in sub-  
 9 clauses (A) and (D) of clause (1). Nothing in this Act  
 10 shall repeal or diminish the jurisdiction of other standing  
 11 committees of the Senate as to the matters described in sub-  
 12 clauses (B) and (C) of clause (1). To the extent that the  
 13 jurisdictions of other standing committees of the Senate in-  
 14 clude the matters described in subclauses (B) and (C) of  
 15 clause (1), the jurisdiction of such other standing commit-  
 16 tees shall be concurrent with that of the Committee on In-  
 17 telligence Activities.”.

18 (b) Paragraph 3 of Rule XXV of the Standing Rules  
 19 of the Senate is amended by inserting:

“Intelligence activities..... 9”

20 immediately below

“District of Columbia..... 7”.

21 (c) Paragraph 6 of rule XXV of the Standing Rules  
 22 of the Senate is amended by adding at the end thereof  
 23 the following new subparagraph:

1       “(i) For the purposes of this paragraph, service of a  
2 Senator as a member of the Committee on Intelligence  
3 Activities shall not be taken into account.”.

4       SEC. 6. The Committee on Intelligence Activities of the  
5 Senate, for the purposes of accountability to the Senate, shall  
6 make regular and periodic reports to the Senate on the nature  
7 and extent of the intelligence activities of the various depart-  
8 ments and agencies of the United States. Such committee  
9 shall promptly call to the attention of the Senate or to any  
10 other appropriate committee or committees of the Senate  
11 any matters deemed by the Committee on Intelligence  
12 Activities to require the immediate attention of the Senate  
13 or such other committee or committees. In making such  
14 reports, the committee shall proceed in such manner as  
15 will protect national security.

16       SEC. 7. No member of the Committee on Intelligence  
17 Activities of the Senate and no employee of such committee  
18 shall disclose, except in closed session of the Senate, any  
19 information in the possession of or obtained by such com-  
20 mittee relating to the activities of the Central Intelligence  
21 Agency or the intelligence activities of any other depart-  
22 ment or agency of the United States, unless authorized by  
23 such committee.

24       SEC. 8. (a) No person may be employed as a profes-  
25 sional staff member of the Committee on Intelligence Activi-

1 ties of the Senate or be engaged by contract or otherwise to  
2 perform professional services for or at the request of such  
3 committee for a period totaling more than six years.

4 (b) No employee of such committee or any person  
5 engaged by contract or otherwise to perform services for or at  
6 the request of such committee shall be given access to any  
7 classified information by such committee unless such em-  
8 ployee or person has (1) agreed to be bound by the rules  
9 of the Senate and of such committee as to the security of such  
10 information during and after the period of his employment or  
11 contractual agreement with such committee; and (2) re-  
12 ceived an appropriate security clearance as determined by  
13 such committee in consultation with the Director of Central  
14 Intelligence. The type of security clearance to be required  
15 in the case of any such employee or person shall, within the  
16 determination of such committee in consultation with the  
17 Director of Central Intelligence, be commensurate with the  
18 sensitivity of the classified information to which such em-  
19 ployee or person will be given access by such committee.

20 SEC. 9. The Committee on Intelligence Activities of the  
21 Senate shall formulate and carry out such rules and proce-  
22 dures as it deems necessary to prevent the disclosure, with-  
23 out the consent of the person or persons concerned, of in-  
24 formation in the possession of such committee which unduly  
25 infringes upon the privacy or which violates the constitu-

1 tional rights of such person or persons. Nothing herein shall  
2 be construed to prevent such committee from publicly dis-  
3 closing any such information in any case in which such com-  
4 mittee determines the national interest in the disclosure of  
5 such information clearly outweighs any infringement on the  
6 privacy of any person or persons.

7       SEC. 10. (a) The Committee on Intelligence Activities  
8 of the Senate may disclose any information upon the com-  
9 mittee's determination that the national interest would be  
10 served by such disclosure. In any case in which such com-  
11 mittee decides to disclose any information requested to be  
12 kept secret by the President, such committee shall notify  
13 the President to that effect. Such committee may not disclose  
14 such information until the expiration of ten days following  
15 the day on which notice is transmitted to the President. If  
16 (1) prior to disclosure of such information the President  
17 submits a written certification to the Senate through such  
18 committee stating his opinion, and the reasons therefor,  
19 that the threat to national security posed by such disclosure  
20 outweighs any public interest in disclosure and that the  
21 question of disclosure is of such importance to the vital  
22 interests of the United States that it requires a decision by  
23 the full Senate, and (2) after receipt of a certification by  
24 the President made pursuant to this subsection, the Com-  
25 mittee on Intelligence Activities decides to refer the ques-

1 tion of disclosure of such information to the Senate, such  
2 information may not be disclosed unless the Senate agrees  
3 to a resolution approving the disclosure of such information,  
4 or the Senate agrees to a resolution referring the matter to  
5 the Committee on Intelligence Activities for final disposi-  
6 tion, and the Committee on Intelligence Activities thereafter  
7 approves the disclosure of such information.

8 (b) Any question referred to the Senate by the Com-  
9 mittee on Intelligence Activities pursuant to subsection (a)  
10 shall be disposed by the Senate by a vote on such question  
11 within three calendar days following the day on which the  
12 question is reported to the Senate, excluding days on which  
13 the Senate is not in session.

14 SEC. 11. The Committee on Intelligence Activities of  
15 the Senate is authorized to permit any personal representa-  
16 tive of the President, designated by the President to serve as  
17 a liaison to such committee, to attend any closed meeting of  
18 such committee.

19 SEC. 12. Upon expiration of the Select Committee on  
20 Governmental Operations With Respect to Intelligence Ac-  
21 tivities, established by S. Res. 21, Ninety-fourth Congress,  
22 all records, files, documents, and other materials in the pos-  
23 session, custody, or control of such committee shall be trans-  
24 ferred to the Committee on Intelligence Activities.

25 SEC. 13. (a) Notwithstanding any other provision of



1 law, it shall be the duty of the head of each department and  
2 agency of the United States to keep the Committee on In-  
3 telligence Activities of the Senate fully and currently in-  
4 formed with respect to intelligence activities which are the  
5 responsibility of or engaged in by such department or agency.

6 (b) Notwithstanding any other provision of law, it shall  
7 also be the duty of the head of any department or agency  
8 of the United States involved in any intelligence activities  
9 to furnish any information or document in its possession, cus-  
10 tody, or control, or witness in its employ, whenever requested  
11 by the Committee on Intelligence Activities of the Senate  
12 with respect to any matter within such committee's juris-  
13 diction.

14 (c) No department or agency of the United States may  
15 engage in, directly or indirectly, any significant covert or  
16 clandestine operation in foreign countries unless and until the  
17 Committee on Intelligence Activities of the Senate has been  
18 fully informed of the proposed activity by the head of the  
19 department or agency concerned prior to the time such  
20 activity is initiated. This subsection shall not apply to activ-  
21 ities intended solely for collecting necessary intelligence.

22 (d) The provisions of subsection (c) of this section  
23 shall not apply during military operations initiated by the  
24 United States under a declaration of war by the Congress

1 or an exercise of powers by the President under the War  
2 Powers Resolution.

3 SEC. 14. No funds may be appropriated for any fiscal  
4 year beginning after September 30, 1976, to or for the use  
5 of any department or agency of the United States to carry  
6 out any of the following activities, unless such funds have  
7 been previously authorized by law to carry out such activity  
8 for such fiscal year.

9 (1) The activities of the Central Intelligence  
10 Agency.

11 (2) The activities of the Defense Intelligence  
12 Agency.

13 (3) The activities of the National Security Agency.

14 (4) The intelligence activities of other agencies  
15 and subdivisions of the Department of Defense.

16 (5) The intelligence activities of the Department  
17 of State.

18 (6) The intelligence activities of the Federal Bureau  
19 of Investigation, including all activities of the Domestic  
20 Intelligence Division.

21 (7) Any activity of any department, agency, or  
22 subdivision which is the successor to any department,  
23 agency, or subdivision named in clause (1) through

1 (6) to the extent that such activity is one described in  
2 such clauses.

3 SEC. 15. As used in this Act, the term "intelligence  
4 activities" means (1) the collection, analysis, production,  
5 dissemination, or use of information affecting the relations of  
6 the United States with any foreign government, political  
7 group, party, military force, movement or other association,  
8 and other activity which is in support of such activities;  
9 (2) activities taken to counter similar activities directed  
10 against the United States; (3) covert or clandestine activi-  
11 ties affecting the relations of the United States with any  
12 foreign government, political group, party, military force,  
13 movement or other association; (4) the collection, analysis,  
14 production, dissemination, or use of information about ac-  
15 tivities of persons within the United States, its territories  
16 and possessions, or nationals of the United States abroad who  
17 pose, or may be considered by any department, agency,  
18 bureau, office, division, instrumentality, or employee of the  
19 United States to pose a threat to the security of the United  
20 States, and covert or clandestine activities directed against  
21 such persons. Such term does not include tactical foreign mili-  
22 tary intelligence serving no national policymaking function.

23 SEC. 16. Nothing in this Act shall be construed as con-  
24 stituting an authorization for the conduct of any activity not  
25 otherwise authorized by law.

1        SEC. 17. If any provision of this Act, or the application  
2 thereof to any person or circumstance, is held invalid, the  
3 validity of the remaining provisions and the application of  
4 such provisions to other persons or circumstances shall not  
5 be affected thereby.

\_\_\_\_\_ CONGRESS

\_\_\_\_\_ SESSION

S. \_\_\_\_\_

January 23, 1976  
(Note.—Fill in all blank lines except those provided for the date, number, and reference of bill.)

Wade - 1/24/76

FILE  
INTELLIGENCE  
FILE

IN THE SENATE OF THE UNITED STATES

Mr. \_\_\_\_\_

introduced the following bill; which was read twice and referred to the Committee on \_\_\_\_\_

## A BILL

To establish a Standing Committee of the Senate on Intelligence Activities, and for other purposes.

(Insert title of bill here)

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, that this Act may be cited as the "Intelligence Oversight Act of 1976".*

SEC. 2. It is the purpose of this Act to establish a new standing committee of the Senate, to be known as the Committee on Intelligence Activities, to oversee and to make continuing studies of the intelligence activities and programs of the United States Government. In carrying out this purpose, the Committee on Intelligence Activities shall make every effort to assure that the appropriate departments and agencies of the United States provide informed and timely intelligence necessary for the Executive and Legislative Branches to make sound decisions affecting the security and vital interests of the Nation. It is further the purpose of this Act to provide vigilant legislative oversight over the intelligence activities of the United States to assure that such activities are in

conformity with the Constitution and laws of the United States.

SEC. 3. Sections 4 through 12 of this Act are enacted --

- (1) as an exercise of the rulemaking power of the Senate, and as such they shall be considered as part of the Standing Rules of the Senate, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and
- (2) with full recognition of the constitutional right of the Senate to change such rules at any time, in the same manner, and to the same extent as in the case of any other rule of the Senate.

SEC. 4. Rule XXIV of the Standing Rules of the Senate is amended by adding at the end thereof of a new paragraph as follows:

"3. (a) Five members of the Committee on Intelligence Activities shall be appointed by the majority leader of the Senate and four shall be appointed by the minority leader of the Senate.

"(b) No Senator may serve on the Committee on Intelligence Activities for more than six years, exclusive of service by any Senator on such committee during the Ninety-fourth Congress. To the greatest extent practicable, the requirements of this section shall be met by selecting three Senators to serve on the committee at the beginning of the Ninety-sixth Congress and each Congress thereafter who did not serve on such committee during the preceding Congress.

"(c) At the beginning of each Congress, the members of the Committee on Intelligence Activities appointed by the majority leader shall select a chairman and the members of such committee appointed by the minority leader shall select a vice chairman. The vice chairman shall act in the place and stead of the chairman in the absence of the chairman."

SEC. 5. (a) Paragraph 1 of Rule XXV of the Standing Rules of the Senate is amended by adding at the end thereof the following new subparagraph:

"(s)(1) Committee on Intelligence Activities, to which committee shall be referred all proposed legislation, messages, petitions, memorials, and other matters relating to the following:

"a. The Central Intelligence Agency and the Director of Central Intelligence.

"b. Intelligence activities of all other departments and agencies of the Government, including, but not limited to, the intelligence activities of the Defense Intelligence Agency, the National Security Agency, and other agencies of the Department of Defense; the Department of Justice; the Department of State; and the Department of the Treasury.

"c. The organization or reorganization of any department or agency of the Government to the extent that the organization or reorganization relates to a function or activity involving intelligence activities.

"d. Authorizations for appropriations for the following:

"(1) The Central Intelligence Agency.

"(2) The Defense Intelligence Agency.

"(3) The National Security Agency.

"(4) The intelligence activities of other agencies and units of the Department of Defense.

"(5) The intelligence activities of the Department of State.

"(6) The intelligence activities of the Federal Bureau of Investigation, including all activities of the Domestic Intelligence Division.

"(7) The intelligence activities of any successor departments or agencies named in this subclause.

"(s)(2) The Committee on Intelligence Activities shall have exclusive jurisdiction over all legislation referred to it pursuant to subclause (a) and (d). Nothing in this resolution shall repeal or diminish such other concurrent jurisdiction which is provided other

standing committees of the Senate."

(b) Paragraph 3 of Rule XXV of the Standing Rules of the Senate is amended by inserting:

"Intelligence Activities -----9"

immediately below

"District of Columbia -----7".

(c) Paragraph 6 of Rule XXV of the Standing Rules of the Senate is amended by adding at the end thereof the following new subparagraph:

"(i) For the purposes of this paragraph, service of a Senator as a member of the Committee on Intelligence Activities shall not be taken into account".

SEC. 6. The Committee on Intelligence Activities of the Senate, for the purposes of accountability to the Senate, shall make regular and periodic reports to the Senate on the nature and extent of the intelligence activities of the various departments and agencies of the United States. Such committee shall promptly call to the attention of the Senate or to any other appropriate committee or committees of the Senate any matters deemed by the Committee on Intelligence Activities to require the immediate attention of the Senate or such other committee or committees. In making such reports, the committee shall proceed in such manner as will protect national security.

SEC. 7. No member of the Committee on Intelligence Activities of the Senate and no employee of such committee shall disclose, except in closed session of the Senate, any information in the possession of or obtained by such committee relating to the activities of the Central Intelligence Agency or the intelligence activities of any other department or agency of the United States, unless authorized by such committee.

SEC. 8. (a) No person may be employed as a professional staff member of the Committee on Intelligence Activities of the Senate or be engaged by contract or otherwise to perform professional services for or at the request of such committee for a period totaling



more than six years.

(b) No employee of such committee or any person engaged by contract or otherwise to perform services for or at the request of such committee shall be given access to any classified information by such committee unless such employee or person has

- (1) agreed to be bound by the rules of the Senate and of such committee as to the security of such information during and after the period of his employment or contractual agreement with such committee; and
- (2) received an appropriate security clearance as determined by such committee in consultation with the Director of Central Intelligence.

The type of security clearance to be required in the case of any such employee or person shall, within the determination of such committee in consultation with the Director of Central Intelligence be commensurate with the sensitivity of the classified information to which such employee or person will be given access by such committee.

SEC. 9. The Committee on Intelligence Activities of the Senate shall formulate and carry out such rules and procedures as it deems necessary to prevent the disclosure, without the consent of the person or persons concerned, of information in the possession of such committee which unduly infringes upon the privacy or which violates the constitutional rights of such person or persons. Nothing herein shall be construed to prevent such committee from publicly disclosing any such information in any case in which such committee determines the national interest in the disclosure of such information clearly outweighs any infringement on the privacy of any person or persons.

SEC. 10. (a) The Committee on Intelligence Activities of the Senate may, after full and considered consultation with appropriate officials of the Executive Branch, disclose any information upon the Committee's determination that the national interest would be served by such disclosure. In any case in which such committee decides to



disclose any information requested to be kept secret by the President, such committee shall notify the President to that effect. Such committee may not disclose such information until the expiration of ten days following the day on which notice is transmitted to the President. If (1) prior to disclosure of such information the President submits a written certification to the Senate through such committee stating his opinion, and the reasons therefore, that (a) the threat to national security posed by such disclosure outweighs any public interest in disclosure; and (b) the question of disclosure is of such importance to the vital interest of the United States that it requires a decision by the full Senate, and (2) after timely receipt of a certification by the President made pursuant to this subsection, the Committee on Intelligence Activities determines by majority vote to refer the question of disclosure of such information to the Senate, such information may not be disclosed unless the Senate agrees to a resolution approving the disclosure of such information, or the Senate agrees to a resolution referring the matter to the Committee on Intelligence Activities for final disposition, and the Committee on Intelligence Activities thereafter approves the disclosure of such information by majority vote.

(b) Any question referred to the Senate by the Committee on Intelligence Activities pursuant to subsection (a) shall be disposed of by the Senate by a vote on such question within three calendar days following the day on which the question is reported to the Senate, excluding days on which the Senate is not in session.

SEC. 11. The Committee on Intelligence Activities of the Senate is authorized to permit any personal representative of the President, designated by the President to serve as a liaison to such committee, to attend any closed meeting of such committee.

SEC. 12. Upon expiration of the Select Committee on Governmental Operations With Respect to Intelligence Activities, established

by Senate Resolution 21, 94th Congress, all records, files, documents, and other materials in the possession, custody or control of such committee shall be transferred to the Committee on Intelligence Activities.

SEC. 13. (a) Notwithstanding any other provision of law, it shall be the duty of the head of each department and agency of the United States to keep the Committee on Intelligence Activities of the Senate fully and currently informed with respect to intelligence activities which are the responsibility of or engaged in by such department or agency.

(b) Notwithstanding any other provision of law, it shall also be the duty of the head of any department or agency of the United States involved in any intelligence activities to furnish any information or document in its possession, custody, or control, or witness in its employ, whenever requested by the Committee on Intelligence Activities of the Senate with respect to any matter within such committee's jurisdiction.

(c) In order that the Committee on Intelligence Activities of the Senate may have sufficient time to consult with and advise any department or agency of the United States regarding certain kinds of intelligence activities proposed to be carried out by such department or agency, before such department or agency initiates such activities, such committee is authorized to specify any type or kind of intelligence activity which in its judgment is especially sensitive and with respect to which such committee should be given notice prior to the initiation of any such activity.

SEC. 15. As used in this Act, the term "intelligence activities" means (1) the collection, analysis, production, dissemination or use of information affecting the relations of the United States with foreign governments, and other activity which is in support of such information; (2) activities taken to counter similar activities directed against the United States; (3) the collection, analysis, production, dissemination, or use of information about

§14. Enacts provisions of §5 re: Authorizations

those activities of persons within the United States, its territories and possessions, or United States citizens abroad, which is, or may be, considered by any department, agency, bureau, office, division, instrumentality, or employee of the United States to pose a threat to the security of the United States, and covert or clandestine activities directed against persons engaged in such activities; and (4) covert or clandestine activities affecting the relations of the United States with foreign governments. Such term does not include tactical foreign military intelligence serving no national policymaking function.

SEC. 16. Nothing in this Act shall be construed as constituting an authorization for the conduct of any activity not otherwise authorized by law.

SEC. 17. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the validity of the remaining provisions and the application of such provisions to other persons or circumstances shall not be affected thereby.