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January 6, 1976

MEMORANDUM FOR: JACK MARSH
FROM: CHARLES LEPPERT, JR.
SUBJECT: House Select Committee
on Intelligence

Attached are some recommendations developed by the staff of the House Select Committee for consideration of the Committee Members for possible inclusion as recommendations in the Committee's final report.

The recommendations concern fiscal procedures, congressional oversight and limiting secrecy.

Attach.

cc: Max Friedersdorf
Mike Duval



OTIS G. PIKE, N. Y., CHAIRMAN

ROBERT N. GIAMMO, CONN.
JAMES V. STANTON, OHIO
RONALD V. DELLUMS, CALIF.
MORGAN F. MURPHY, ILL.
LES ASPIN, WIS.
DALE MILFORD, TEX.
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ROBERT MCCLORY, ILL.
DAVID C. TREEN, LA.
JAMES P. JOHNSON, COLO.
ROBERT W. KASTEN, JR., WIS.

A. SEARLE FIELD, STAFF DIRECTOR
AARON B. DONNER, COUNSEL

TELEPHONE: (202) 225-9751

Select Committee on Intelligence
U.S. House of Representatives
Washington, D.C. 20515

MEMORANDUM

19 December 1975

From: Otis Pike
To: Members of the Committee
Re: Possible recommendations developed by Committee staff

Attached is a brief presentation of various proposals developed by our staff which we may wish to endorse as recommendations in our final report.

Please give these proposals your careful consideration and advise the staff as soon as possible if you approve of each of them.

Your comments and your suggestions for additional or alternative recommendations will assist us in preparing a report which will accurately reflect the concerns of the Committee.

The attached presentation does not include proposals on all the issues which the Committee has been considering. You will receive supplemental materials as soon as they can be prepared.



Fiscal Procedures

The following proposals are submitted for the Committee's consideration:

1. Total figures for intelligence spending should be made public.

The format of the President's annual budget should include single totals for each intelligence agency and for the intelligence activities of intelligence units in other departments and agencies.

Consequently, the Congress would vote annually on single line item appropriations for CIA, NSA, DIA, and others, and for the intelligence activities of FBI and IRS.

2. A consolidated intelligence budget should be prepared.

The Director of Central Intelligence should be required to prepare an independent and consolidated intelligence community budget with a view toward eliminating unnecessary duplication and suggesting budgetary priorities for intelligence spending.

The DCI's proposed budget would provide the President with an assessment of intelligence spending proposals which would be independent of the individual intelligence agencies.

The DCI's proposed budget should also be made available to the Congress to assist it in its authorization and appropriations process.

3. Funds for intelligence should be specifically authorized by Congress.

All funds for intelligence purposes should first be specifically authorized, annually or periodically, for such use.

The current authority of the CIA to receive all its funds as transfers from the accounts of other agencies should be rescinded. Instead, the amount that the CIA could receive by transfer should be strictly limited, unless a larger transfer is specifically approved by both the President and the Appropriations Committees.

4. The GAO should be authorized to review and audit intelligence spending.

At the direction of an appropriate Congressional committee, the GAO should be empowered to examine all records of intelligence spending, whether vouchered or unvouchered.

The intelligence agencies may retain physical custody of their records without infringing on GAO's authority to examine them. When an agency head believes that some of its expenditure records should be kept from the GAO, the decision shall be left to the Congressional committee at whose request the GAO is acting.



Comment: Collectively, these proposals would have the effect of bringing the intelligence agencies--and especially the CIA--under much the same kind of fiscal controls which apply to all other departments and agencies of the government. Members of the Congress would learn--in gross terms--how much money they are appropriating each year for each intelligence agency. The public would learn how intelligence spending fits into the President's budget and his priorities. The CIA would be compelled to justify its programs and its budget before authorizations and appropriations committees in the same manner as other agencies. CIA and other intelligence spending would also be subject to review by the GAO at Congressional direction and under appropriate security safeguards. The ability of the Congress to exercise effective oversight would be significantly enhanced.



Congressional Oversight

The proposals concerning fiscal procedures would increase the information available to Congress and, consequently, its ability to exercise effective oversight. In addition, the following two proposals are submitted for the Committee's consideration.

1. A standing House Committee on Foreign Intelligence should be created.

The House should create a permanent standing Committee on Foreign Intelligence.

The committee should have exclusive legislative jurisdiction and shared oversight jurisdiction over CIA, NSA, DIA, USIB, PFIAB, military intelligence, and the foreign intelligence activities of all other agencies and departments, including but not limited to the NSC, the Department of State, the Department of Defense, FBI, DEA, and ERDA.

The head of each such department or agency should be obligated to keep the committee fully and currently informed about its programs and activities relating to foreign intelligence and covert foreign operations, and to provide the committee with whatever specific information and records it requires.

All proposed legislation--including legislation authorizing appropriations--concerning foreign intelligence activities should be within the jurisdiction of the committee.

All proposed legislation affecting, but not directed solely to, foreign intelligence activities should be referred to this committee for appropriate consideration and action after having been considered by any other House committee with appropriate jurisdiction.

The committee should include some members with prior or current service on other related standing committees, but this should be the primary committee assignment for most of its members.

No member should be allowed to serve on the committee for more than three consecutive terms.

The question of giving the committee jurisdiction over domestic intelligence programs and agencies should be deferred until the 95th Congress convenes.

If and when the Senate acts to establish its own committee with comparable authority and jurisdiction, the House should then consider whether its committee should become the House delegation to a joint committee on foreign intelligence.



2. The Congress should be fully informed before covert actions begin.

The Hughes-Ryan amendment to the 1974 Foreign Assistance Act should be amended in three respects:

First, the phrase "in a timely fashion" should be eliminated--thereby making clear that the appropriate committees of Congress are to receive prior notification of all CIA covert operations which the President has approved.

Second, the DCI should be required to report to the appropriate Congressional committees, at their request, the full range and scope of the intelligence community's clandestine activities--to gather intelligence or influence events--in specific countries.

Third, the President should be required to keep these committees fully and promptly informed of all decisions to begin new programs of intelligence activities which could reasonably be expected to influence the conduct of foreign officials and governments.

Comment: These proposals would encourage the House to continue this Committee's work. A permanent, standing committee of the House would be established to concentrate solely on intelligence matters. It would have legislative authority and--therefore--clout. Requiring rotation of its members would ensure that the committee's approach remains fresh. Requirements would be imposed on the DCI and the President to make sure that the committee learns everything that it needs to know. The possibility of creating a joint committee would be left open, depending on whatever action the Senate takes.



Limiting Secrecy

Previous proposals would increase the Congress' role in intelligence matters. The following proposals concerning management of sensitive information are submitted for the Committee's consideration.

1. Procedures should be established for the Congress to release classified information.

Each committee with national security jurisdiction should establish procedures and criteria, incorporated into its published rules, by which it identifies material in its possession which it determines must be kept secret.

Other members of the House may have access to such information only upon majority vote of the committee, except that if access is denied, a member may appeal the committee's decision to the House as a matter of personal privilege.

Each such committee should be authorized to recommend that specific classified facts and documents be made public, but only after soliciting and giving careful consideration to the judgment of the executive branch, including the President.

If an individual member of the House obtains sensitive information from a committee's files which he believes should be made public, he should first seek the consent of the committee.

If a member obtains classified or other sensitive information from a source outside of the Congress which he believes should be made public, he should first seek the advice of the committee with appropriate legislative jurisdiction.

In all cases, before acting, the committee should solicit and give careful consideration to the judgment of the executive branch.

After the committee acts, the matter should then be submitted, together with the committee's decision or recommendation, to the Speaker, the Majority Leader, and the Minority Leader.

If two of the three elected leaders of the House conclude that public disclosure of the information would jeopardize the nation's security, the information should not be released.

The rules of the House should be amended to provide that a member who releases sensitive information in a manner which violates or ignores these procedures shall be subject to censure, expulsion, or whatever other disciplinary action the House deems appropriate.

2. An independent body should be established to de-classify information.

A Security Information Review Commission should be established by law.



It should be composed of eleven private citizens, fewer than half of whom may have been employed previously by the national security agencies and departments of the government. These commissioners should be nominated by the President and confirmed by the Senate for staggered terms of ten years each.

Any document now classified should be reviewable by the Commission upon request by any individual or group. The document may be declassified by majority vote of the Commission, except that the President may reverse a Commission decision only if he certifies in writing that disclosure of a particular document would do grave and immediate danger to the defense of the United States.

Documents classified in the future should become declassified automatically after a period of five years unless the Commission, by majority vote, determines that they should remain classified for an additional five year period.

Comment: These proposals would provide a procedure by which the Congress could release information on the basis of its own judgment--whether the information comes from a committee's files or elsewhere, and whether the initiative comes from a committee or from an individual member. They would leave the final decision to the three elected leaders of the House, acting as a surrogate for all the members. Members would be warned of the responsibility they assume when they obtain sensitive information from a committee, and of the fact that they would be subject to disciplinary action if they violate or ignore the proposed procedures. A body would be established--independent of the agencies which classify documents--to decide if documents can be declassified. The presumption would be firmly established that all documents would be made public after five years unless the Commission could be convinced otherwise.



RED TAG

THE WHITE HOUSE

WASHINGTON

January 7, 1976

MEMORANDUM FOR:

JACK MARSH

FROM:

CHARLES LEPPERT, JR. *CLJ*

SUBJECT:

House Select Committee
on Intelligence

On January 6 I spoke with Searle Field about the Committee's final report and at which time he stated he had called you for a response to the Committee's requests to declassify and release certain information relating to Angola and the Italian elections. Field stated that he needed an answer as soon as possible because the Administration response to the declassification and release of such information impacted upon the way the Committee's final report was written.

I advised Field that I would inform you of his request for a quick response on the declassification and release matters.

With regard to the Committee's final report, Field informed me that he was completing the draft of the first half of the report and was in the process of editing and footnoting the first half of the draft.

The Committee's final report, Field informed me, will be in three parts and indexed as follows:

Part I. Committee Oversight Responsibility

A. Access to Information

1. Delay on requests for information
2. Cut off of information
3. Silence of witnesses
4. Flank attacks
5. Deletions
6. Privileges
7. More delay and routine problems



B. Congress and the Secrecy Dilemma

1. Oaths and agreements
2. Selective briefings
3. Special restrictions
4. Congressional release of information

Part II. The Committee's Investigative Record

- A. Cost
- B. Product
- C. Risk and control

Part III. Committee Recommendations

(See memo attached with more expected)

Field further informed me that Pike's position with regard to the Committee's final report is that the Committee will print what it wants to in the final report and that he was not going to set a precedent by granting the Executive or anybody a veto on what was printed in the Committee's final report. Field then stated that the first half of the draft report which he was completing would meet with some strong objections from the Administration. I then asked Field if the Administration would be given the opportunity to read and comment on the draft he was working on. Field volunteered to make a copy of the draft available to me or Mitch Rogovin when he had it finished on January 9 or 12.

Field then stated that he would make the copy of the draft available unofficially because he would attempt to balance the report if any Administration comments warranted a redrafting of what had been written at this time. Field was careful to point out that the draft report was being made available with knowledge of the Committee, but on an unofficial basis so that no precedent was set against Pike's position and to keep any Administration comments in some coordinated channel and low-keyed as opposed to having all facets of the Intelligence community flood him with comments and suggested changes.

cc: Max Friedersdorf

Attach.



January 8, 1976

FILE

MEMORANDUM FOR: MIKE DUVAL
✓ CHARLIE BEPPERT
FROM: JACK MARSH

Referring to Charlie's memo of January 7 in reference to the Committee Report of the House Select Committee, it occurs to me that we should review at this time what outstanding requests we have from the Committee which have not been responded to.

For example, there is the matter involving NSID #6 which Searle Field has called about. Are there other outstanding requests that have not been honored?

JOM/dl



RED TAG

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JAN 13 1976

THE WHITE HOUSE

WASHINGTON

January 12, 1976

MEMORANDUM FOR: JACK MARSH
FROM: CHARLES LEPPERT, JR. *CLJ.*
SUBJECT: House Select Committee on
Intelligence

Attached are Rep. Bob McClory's comments to the staff recommendations which I sent to you by memo dated January 6, 1976.

cc: Max Friedersdorf
Mike Duval



ROBERT McCLORY
13TH DISTRICT, ILLINOIS

ROOM 2452
RAYBURN HOUSE OFFICE BUILDING
(202) 225-5221

JUDICIARY COMMITTEE

SELECT COMMITTEE ON
INTELLIGENCE

U.S. INTERPARLIAMENTARY
UNION DELEGATION

Congress of the United States
House of Representatives
Washington, D.C. 20515

MEMORANDUM

DISTRICT OFFICES
KANE COUNTY
MUNICIPAL BUILDING
150 DEXTER COURT
ELGIN, ILLINOIS 60120
(312) 697-5005

LAKE COUNTY
POST OFFICE BUILDING
326 NORTH GENESEE STREET
WAUKEGAN, ILLINOIS 60085
(312) 336-4554

McHENRY COUNTY
McHENRY COUNTY COURTHOUSE
2200 SEMINARY ROAD
WOODSTOCK, ILLINOIS 60098
(815) 338-2040

January 7, 1976

From: Robert McClory
To: Members of the Select Committee on Intelligence
Re: The Committee's Recommendations

Shortly before Christmas, the Chairman distributed a memorandum prepared by the Committee staff which described various proposals for our consideration. Before the Committee meets to consider its recommendations, I would like to make my own thinking clear on several points.

Fiscal procedures

In the absence of any compelling evidence to the contrary, I think we must be guided by the intelligence agencies' concern that publication of even single overall dollar totals for their annual budgets would reveal vital information of benefit to hostile foreign interests and would have a detrimental effect on their operations. Full budgetary information must, of course, be available to the Congress. I fully support the proposal that the Director of Central Intelligence should prepare a consolidated budget for the intelligence community as a whole, which would include a comprehensive statement of intelligence and intelligence-related costs, as well as a full accounting of the number of public and contract employees



as well as proprietary entities which are engaged in intelligence activities. This budget should be available to the appropriations and intelligence oversight committees of the Congress, but it should not be made public.

I also concur with the suggestion that funds for intelligence should be authorized by the Congress in the same manner that we authorize funds for other executive agencies. To prevent intelligence spending from being made public, authorizations for intelligence should be considered in executive sessions of the intelligence oversight committee or committees and then included in authorization legislation, in the same manner as intelligence appropriations are now included in defense appropriations bills.

Congressional oversight

I support the creation of a permanent Committee on Foreign Intelligence within the House. This committee should be given legislative jurisdiction, and it should have access to the information it needs--so long as effective security procedures are established. Because of the necessary secrecy in which the committee must work, it is essential that it enjoy the full confidence of the House and that it avoid even the appearance of partisanship. I urge, therefore, that the committee include members from both parties in equal or near-equal numbers. I also have serious reservations about the proposal to rotate members on and off the intelligence committee for fear that adoption of this procedure would deprive the committee of the expertise which the committee must possess to function effectively.

With regard to Congressional oversight of covert action operations, I believe that it would be inappropriate for the Congress to have a veto power over such programs, unless they involve supplying arms, directly or



indirectly, to a foreign nation or group. However, programs which involve or support para-military activities would seem to impinge on the Congress' constitutional power to declare war. My present thinking is that they should not be undertaken without the approval of the intelligence oversight committee in the House.

Limiting secrecy

The Committee's final report should strongly and positively affirm the responsibility of the Congress to meet the highest standards of respect for the confidentiality of national secrets. The primary responsibility for classifying and declassifying information must rest with the executive branch. It would be both impractical and inappropriate for the Congress to assume the responsibility for deciding if and when each classified document should be made public.

If the Congress reserves to itself the right to release some classified information, it should be made clear that this authority does not extend to diplomatic exchanges, dialogues between heads of state, and intra-departmental communications. Further, in obtaining classified information for its own confidential use, the Congress should act with great restraint and secure only those records which are truly necessary for thorough and effective oversight.

There are other subjects on which I believe this Committee must offer recommendations. Of particular importance is the future organization of the intelligence community within the executive branch. For example, I would support recommendations to increase the authority of the Director



of Central Intelligence as the central coordinator of the intelligence community, and to establish the National Security Agency by statute independent of the Department of Defense. The management of daily intelligence activities must remain a function of the executive branch. Improving executive branch organization and control will go hand in hand with improving oversight of intelligence within the Congress.

I hope that each of you will give these thoughts your careful consideration before the Committee meets. I would be glad to discuss them with you at any time.



THE WHITE HOUSE
WASHINGTON

January 6, 1976

Agenda.
[Signature]

MEMORANDUM FOR: JACK MARSH
FROM: CHARLES LEPPERT, JR. *[Signature]*
SUBJECT: House Select Committee
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1. Total figures for intelligence spending should be made public.

The format of the President's annual budget should include single totals for each intelligence agency and for the intelligence activities of intelligence units in other departments and agencies.

Consequently, the Congress would vote annually on single line item appropriations for CIA, NSA, DIA, and others, and for the intelligence activities of FBI and IRS.

2. A consolidated intelligence budget should be prepared.

The Director of Central Intelligence should be required to prepare an independent and consolidated intelligence community budget with a view toward eliminating unnecessary duplication and suggesting budgetary priorities for intelligence spending.

The DCI's proposed budget would provide the President with an assessment of intelligence spending proposals which would be independent of the individual intelligence agencies.

The DCI's proposed budget should also be made available to the Congress to assist it in its authorization and appropriations process.

3. Funds for intelligence should be specifically authorized by Congress.

All funds for intelligence purposes should first be specifically authorized, annually or periodically, for such use.

The current authority of the CIA to receive all its funds as transfers from the accounts of other agencies should be rescinded. Instead, the amount that the CIA could receive by transfer should be strictly limited, unless a larger transfer is specifically approved by both the President and the Appropriations Committees.

4. The GAO should be authorized to review and audit intelligence spending.

At the direction of an appropriate Congressional committee, the GAO should be empowered to examine all records of intelligence spending, whether vouchered or unvouchered.

The intelligence agencies may retain physical custody of their records without infringing on GAO's authority to examine them. When an agency head believes that some of its expenditure records should be kept from the GAO, the decision shall be left to the Congressional committee at whose request the GAO is acting.



Comment: Collectively, these proposals would have the effect of bringing the intelligence agencies--and especially the CIA--under much the same kind of fiscal controls which apply to all other departments and agencies of the government. Members of the Congress would learn--in gross terms--how much money they are appropriating each year for each intelligence agency. The public would learn how intelligence spending fits into the President's budget and his priorities. The CIA would be compelled to justify its programs and its budget before authorizations and appropriations committees in the same manner as other agencies. CIA and other intelligence spending would also be subject to review by the GAO at Congressional direction and under appropriate security safeguards. The ability of the Congress to exercise effective oversight would be significantly enhanced.



Congressional Oversight

The proposals concerning fiscal procedures would increase the information available to Congress and, consequently, its ability to exercise effective oversight. In addition, the following two proposals are submitted for the Committee's consideration.

1. A standing House Committee on Foreign Intelligence should be created.

The House should create a permanent standing Committee on Foreign Intelligence.

The committee should have exclusive legislative jurisdiction and shared oversight jurisdiction over CIA, NSA, DIA, USIB, PFIAB, military intelligence, and the foreign intelligence activities of all other agencies and departments, including but not limited to the NSC, the Department of State, the Department of Defense, FBI, DEA, and ERDA.

The head of each such department or agency should be obligated to keep the committee fully and currently informed about its programs and activities relating to foreign intelligence and covert foreign operations, and to provide the committee with whatever specific information and records it requires.

All proposed legislation--including legislation authorizing appropriations--concerning foreign intelligence activities should be within the jurisdiction of the committee.

All proposed legislation affecting, but not directed solely to, foreign intelligence activities should be referred to this committee for appropriate consideration and action after having been considered by any other House committee with appropriate jurisdiction.

The committee should include some members with prior or current service on other related standing committees, but this should be the primary committee assignment for most of its members.

No member should be allowed to serve on the committee for more than three consecutive terms.

The question of giving the committee jurisdiction over domestic intelligence programs and agencies should be deferred until the 95th Congress convenes.

If and when the Senate acts to establish its own committee with comparable authority and jurisdiction, the House should then consider whether its committee should become the House delegation to a joint committee on foreign intelligence.



2. The Congress should be fully informed before covert actions begin.

The Hughes-Ryan amendment to the 1974 Foreign Assistance Act should be amended in three respects:

First, the phrase "in a timely fashion" should be eliminated--thereby making clear that the appropriate committees of Congress are to receive prior notification of all CIA covert operations which the President has approved.

Second, the DCI should be required to report to the appropriate Congressional committees, at their request, the full range and scope of the intelligence community's clandestine activities--to gather intelligence or influence events--in specific countries.

Third, the President should be required to keep these committees fully and promptly informed of all decisions to begin new programs of intelligence activities which could reasonably be expected to influence the conduct of foreign officials and governments.

Comment: These proposals would encourage the House to continue this Committee's work. A permanent, standing committee of the House would be established to concentrate solely on intelligence matters. It would have legislative authority and--therefore--clout. Requiring rotation of its members would ensure that the committee's approach remains fresh. Requirements would be imposed on the DCI and the President to make sure that the committee learns everything that it needs to know. The possibility of creating a joint committee would be left open, depending on whatever action the Senate takes.



Limiting Secrecy

Previous proposals would increase the Congress' role in intelligence matters. The following proposals concerning management of sensitive information are submitted for the Committee's consideration.

1. Procedures should be established for the Congress to release classified information.

Each committee with national security jurisdiction should establish procedures and criteria, incorporated into its published rules, by which it identifies material in its possession which it determines must be kept secret.

Other members of the House may have access to such information only upon majority vote of the committee, except that if access is denied, a member may appeal the committee's decision to the House as a matter of personal privilege.

Each such committee should be authorized to recommend that specific classified facts and documents be made public, but only after soliciting and giving careful consideration to the judgment of the executive branch, including the President.

If an individual member of the House obtains sensitive information from a committee's files which he believes should be made public, he should first seek the consent of the committee.

If a member obtains classified or other sensitive information from a source outside of the Congress which he believes should be made public, he should first seek the advice of the committee with appropriate legislative jurisdiction.

In all cases, before acting, the committee should solicit and give careful consideration to the judgment of the executive branch.

After the committee acts, the matter should then be submitted, together with the committee's decision or recommendation, to the Speaker, the Majority Leader, and the Minority Leader.

If two of the three elected leaders of the House conclude that public disclosure of the information would jeopardize the nation's security, the information should not be released.

The rules of the House should be amended to provide that a member who releases sensitive information in a manner which violates or ignores these procedures shall be subject to censure, expulsion, or whatever other disciplinary action the House deems appropriate.

2. An independent body should be established to de-classify information.

A Security Information Review Commission should be established by law.



It should be composed of eleven private citizens, fewer than half of whom may have been employed previously by the national security agencies and departments of the government. These commissioners should be nominated by the President and confirmed by the Senate for staggered terms of ten years each.

Any document now classified should be reviewable by the Commission upon request by any individual or group. The document may be declassified by majority vote of the Commission, except that the President may reverse a Commission decision only if he certifies in writing that disclosure of a particular document would do grave and immediate danger to the defense of the United States.

Documents classified in the future should become declassified automatically after a period of five years unless the Commission, by majority vote, determines that they should remain classified for an additional five year period.

Comment: These proposals would provide a procedure by which the Congress could release information on the basis of its own judgment--whether the information comes from a committee's files or elsewhere, and whether the initiative comes from a committee or from an individual member. They would leave the final decision to the three elected leaders of the House, acting as a surrogate for all the members. Members would be warned of the responsibility they assume when they obtain sensitive information from a committee, and of the fact that they would be subject to disciplinary action if they violate or ignore the proposed procedures. A body would be established--independent of the agencies which classify documents--to decide if documents can be declassified. The presumption would be firmly established that all documents would be made public after five years unless the Commission could be convinced otherwise.



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OTIS G. PIKE, N. Y., CHAIRMAN

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ROBERT W. KASTEN, JR., WIS.

A. SEARLE FIELD, STAFF DIRECTOR
AARON B. DONNER, COUNSEL

TELEPHONE: (202) 225-9751

Select Committee on Intelligence
U.S. House of Representatives
Washington, D.C. 20515

MEMORANDUM

19 December 1975

From: Otis Pike
To: Members of the Committee
Re: Possible recommendations developed by Committee staff

Attached is a brief presentation of various proposals developed by our staff which we may wish to endorse as recommendations in our final report.

Please give these proposals your careful consideration and advise the staff as soon as possible if you approve of each of them.

Your comments and your suggestions for additional or alternative recommendations will assist us in preparing a report which will accurately reflect the concerns of the Committee.

The attached presentation does not include proposals on all the issues which the Committee has been considering. You will receive supplemental materials as soon as they can be prepared.



January 12, 1976

MEMORANDUM FOR:

JACK MARSH

FROM:

CHARLES LEPPERT, JR.

SUBJECT:

House Select Committee on
Intelligence

Attached are Rep. Bob McClory's comments to the staff recommendations which I sent to you by memo dated January 6, 1976.

cc: Max Friedersdorf
Mike Daval



ROBERT McCLORY
13TH DISTRICT, ILLINOIS

ROOM 2452
RAYBURN HOUSE OFFICE BUILDING
(202) 225-5221

JUDICIARY COMMITTEE

SELECT COMMITTEE ON
INTELLIGENCE

U.S. INTERPARLIAMENTARY
UNION DELEGATION

Congress of the United States
House of Representatives
Washington, D.C. 20515

MEMORANDUM

DISTRICT OFFICES
KANE COUNTY
MUNICIPAL BUILDING
150 DEKTER COURT
ELGIN, ILLINOIS 60120
(312) 697-5005

LAKE COUNTY
POST OFFICE BUILDING
326 NORTH GENESEE STREET
WAUKEGAN, ILLINOIS 60085
(312) 336-4554

McHENRY COUNTY
McHENRY COUNTY COURTHOUSE
2200 SEMINARY ROAD
WOODSTOCK, ILLINOIS 60098
(815) 338-2040

January 7, 1976

From: Robert McClory
To: Members of the Select Committee on Intelligence
Re: The Committee's Recommendations

Shortly before Christmas, the Chairman distributed a memorandum prepared by the Committee staff which described various proposals for our consideration. Before the Committee meets to consider its recommendations, I would like to make my own thinking clear on several points.

Fiscal procedures

In the absence of any compelling evidence to the contrary, I think we must be guided by the intelligence agencies' concern that publication of even single overall dollar totals for their annual budgets would reveal vital information of benefit to hostile foreign interests and would have a detrimental effect on their operations. Full budgetary information must, of course, be available to the Congress. I fully support the proposal that the Director of Central Intelligence should prepare a consolidated budget for the intelligence community as a whole, which would include a comprehensive statement of intelligence and intelligence-related costs, as well as a full accounting of the number of public and contract employees



as well as proprietary entities which are engaged in intelligence activities. This budget should be available to the appropriations and intelligence oversight committees of the Congress, but it should not be made public.

I also concur with the suggestion that funds for intelligence should be authorized by the Congress in the same manner that we authorize funds for other executive agencies. To prevent intelligence spending from being made public, authorizations for intelligence should be considered in executive sessions of the intelligence oversight committee or committees and then included in authorization legislation, in the same manner as intelligence appropriations are now included in defense appropriations bills.

Congressional oversight

I support the creation of a permanent Committee on Foreign Intelligence within the House. This committee should be given legislative jurisdiction, and it should have access to the information it needs--so long as effective security procedures are established. Because of the necessary secrecy in which the committee must work, it is essential that it enjoy the full confidence of the House and that it avoid even the appearance of partisanship. I urge, therefore, that the committee include members from both parties in equal or near-equal numbers. I also have serious reservations about the proposal to rotate members on and off the intelligence committee for fear that adoption of this procedure would deprive the committee of the expertise which the committee must possess to function effectively.

With regard to Congressional oversight of covert action operations, I believe that it would be inappropriate for the Congress to have a veto power over such programs, unless they involve supplying arms, directly or



indirectly, to a foreign nation or group. However, programs which involve or support para-military activities would seem to impinge on the Congress' constitutional power to declare war. My present thinking is that they should not be undertaken without the approval of the intelligence oversight committee in the House.

Limiting secrecy

The Committee's final report should strongly and positively affirm the responsibility of the Congress to meet the highest standards of respect for the confidentiality of national secrets. The primary responsibility for classifying and declassifying information must rest with the executive branch. It would be both impractical and inappropriate for the Congress to assume the responsibility for deciding if and when each classified document should be made public.

If the Congress reserves to itself the right to release some classified information, it should be made clear that this authority does not extend to diplomatic exchanges, dialogues between heads of state, and intra-departmental communications. Further, in obtaining classified information for its own confidential use, the Congress should act with great restraint and secure only those records which are truly necessary for thorough and effective oversight.

There are other subjects on which I believe this Committee must offer recommendations. Of particular importance is the future organization of the intelligence community within the executive branch. For example, I would support recommendations to increase the authority of the Director



of Central Intelligence as the central coordinator of the intelligence community, and to establish the National Security Agency by statute independent of the Department of Defense. The management of daily intelligence activities must remain a function of the executive branch. Improving executive branch organization and control will go hand in hand with improving oversight of intelligence within the Congress.

I hope that each of you will give these thoughts your careful consideration before the Committee meets. I would be glad to discuss them with you at any time.



THE WHITE HOUSE

WASHINGTON

January 20, 1976

MEMORANDUM FOR: JACK MARSH

THRU: MAX L. FRIEDERSDORF
VERN LOEN

FROM: CHARLES LEPPERT, JR. *CLJ*

SUBJECT: McClory's Incomplete Additional Views
to Pike Committee Report

Attached is a copy of Rep. McClory's incomplete additional minority views to the proposed Pike Committee report. McClory requests the Administration to review and comment on these additional views.

McClory requests that these additional views be closely held at this time and he would like to receive the Administration comments as soon as possible.

Attachment

cc: Tom Loeffler
Mike Duval



Draft of proposed additional views

*Comments
Class held*

ADDITIONAL VIEWS OF MR. _____

The Select Committee on Intelligence was established by a bi-partisan vote of the House of Representatives to conduct an investigation which far transcends in importance any temptation for momentary partisan advantage. The members of the Committee have reflected the full range of philosophies represented in the Congress. But every member has recognized the critical need for an effective intelligence capability, operating in a manner consistent with both the realities of the international situation and the requirements of democratic accountability.

During the past months of the Committee's inquiry, we have consistently pressed for an objective, balanced, and thorough investigation. We have always believed that attempting to evaluate the performance of individual officials or to fix blame for particular intelligence failures would only detract from fulfilling our primary responsibility: evaluating the structure, organization, and performance of the intelligence community to determine what systemic changes, if any, should be made. It has been important for the Committee to identify past deficiencies and failures, not simply to criticize and demonstrate the wisdom of hindsight, but to determine how future intelligence performance may be improved.

We consider it particularly unfortunate and inappropriate, therefore, that the Committee's hearings and investigations have focused so heavily on events of the past several years. The need for a dispassionate inquiry has been sacrificed to what must be seen as a partisan attack on the policies of this administration. In the selection of subjects and witnesses for its hearings, the Committee majority has frequently been more interested in making a case than in learning the true facts.



We must take exception to the tone and many of the conclusions of the majority report. It is certainly not our contention that the performance of the intelligence agencies has been flawless. On the contrary, we are convinced that there are serious systemic deficiencies for which reforms are both appropriate and necessary. It is neither accurate nor fair, however, to characterize the record of the intelligence community as an unmingled record of failures and improprieties. Yet this is the consistent implication of the majority report. By so distorting the record, the Committee majority makes it exceedingly difficult, if not impossible, for the American people to distinguish the intelligence agencies' successes from their failures, and to appreciate the difference between human error and structural and organizational flaws.

The tasks of the intelligence agencies are exceptionally difficult. They are charged with acquiring information which other governments make every effort to protect. They are expected to anticipate events in an unpredictable world. Their failures inevitably receive greater publicity than their successes. By concentrating on assigning blame and identifying villains, the majority report distracts attention from what can and should be done to improve the intelligence agencies' ability to do their job.

We also reject the manner in which the Committee's majority has characterized the cooperation we have received from the President and the executive branch. It is beyond dispute that this Committee received more classified information than any other committee in the history of the House of Representatives. There is very little, if any, information which the Committee sought and did not ultimately receive. The President personally assured the chairman and ranking minority member of his desire to provide the Committee with any and all information it required.

His only concern was his justifiable interest in ensuring that legitimate secrets would be given the protection they require. Once mutually acceptable procedures were established, the President assured the Committee of his desire to cooperate fully. With the exception of one instance in which the President felt compelled to assert executive privilege, there is absolutely no support for the allegation that this administration sought, as a matter of policy, to hinder the Committee's investigation.

Unfortunately, executive officials did not always act in a manner consistent with the President's assurances of cooperation. There were frequent and, in our view, unnecessary delays in providing the Committee with documents it requested. On a number of occasions, the Committee was compelled to issue subpoenas in order to expedite the delivery of materials we needed for our investigation. We regret the fact that there was not always full and prompt compliance with these subpoenas. The Committee did not issue subpoenas frivolously; the subpoenas which were issued merited timely compliance.

Nonetheless, we consider it inaccurate and unreasonable to attribute to the executive branch generally or to any individual official any desire to obstruct the work of this Committee. Beyond any question, our investigation entered into some of the most sensitive and delicate matters in which the United States has been or is now engaged. The officials of the intelligence community are charged by law with protecting the integrity of their organizations and the secrets entrusted to them. It is only natural, therefore, for the executive branch to have been concerned about leaks and disclosures which might have damaged the future efficacy of their agencies.

Instead of berating the executive branch for the disagreements and delays which did arise, the Committee majority should have made proper note of the extraordinary cooperation we did receive. In particular, the Director of Central Intelligence, Mr. Colby, went to unprecedented lengths to cooperate with the Committee. He appeared before the Committee in public session on at least five occasions, and in executive sessions even more frequently. In addition, other CIA officials and representatives provided us with extensive testimony and assistance at his direction.

It is well worth emphasizing that the overwhelming bulk of the information which this Committee obtained was provided by the intelligence agencies themselves. For example, the Committee investigated the performance of the foreign intelligence agencies before and during crises in the Middle East, Vietnam, Cyprus, and Portugal. In each instance, the Committee found that the intelligence community itself had already conducted extensive post-mortems on its own performance in order to identify and correct whatever weaknesses had emerged. Instead of merely publicizing the failures which the intelligence agencies had already identified for themselves, the Committee majority should have congratulated the intelligence community for its willingness to examine its own performance with an objectivity and detachment uncharacteristic of the federal bureaucracy.

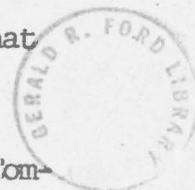
In short, we find that the majority report offers a distorted and unbalanced assessment of intelligence community performance and executive branch cooperation. We deplore the fact that the report seems more concerned with finding fault than with seeking the truth.

Of primary concern to us are the measures which should be adopted to improve the performance of the intelligence community in the future, and to bring the individual intelligence agencies under better control, both within the executive branch and by the Congress.

In the past, most members of Congress have preferred to remain at a distance from the intelligence community. Consequently, Congressional oversight of intelligence tended to be sporadic and superficial. The intelligence agencies complied with the reporting requirements imposed on them, and individual members of both houses were briefed regularly. However, the prevalent attitude within the Congress was to grant the executive branch greater discretion with regard to intelligence than with regard to other administrative activities. Today, both circumstances and attitudes have changed. What has been adequate and acceptable in the past will not be appropriate for the future. We believe that the Congress should make changes in its own procedures at the same time that it recommends changes in executive organization and policies.

The committees of the House which are now charged with intelligence oversight have other major responsibilities as well. In particular, the Committees on Armed Services and the Judiciary are perhaps more heavily burdened than any other legislative committees. We consider it appropriate, therefore, to concentrate the responsibility for intelligence legislation and oversight in a new committee which will have the time and resources which will be required. Our experience on this Select Committee have convinced us that it is simply unrealistic to demand more continuing Congressional oversight without providing the structure that will make it possible.

Therefore, we join in recommending the creation of a permanent com-



mittee of the House on intelligence affairs. This committee should have exclusive jurisdiction over all foreign intelligence activities of the federal government and all agencies and components of the government with responsibility for collecting, analyzing, and producing intelligence concerning America's international relations. All proposed legislation--including bills which authorize appropriations of funds--should be referred to the committee for its consideration and recommendations. Because there are instances in which foreign and domestic intelligence activities impinge on each other, we also recommend that the committee be given shared oversight jurisdiction over domestic intelligence activities, especially the counter-intelligence and internal security programs of the FBI.

In order for this committee to function effectively, it must have access to the information it requires. For this purpose, the heads of all appropriate departments and agencies should be required by law to keep the committee fully and currently informed concerning their programs and activities, and to provide the committee with whatever specific information and records it considers essential.

A committee with such authority will bear a heavy responsibility for the protection of the information it receives. It is imperative that its members adhere to the highest standards of conduct and that procedures and facilities be established to ensure that sensitive information can be given to the committee without jeopardizing its secrecy. The rules of the House should be amended to make absolutely clear that any unauthorized disclosure of intelligence will be grounds for punitive action by the House.

In this regard, we recommend that any Committee of the House which has access to classified information in pursuit of its legislative and oversight responsibilities be given the authority to discipline any Member which it reasonably believes has disclosed or publicized such information. Specifically, these Committees ought to be delegated authority by the full House to enable them to take appropriate action against a Member who violates the Committee's rules of confidentiality and non-disclosure by a vote of a majority of the Majority Members and a majority of the Minority Members. In some cases, it might be appropriate to bar the offending Member from Executive Sessions of the Committee and from the right to inspect the Committee files containing classified information. For a more serious violation, it might be necessary to expel the Member from the Committee altogether. Under the rules of the House, a Member against whom such disciplinary action has been taken, might reserve a right of appeal to the full House or to the Committee on Standards of Official Conduct. At the very least, the rules of the House ought to be revised to provide for the ultimate sanctions of censure and expulsion for any Member who can be proven to have violated the confidentiality of any Executive Session meeting of any House Committee.

It has been our experience that the executive branch, including the intelligence agencies, tends to classify documents routinely and excessively. Unfortunately, this tendency undermines public and Congressional appreciation for the fact that there are in fact documents and information which, if disclosed, could significantly jeopardize the nation's security. If executive officials exercise greater restraint and selectivity in the future, they will be better able to protect materials which must legitimately remain secret.

The primary responsibility for classifying and declassifying documents must remain with the executive branch. It would be both impractical and inappropriate for the Congress to assume the responsibility for deciding if and when each classified document should be made public. Whatever excesses now exist should be remedied by administrative reform, not by improper Congressional intervention into the day-to-day administrative details of the executive branch. At the same time, we wish to emphasize that such reforms are needed. We urge the President and the leaders of the intelligence community to re-examine their classification practices in the interest of better informing the American people.

If the Congress reserves to itself the right to release certain classified information in specific instances, it should be made clear that this authority does not extend to diplomatic exchanges, dialogues between heads of state, and intra-departmental communications. Further, in all such cases, the greatest deference should be given to the expert judgment of the intelligence agencies and the President, who is charged under the Constitution with seeing to the faithful execution of the laws.

There is a delicate balance which must be struck between preserving legitimate state secrets and ensuring that the American

people are adequately informed about what their government is doing. It is unlikely that any general rules can be developed which will be appropriate in all cases. Instead, case by case judgments must be made in an atmosphere of comity between the executive and legislative branches. The President and the Congress must view themselves as partners in a common enterprise, rather than as adversaries engaged in a struggle for power. This is the spirit which we have consistently sought to foster during the lifetime of this Committee. We continue to believe that the American people will be better served by compromise than by confrontation.

In general, we support the principle that specific decisions to implement national policies must be left to the discretion of the executive branch--subject, of course, to the rigors of Congressional oversight. With respect to covert action programs conducted by the CIA, however, we believe that a more active Congressional role is necessary and justified.

The Constitution charges the Congress with the right and responsibility to declare war. With the recent passage of war powers legislation, the Congress recognized, and made provision for the fact, that the Congress must play a comparable role in instances, short of a declared state of war, in which the United States undertakes significant interventions in the affairs of other nations. This same principle should now be extended to certain covert actions undertaken by the CIA at the direction of the President.

In 1974, the Congress required by law that the President must certify and that the appropriate Congressional committees must receive timely notification of all CIA operations in foreign countries, "other than activities intended solely for obtaining necessary intelligence."

On the basis of this Committee's investigation, we now conclude that timely notification after the fact is not sufficient when the United States contemplates military or paramilitary covert operations, or when the government intends to covertly provide arms or funds which will be used to obtain arms. Such policies impinge directly and immediately on the war powers of the Congress. They should not be undertaken without prior approval by the appropriate committees of the Congress.

We believe that it is an unreasonable construction of the Constitution to assert that the President may take unilateral action in secret which would require Congressional approval if taken publicly. Therefore, a requirement that Congress give prior approval to covert operations with military consequences is nothing more than a legislative implementation of what the Constitution was meant to require. Moreover, it is our conviction that prior Congressional consultation in such cases will also provide the President with the judgment of elected officials with no vested interest in perpetuating or expanding covert paramilitary operations. Consequently, there will be less likelihood of covert paramilitary operations being undertaken which will be unacceptable to the American people.

Traditionally, one of the most effective Congressional controls of administrative activity has been its "power of the purse"--its Constitutional authority to determine how the taxpayers' money should be spent. We therefore concur with various recommendations in the majority report for improving fiscal oversight of the intelligence community. Funds for intelligence should be authorized by the Congress in the same manner that we now authorize funds for other executive agencies and departments.



and the Congress must receive full budgetary information on which to base its decisions. We also support the proposal that the head of the intelligence community should prepare a consolidated budget for the intelligence community as a whole, which would include a comprehensive statement of intelligence and intelligence-related costs, as well as a full accounting of the number of public and contract employees and proprietary entities which are engaged in intelligence activities. This budget should also be available to the appropriate committees of Congress. Finally, we agree that the General Accounting Office should be authorized to audit intelligence spending on behalf of the Congress--subject, of course, to security arrangements to protect the secrecy of intelligence sources and methods.

In the absence of any compelling evidence to the contrary, however, we believe that the Congress must be guided by the intelligence agencies' concern that publication of any budgetary information would reveal vital information of benefit to hostile foreign interests and would have a detrimental effect on American intelligence operations. We have concluded from the Committee's investigation that intelligence work involves a painstaking process of analyzing and assembling individual facts which may appear inconsequential when taken separately. We recommend, therefore, that the Congress must continue to consider intelligence spending in executive session, lest we inadvertently reveal critical information about U.S. intelligence trends and developments.

Collectively, our recommendations constitute a reasonable and effective program for improving Congressional oversight of intelligence activities and ensuring that they are conducted in a manner compatible with democratic principles. However, the primary responsibility for managing the intelligence community will and must rest with the President and

his intelligence advisors and officials. It is important to note that, on its own initiative, the executive branch has conducted frequent studies of intelligence community organization and performance, ranging from post-mortems after specific events to wide-ranging examinations of agency performance and community coordination. Most recently, the Rockefeller and Murphy Commission reports have demonstrated presidential commitment to making improvements in the intelligence community. We applaud the work of these commissions and generally support their recommendations. They have been of great assistance to our Committee, as a source of information and expert judgment. The recommendations made by the two presidential commissions deserve the most serious consideration.

We are also gratified by the President's determination to initiate organizational and structural improvements within the intelligence community. Although the work of this Committee, and its Senate counterpart, have received the greatest publicity, we are aware that the executive branch has simultaneously been conducting its own evaluation of what reforms should be instituted. Before the Congress takes any action on this Committee's recommendations, it should await and carefully consider the fruits of the President's initiative.

Reforms within the executive branch will have the greatest and most immediate effect on the daily management and coordination of intelligence activities. Both the Rockefeller and Murphy Commissions, for example, have recommended a strengthened and expanded role for the President's Foreign Intelligence Advisory Board. We fully concur with this recommendation. At a minimum, the Board should be provided with a full-time staff which will enable it to play a more continuing and significant

role in analyzing and evaluating intelligence community performance. An effort should also be made to better integrate the Board into the organization of the community, perhaps by designating the operating head and coordinator of the intelligence community as the Board's chairman.

We also believe that significant improvements must be made in the organization and management of defense intelligence activities. We have seen compelling evidence that the intelligence operations of the Department of Defense are characterized by excessive duplication and a severe lack of coordination. In part, the problem lies in the very size and extent of defense activities. For this reason, we recommend that the Congress enact a statutory charter for the National Security Agency (now established by presidential directive) which would establish the NSA as an independent civilian agency, but also provide the means for effective coordination with the military services.

We are also convinced that the Defense Intelligence Agency (DIA) has thus far been unable to provide the coordination within the military intelligence community for which the Agency was established. Streamlining within the Defense Department is obviously necessary. On the basis of the evidence received by the Committee, we believe this might best be accomplished by either eliminating DIA or reducing it to a much smaller analytical staff attached directly to the Joint Chiefs of Staff. Centralized responsibility for intelligence matters would be vested in the Assistant Secretary of Defense (Intelligence) or his successor, who would coordinate activities among the service secretaries and serve as the Secretary's principal assistant for intelligence.

Of even greater importance will be improvements in the manner in which the intelligence community as a whole is directed and coordinated.

For these purposes, we concur with the recommendation in the majority report that the current dual roles of the Director of Central Intelligence be divided between two officials--one to serve as the coordinator of the intelligence community generally, and the other to serve as the head of the CIA specifically. The DCI is presently in the anomalous position of coordinating the activities of various agencies--without the authority such coordination requires--while simultaneously serving as manager of one of these agencies. Under these circumstances, we have found that the daily demands of managing the CIA prevents the DCI from giving proper attention to his responsibilities as community coordinator.

We recommend, therefore, that a new office of the Director of Foreign Intelligence be established as an independent office within the Executive Office of the President, the DFI to be subject to confirmation by the Senate and to become a statutory member of the National Security Council. We believe that the President would be well served if he established the DFI as his principal advisor on intelligence matters and as a participant in Cabinet consideration of international affairs.

In order to coordinate foreign intelligence activities effectively, the DFI should be directed, by statute or presidential directive, to prepare the consolidated foreign intelligence budget recommended above. He should also be assigned the staff and responsibility to investigate allegations of improprieties and inefficiencies within individual intelligence agencies. Further, the DFI should be assigned the task of overseeing the preparation of community-wide National Intelligence Estimates for consideration by the President and the Congress. With such authority, the DFI will be better placed to both discover and remedy future deficiencies and duplications in both the collection of raw information and the



production of finished intelligence.

Under current law, the Director of Central Intelligence is assigned responsibility without comparable authority. His dual functions are beyond the capability of any single individual, no matter how skilled and well-intentioned. The creation of an independent Director of Foreign Intelligence will promote greater emphasis on coordination, economy, and long-range planning. It will also establish responsibility within the executive branch for ensuring the integrity of intelligence operations and preventing the recurrence of the abuses which stimulated this Committee's creation.

We believe that implementation of these recommendations will substantially improve both the efficiency and the quality of intelligence operations in the future. They will also provide for better executive-legislative cooperation and understanding--a need which is now fully recognized both on Capitol Hill and in the White House. If such reforms are instituted, then the work of this Select Committee will be judged a success, notwithstanding our objections and disappointments over the majority's procedures and conclusions.

