

FOR IMMEDIATE RELEASE

FEBRUARY 18, 1976

OFFICE OF THE WHITE HOUSE PRESS SECRETARY

THE WHITE HOUSE

PRESS CONFERENCE
OF
GEORGE BUSH, DIRECTOR,
CENTRAL INTELLIGENCE AGENCY,
EDWARD H. LEVI,
ATTORNEY GENERAL OF THE UNITED STATES,
BRENT SCOWCROFT,
ASSISTANT TO THE PRESIDENT
FOR NATIONAL SECURITY AFFAIRS,
JOHN O. MARSH,
COUNSELLOR TO THE PRESIDENT,
AND
MICHAEL DUVAL,
ASSISTANT TO THE COUNSELLOR TO THE PRESIDENT

450 EXECUTIVE OFFICE BUILDING

11:05 A.M. EST

MR. NESSEN: I think you have had by now the Executive Order and fact sheet, I hope, long enough to read it and make some sense out of it. As you know, that material and this briefing are embargoed for noon release, the time at which the material will be delivered to Congress.

For the briefing today, we have Jack Marsh, Counsellor to the President, who coordinated the President's efforts to study and reorganize the intelligence community; Attorney General Levi, Brent Scowcroft, the Assistant to the President for National Security Affairs; Mike Duval, who was the Executive Director of the group here at the White House which studied the matter and proposed options for reorganizing the intelligence community; and George Bush, the Director of Central Intelligence.

The first thing we would like to do is to give you precisely what the President gave to the Members of Congress last evening at 6 o'clock without removing anything but showing you exactly the presentation that he made to the Members of Congress.

Now this requires the presentation of some slides on the screen and a narration by Jack Marsh. We will do that first and then I think open it up for your questions.

MR. MARSH: Thank you, Ron.

What I would like to do is to give you a sort of a summary of the package that you have. This is the presentation that Ron mentioned that was given to Members of the Congress last evening in positions of leadership under jurisdiction of the committee. This is the same presentation that was given to the Members of the House and Senate last evening.

MORE

This is also the same presentation that the President gave--substantially the same as he gave to members of the intelligence coordinating group which, of course, included the Secretary of Defense, Secretary of State, Director of the CIA, Attorney General and other members of that committee.

The objectives, as are noted on the slide there, the twofold objectives -- one to strengthen the United States intelligence community and at the same time observe these traditional constitutional liberties -- were the two overriding considerations that were part of the President's program.

The President decided to try and do this principally through the means of the Executive Order as opposed to a major emphasis on legislation. Traditionally, in the intelligence community, a great deal of the management of the intelligence community has been achieved by internal memorandum, by Executive Orders and this was the approach that the President decided that he would use.

He also would set out in the Executive Order, which I am sure you have noticed, a portion of that which we refer to as the restrictions order that provides the guidelines and also states the prohibitions of those things the community are not supposed to do.

In there, as a part of this Omnibus Executive Order is the new command structure which he mentioned last evening. It is significant to note also that he has charged the NSC to conduct semi-annual reviews of the intelligence operation and particularly as to the adequacy of the intelligence problem.

Also, significantly, he decided to go outside of Government, to go outside of the Administration and set up a three member Intelligence Oversight Board. Those are the three individuals chaired by former Ambassador Robert Murphy, former Secretary of the Army Stephen Ailes, and Leo Cherne, who serves on the PEIAB. These three individuals will also be members of the President's Foreign Intelligence Advisory Board.

Now, in order for you to have an understanding of just what was being addressed, it is frequently not known as to what is the American intelligence community. The intelligence community of the United States is made up of the agencies you see on the slides -- the CIA the Department of Defense. It has four subordinate subdivisions in the intelligence area: one, the Defense Intelligence Agency; the National Security Agency; third, the various intelligence agencies of the respective services -- those that you have in the Army, Navy and the Air Force -- and then the special offices for reconnaissance in the Department of Defense.

MORE

The Department of State has an intelligence capability in the Bureau of Intelligence and Research, as does the Department of Justice; of course we know, particularly in the field of counter-intelligence in the Federal Bureau of Investigation. There is an intelligence capability in the Department of Treasury and also one that is likely to be overlooked in the field of the nuclear energy, ERDA, which has a responsibility for atomic and nuclear intelligence.

In order to address the intelligence matter, the President decided in September that he would establish an Intelligence Coordinating Group. The mission of that group would be twofold: One, to deal in a day-to-day manner with the requests and requirements of the Select Committees that were investigating and holding hearings on the intelligence community, and, secondly, while it was engaged in that process, to also begin a second try to develop a management program to address a number of the areas that he has addressed in the Omnibus Executive Order.

The members of the Intelligence Coordinating Group were the Secretary of State, the Secretary of Defense, the Attorney General, the Director of Central Intelligence, the Assistant to the President for National Security Affairs, the Director of OMB, the Counsel to the President, the Counsellor to the President as Chairman, and as the Executive Director, Michael Duval.

This group met quite frequently and at times back in October and November and December almost on a daily basis. The principals did not always attend, but very frequently they would, particularly the Attorney General, who attended many of those meetings or they were represented, if they were not there, by one of their principal deputies.

The President's Executive actions really encompass three broad areas of action -- his Omnibus Executive Order that provides both guidelines and restrictions, a new command structure, and an oversight mechanism.

He also will suggest a minimum of legislation principally aimed at protecting the security or secrecy of classified information. He will endorse legislation that would prohibit assassination of foreign leaders in times of peace and he will also ask the Congress and meet with them to discuss legislation that will relate to two areas: One, electronic surveillance, and, secondly, the unauthorized opening of mail.

He is also suggesting to the Congress a form of oversight to hopefully reduce the proliferation of Congressional committees that do address themselves in the intelligence area.

It is interesting, his decision was that he felt there should be a summary of the activities of the departments and agencies in the intelligence area and to that extent has proposed a type of policy guidelines or modified charters for publication in order not only that the American people would know what these agencies are and what their general missions were, but, secondly, that the agencies themselves would have certain parameters that would be the areas of their principal responsibilities.

MORE

Now, let's look at the first major area that the President has addressed and this is in the NSC. The NSC does continue and will continue to have the principal responsibility for the integration of domestic and foreign policies and military policies as they relate to the national security. It has its four statutory members with whom you are familiar, but it will conduct now, at the direction of the President, a semi-annual review:

One, as to the needs of policymakers for adequate intelligence as to whether it is timely, whether it addresses the problem as to its quality; secondly, the NSC will be charged to be certain that the intelligence community is operating both effectively and efficiently in the collection of intelligence and also they will review the appropriateness of ongoing covert types of operations and other sensitive collection missions that may have been authorized.

The Assistant to the President for National Security Affairs, Brent Scowcroft, will have the principal responsibility for the conduct of the semi-annual reviews.

Now this is an area that should be of considerable interest. It is an effort that has been made by the President to address the question of management and resource control or resource allocation inside the intelligence community. For the purpose of budget review and control and resource allocation, the President has established a three member committee. The Chairman of that committee will be the Director of Central Intelligence. The other two members of that committee will be the Deputy Secretary of Defense, Robert Ellsworth, who will have a principal authority in the Department of Defense for intelligence, and the third member will be the Deputy Assistant to General Scowcroft, Bill Hyland.

This three member committee will have budget preparation, they will prepare the budget before it goes to OMB for review. Also, they will handle re-programming requests. They will establish the management policies inside the community and they will carry out the NSC policy decisions.

Now, in the event there is disagreement inside the three member committee chaired by Director Bush, they may make an appeal from a decision of the three member committee; the committee itself may make an appeal, or any member of the NSC, and particularly the Secretary of Defense, who is a member of the NSC, if he has a question about a decision of that three member committee, they may pull the decision into the NSC on an automatic review.

Now over in the field of the production of intelligence, the production of the intelligence after it is collected, this remains the principal responsibility, however, of the DCI. The Director of Central Intelligence will still have the responsibility for doing that. The Director of Central Intelligence, it is iterated and restated that he will be and will continue to be the President's principal advisor in the field of foreign intelligence.

MORE

The DCI, in undertaking his responsibilities, may establish such committees or subcommittees as he deems requisite.

Now, this is the old 40 Committee, a revamping and a restructuring of the old 40 Committee, and there are several areas that I think you will find of interest here. One, the name of this group will be called the Operations Advisory Group. The membership will be changed and the membership will be principals. It will be the Secretary of State, the Secretary of Defense, the Director of CIA, the Chairman of the Joint Chiefs and two observers -- the Attorney General and the Director of OMB -- and in the latter, two such individuals as they might designate to attend the meeting.

It is anticipated, however, that the meetings will be attended by principals. The meeting will be chaired by Brent Scowcroft, this particular group will be chaired by Brent Scowcroft, and it is expected the principals will attend unless, for some reason, they are out of the city or there is some other conflict that they have that makes it impossible for them to be there.

MORE

They shall undertake these duties that are assigned here. They will consider and make recommendations together with dissents to the President on the proposals for covert operations and all sensitive collection systems, and they will make a periodic review and submit a report to the NSC of these ongoing operations and missions. They will meet as a group and will conduct formal meetings as a group in the consideration of their efforts.

Now this is a schematic diagram of the American intelligence community as it exists today. Now I will show you a diagram of the new system, but under the old system the American intelligence community has operated on a series of interlocking committees, executive committees, that sought to achieve a number of things that the President has sought to accomplish by this streamlined system and focusing into the Committee on Foreign Intelligence. This is the old schematic diagram and the next slide will show you the new schematic diagram.

As I mentioned, a part of this operation is right here, your three-member committee chaired by Director Bush, and then you have our Advisory Operation Group here which is the old 40 Committee.

I should point out that it is envisioned that under this system it may be necessary, or Mr. Bush may want to set up certain committees or subcommittees in order to accomplish the functions that are necessary to be achieved.

Now let's move over into the areas that focus on some of the charters that we can read into your Omnibus Executive Order. There are several points that I would like to make.

The President is expecting that the senior officer of each department or agency will be the responsible officer, the accountable officer for the conduct of that agency and its compliance with this Executive Order which includes the restrictions that are set out in that order.

Director Bush and those who work with him will have the responsibility to establish a system of Inspector Generals for, not monitoring but auditing of the activities of the community; and the NSC, the Committee on Foreign Intelligence and the Intelligence Oversight Board will also have a responsibility as to the strengthening of those Inspector Generals systems inside the departments and agencies.

As I mentioned to you, the President felt that it would be helpful to make a disclosure, to the extent that it could be done, of the role and function and duties of the various components of the intelligence community.

MORE

There will, of course, still remain some areas in which there will be classified instructions or matters that relate to their activities and functions, but this is probably the first time that there has been laid out for public disclosure an establishment of certain parameters and modified guidelines or policy charters that we have had in the intelligence community today.

I will not go through these because they are set out there for you more fully in the material that you have, but we will run through them just very quickly.

The areas you will see--the State, the Treasury--will be over in the field of economic intelligence, State through its Bureau of Intelligence and research -- these are spelled out more fully.

I would want to point out the defense. You will find in your Executive Order a discussion of the role and function and mission of the National Security Agency. Additionally set out are the duties and functions of the DIA--Defense Intelligence Agency, which has been set out itself publicly at an earlier time; ERDA, which I mentioned to you; the Federal Bureau of Investigation. In this area we are principally talking in terms of their role in espionage and sabotage and collecting foreign intelligence in the United States.

Now let me give you a little background here when you read into your Restrictions Order. The Restrictions Order is one of the most complex documents that you will read. It represents literally months and months of work, interdepartmental staff work. The restrictions that are there are the joint product of the departments and agencies represented in the Coordinating Group -- that is, Defense and State and CIA -- and this chart here simply in a very generic way assigns the areas addressed but you have to go into the Restrictions Order and read it precisely to identify each of these subjects.

But it restricts or prohibits in the following areas -- the collection of analysis and information on domestic activities of United States citizens, and it points out there how that can be done through either as authorized by law and with the procedures established by the Attorney General--and I am sure there may be questions here that he will want to respond to--and it does address the question of unconsented physical searches of electronic surveillance of U.S. persons; it reiterates the prohibition against illegally obtaining Federal tax returns in order to obtain information; it places restrictions in reference to the infiltration of groups to influence or report on them and severely prohibits that activity to the CIA except in a very narrow exception of where the members of the group are principally non-U.S. persons and where that group is believed reasonably to be controlled by a foreign power.

MORE

Experimenting with drugs on humans without informed consent is prohibited unless the consent is obtained voluntarily in the presence of a third party and that research is conducted according to standards established by the Commission on Biomedical Research. The correct name of that Commission is more fully set out.

It does spell out and limit the manner in which information might be shared internally in the intelligence community. It places restrictions on the assignment of personnel, in that personnel in the intelligence community cannot be assigned without disclosures being made as to who those individuals are and also places certain restraints on what they may report back to their parent agency.

It sets up prohibitions against providing assistance to law enforcement agencies in violation of law unless authorized by statute and with the approval of the Attorney General.

It places severe limitations on the testing of electronic surveillance equipment in the United States unless authorized by law and with procedures established by the Attorney General. As you read through this, you will see in many, many instances the words "as established," "procedures established by the Attorney General," and it makes reference to U.S. statutes.

The exceptions there are also set out. They are quite limited on the collecting of information on activities of U.S. persons and in many instances I think you will find that these relate to the employees of, for example, the Central Intelligence Agency or the contractors or people who might be seeking to deal with them, and also the question of counterintelligence and counterespionage activities which, of course, moves over into the field of the FBI.

It should be pointed out here that in those particular areas where there are normal law enforcement responsibilities of an agency -- for example, there are law enforcement responsibilities in Treasury and in the Department of Justice, through the FBI -- in that particular area these restrictions are not applicable. These are restrictions on foreign intelligence agencies and activities.

Now the President has mentioned to you his Oversight Board that will be separate and apart. This sets out in general terms what he expects that Board to do. It is spelled out more fully in the materials that you have, but he does expect them to receive and consider reports of the IGs about questionable activities that are either improper or illegal, to make periodic reports either to the Attorney General and, in certain instances, to the Attorney General and to the President, and they will receive their staff report from the Executive Office of the President.

MORE

The President is also seeking in the Executive Branch that individuals in the Executive Branch who receive classified information would be required to sign what we would call a secrecy agreement against non-disclosure of classified information.

In his requests to the Congress, first to point out to them the areas that he has sought to address, many of these things that he has done are based on the inputs of the Rockefeller Commission, the Murphy Commission; it is drawn from the discussions and the hearings of the Select Committees of the House and Senate, from discussions that have occurred in the media on the question of intelligence from outside witnesses and experts who have given advice to the Executive Branch and also from his own personal knowledge because you should recall the President did serve as a Member of the Appropriations Committee on the subcommittee that did handle the intelligence oversight.

He is asking the Congress to consider a form of Congressional oversight that hopefully would be a joint type of committee to reduce the proliferation of the number of committees. He is asking that they consider rules that would insure the safeguard of intelligence, the materials there, and establish procedures there that would also protect the requests of the President when he indicates that the information that is sent is sensitive.

He also expects to keep that committee apprized of the information that they need in the exercise of their legislative function and he would like that the Hughes Act or Hughes amendment, section 662, be appended on the reporting requirement to reduce the number of reports that you would have to make pursuant to that statute.

I would also point out on the proposed legislation the secrecy of intelligence sources and methods. This statute goes to those who unlawfully disclose information; it does not apply to people who receive information. It is not, of course, intended to be directed toward the Fourth Estate. It applies to people in Government who would disclose information and that would be similar in criminal penalties in reference to that. It is not an official secrets act.

As I mentioned earlier, he has endorsed the proposal to prohibit, in times of peace, assassination and he does expect to meet with Members of the Congress to discuss further electronic surveillance and mail opening and legislation to address that area.

MR. NESSEN: That, as I said, was the presentation made to the Members of Congress last night. I don't think any of the others here have any opening statements.

Do you, Mr. Attorney General?

MORE

ATTORNEY GENERAL LEVI: No.

MR. NESSEN: Brent?

GENERAL SCOWCROFT: No.

MR. NESSEN: George?

MR. BUSH: No.

MR. NESSEN: Why don't we get right on to the questions.

Q Could I ask a question of the Attorney General?

Mr. Attorney General, since there is no proposal to change the original legislation of 1947 and since the original legislation makes no reference to covert operations, under what legal basis can covert operations continue to be conducted?

ATTORNEY GENERAL LEVI: I think there are Constitutional powers that are sufficient to justify the legal basis for covert actions as well as the frequent appropriations, so it is not a subject which Congress has not recognized through statutory authorization.

Q Mr. Attorney General, I wonder if you could say a couple of things on the secrecy legislation. The secrecy legislation uses the phrase "intelligence sources and methods and classified" and various other phrases. In your opinion, would it be a crime under that statute for someone to inform the press of the fact that the United States is giving arms and money to a faction in Angola?

ATTORNEY GENERAL LEVI: No, I don't think so. I don't think that would be covered by that.

Q Another question on that. You have said the press is exempt from the coverage. Just to be sure, does that mean that no injunction would lie against the press under the injunctive provision of the statute?

ATTORNEY GENERAL LEVI: As the legislation is drafted it would not lie against the press but the injunction might prohibit the person who was going to reveal the information to the press from revealing it.

Q Now if the press in fact published something that was regarded as a violation of the statute, would it not, however, be possible for a grand jury to call the publisher, editor or reporter involved with the story and ask for the source of information since it would have been a crime in view of this statute, and to require an answer and in failure of an answer to punish the person who attempted it?

MORE

ATTORNEY GENERAL LEVI: I think that would be possible under this statute and under the present statute.

Q Mr. Attorney General, could a Member of Congress or a Member of a Congressional committee be put in jail or fined for disclosing secrets unlawfully or illegally?

ATTORNEY GENERAL LEVI: Not under this proposed section.

Q Could I follow up on an earlier question? Are you saying that if this law is passed and it is a crime for a Government employee or a contractor to divulge a secret that you would permit U.S. attorneys to call before grand juries reporters to whom secrets had been leaked and to require that they answer and if they failed to charge them with contempt?

ATTORNEY GENERAL LEVI: No, I didn't say that. That was not the question that was asked me. The question was whether the grand jury could call them. They could be called now actually under a variety of statutes.

As you know, the Department of Justice operates with the rule where the Attorney General's permission is required and where there has to be a particular reason for calling and where the effect on First Amendment right or related rights is taken into account. We have been very careful about that and we would continue to be careful about that.

Q I think what I am asking you is, would it be your policy if you felt that the leak had been serious enough to call the reporter and require him to answer the questions?

ATTORNEY GENERAL LEVI: Yes, I understood the question and I think that one would have to see what kind of a case that is. We have been very careful in handling the department's policy on this matter and we have not called many reporters who were not willing, in fact, to come before a grand jury. We have been very careful about that and we would continue to be, but I do not want to make the statement that there is no circumstance in which we might not do it.

Q I would like to follow up on questions on covert operations.

ATTORNEY GENERAL LEVI: Yes.

MORE

Q Does the President envision approving legislation which would allow this joint committee to have the right of prior approval over covert operations? Has he spelled out his thoughts within the Executive Branch on that subject?

ATTORNEY GENERAL LEVI: I doubt whether I am the person to answer that. I could tell you something but I am not going to do it. (Laughter)

Q Would you sit down. He has not answered the question.

MR. MARSH: The President's position is one that is opposed to prior notification and that view has been communicated to Members of the Senate Government Operations Committee.

Q Then I would like to ask the Attorney General a Constitutional question.

Since we do have a Constitution which embodies checks and balances as a method of controlling Government activity and since the absence of Congressional checks on Congress is widely interpreted to be a cause of abuses that have taken place by the intelligence establishment -- that is, lack of oversight --

ATTORNEY GENERAL LEVI: Congressional checks on Congress?

Q No, Congressional checks on the intelligence community -- how is it that in an effort to reform the intelligence community the recourse is to stronger Presidential action, if anything, unless there is Congressional oversight and an absence of checks and balances? Would you answer that on a Constitutional basis?

ATTORNEY GENERAL LEVI: I don't think that is a Constitutional question at all; it is a policy question. The Constitutional implications are really moved in the other direction; that is, as to what extent the management of an enterprise can be carried on by the Congress rather than by the Executive which has that function.

But, assuming that there is an interrelationship -- and that is what you are assuming -- you are asking me the question as to why the President chose the particular road that he did here in terms of Executive power and I don't know whether the question specifically related to covert action or not.

Q Perhaps Director Bush or Mr. Marsh could give us the rationale as to why you decided to go that route.

MORE

MR. BUSH: On what aspect of it?

Q Well, why can't you notify Congress of covert activities? Why does he oppose that? That is what the argument is going to be all about.

MR. BUSH: It is a policy decision of the President.

Q Well, I mean, does he have some reason for it, Mr. Bush?

MR. BUSH: Let's look at it from the intelligence end of it. I think that people have felt that operationally it would be better to be under the inherent powers for the President to retain the right to make these decisions. I do think it is appropriate to note that there has been a formalization of procedures of the old 40 Committee and they have stepped up the level of the membership and people are going to sign off on decisions and they are going to meet to do it, and I think those should be reported as I think progress over the way it has been in the past.

Q Mr. Bush, if Congress completely disagrees with the President's proposals, do they have any recourse whatsoever?

MR. BUSH: Congress has a lot of power, ma'am. Yes, they have got a lot of recourse.

Q Would you tell us how this joint committee would ever find out about what was going on?

Q Also, would you outline exactly how?

MR. BUSH: I feel an obligation to keep in close touch with Congress and to inform them, and hopefully simplified oversight procedures will mean more full information going to the Congress certainly from our agency and certainly from any part of the intelligence community that I have something to say about.

Daniel?

Q Mr. Bush, this question has to be addressed peculiarly to you as Director of Central Intelligence.

The system that has been explained to us is one in which lines of authority appear to have been smoothed out, made somewhat more orderly but, if you would agree with me, centralized much more in the President who has said last night that he is ultimately accountable, but the record in the investigations of the past year have, among other things, raised the question of what happens when a secret apparatus with the intelligence collection and capacity for covert operations is misused by a President.

MORE

If the centralization is carried on it places a great problem on the one who is the Director of Central Intelligence. I think one of your predecessors, Mr. Helms, once said, "I serve only one President at a time."

Have you thought about the problems and responsibilities -- not for you as a person nor for the President as a person -- that happens when you increase centralization and make the President almost solely accountable? What happens to the one who serves him?

MR. BUSH: I think the President -- this President and any President -- has been solely accountable to the Congress for actions in the intelligence field. I have read that this means that the Director of Central Intelligence is now some kind of czar. Really what this program does, and why I think it will be well received in the intelligence community and I hope on the Hill and across this country, is give the Director certain authority to go with responsibility that has been there since the inception, certainly since the 1971 letter. What it does is not create a czar but it streamlines the machinery in such a way that the Director can execute authority that he has had.

For example, in the whole field of resource control on paper the Director has had a certain responsibility for this but he has not had the authority to act. Now in conjunction with the Deputy Secretary of the Defense Department and in conjunction with General Scowcroft's Deputy Assistant to the President you have a much more orderly management system.

I respectfully suggest that that has not increased the President's power or clutched to his breast more power in the whole field of intelligence. What I hope it does is result in a more effective intelligence operation.

Q Mr. Bush, if we can be more specific about the role of Congress and the joint committee that the President has proposed, I gather what it is effectively is window dressing because you will go to that joint committee only after a covert operation is already underway; is that not correct?

MR. BUSH: Well, I don't know that that has been determined. That will largely be determined, I think, by the Congress. I think the President's suggestion would be that he has the right -- and, Jack, you correct me because this is a policy matter and that decision is the President's, not the intelligence community's -- my view is, as the President indicated yesterday, there would be prompt and full disclosure to these proper oversight committees of the Congress. So I don't think there is any effort here to hold back. I just simply feel that in his view he determined that you don't have to run the proposal by Congress before it is enacted.

MORE

Q But that is the point. It will go to Congress only after the decision has been made and theoretically at least the operation is underway; is that not correct?

MR. BUSH: I think that is what the intention is -- maybe not the operation underway because it depends on how much lead time there is on these things.

Q What, then, is the influence of that committee in terms of oversight on intelligence activity?

MR. BUSH: Well, I think, one, you have to wait and see what the Congress itself does and I think one must input a certain amount of intention to fully inform as these operations are approved and that would be my intention to the degree I would have responsibility for some of this information to Congress.

Q As you see it as it has been outlined, what kind of control then would that Congressional committee have on the operation or on the intelligence policy?

MR. BUSH: They have a large control on the budget of these operations for one thing, just as that is the major control on all programs in the Government. So they do have control there.

Q Mr. Bush, I was wondering, in your oath, as I recall, you said you defend the Constitution against all enemies foreign and domestic. Does the term "domestic enemy" in your judgment preclude all U.S. citizens?

MR. BUSH: Could I get help from the Attorney General on this? I need legal help and I know it and so please --

MR. NESSEN: I am not sure it is a question that needs an answer.

Q Wait a minute.

Q Mr. Bush, would you ask Mr. Nessen if you could answer the question?

MR. BUSH: All I know is when I get asked --

Q Could I ask Mr. Levi?

MR. BUSH: Maybe this will give a little insight into how I plan to run the intelligence community. When I am asked a highly technical, and I feel appropriately good question, that --

Q Could I address the question to Mr. Levi?

MORE

ATTORNEY GENERAL LEVI: I think the Constitutional oath taken by the appointee of the President is not defined in the jurisdiction of his office if I understand your question and, therefore, it does not relate to the jurisdiction in terms of the foreign intelligence.

Q The reason I ask this, sir, is because it says here "never aimed at our own citizens." Now does that mean that the oath means that no U.S. citizen could be a domestic enemy?

MR. BUSH: I don't think there is anything in the language that I have seen that would prohibit the Director from policing his own organization, you might say, to be sure that people are not divulging classified information, for example. Our employees sign a secrecy agreement that I strongly support and I think they should and they are willing to do it and I think it is an important thing. I think I have responsibilities under the 1947 Act to protect sources and methods and I intend to do it and I intend to live very carefully within what is mandated and what will be legislated here.

Q Sir, in addition to your own organization, if you suspect that there are U.S. citizens involved in foreign espionage do you feel that you are not supposed to or what?

MR. BUSH: I think the FBI takes over at that point.

Q Mr. Levi, on page 5 of your fact sheet, in subsection 3, Restrictions on Intelligence Activities, it says "The Executive Order prohibits or severely restricts the following activities by U.S. foreign intelligence agencies," and then lists the 10 including wiretapping and all these other worthwhile objectives.

My question, addressed to anyone who can answer it, probably the Attorney General, is, it says, "foreign intelligence agencies," and what about these restrictions for the FBI and other agencies engaged in the domestic matters? Will these restrictions be placed on domestic activities at all?

ATTORNEY GENERAL LEVI: The general answer would be that they are applicable. They are not covered by this particular order in view of the foreign intelligence.

As I understand it, your question is that you go beyond foreign intelligence, purely domestic intelligence -- for example, towards the regular FBI work.

Q Right. Is there any set of guidelines?

MORE

ATTORNEY GENERAL LEVI: There are guidelines, as you well know, being developed. Many of the items mentioned here, however, are now in the statutory law.

MR. DUVAL: Could I just add one point, and that is that the Executive Order requires the Attorney General to issue regulations covering the domestic activities of the FBI within 90 days.

Q Mr. Marsh, on that secrecy protection clause I just want to pin it down again. Does that apply to the secrecy agreement for all Federal employees? Does it apply only to the disclosure of sources and methods of intelligence or also to substantive matters such as what we think our foreign policy is or a factual situation or only to sources and methods of intelligence?

MR. MARSH: The present plan is sources and methods. The proposed legislation that we have in mind is sources and methods.

Q I am sorry, sir, not the legislation but your requirement that all Executive Branch employees be required to sign a secrecy agreement against what you called non-disclosure of classified information. Precisely what does that mean and how does it differ from where we are now?

MR. MARSH: Secrecy agreements are required in some agencies and not in others and it is felt that it should be Government-wide and to impose it in areas where it is presently not being imposed.

Q All Executive agencies will have such an agreement?

MR. MARSH: If it is an individual who is authorized to receive classified information, if in the nature of his duties he has to use that information, before he receives it he signs a secrecy agreement.

Q Is that a legally binding effect?

MR. MARSH: Yes, I think it is. I think it does become enforceable.

Q How would it become enforceable? Would you explain that? Maybe the Attorney General could explain it.

MR. MARSH: The agency uses that type of an agreement now and it has been used and I think it has been applied and tested in the courts--the Marchetti case.

MORE

Q How do you keep it from being abused? I asked this question of the President last night and in his statement today he says, "Moreover, this legislation could not be used to cover up abuses and improprieties."

Now, as perhaps you know, the House Intelligence Committee report strongly suggested that the Secretary of State was guilty of abuse and improprieties of the classified and security label system, as the news account said, to cover up policy errors. Now, how are you going to prevent this from being abused?

MR. MARSH: In two ways. Number one, this is one reason that the President has directed that the Inspector Generals system in the departments and agencies be strengthened. Secondly, this is the reason that he has established the Intelligence Oversight Board because if an individual, if an employee, feels that something has been arbitrarily classified in a manner to disclose an impropriety or an illegality he can go to the IOB with that, he can go to his Inspector General with it. The purpose of this is if somebody has a highly sensitive piece of information which is a regular publication, like one of the daily reports from the Central Intelligence Agency, he goes over to another department or agency where an individual has it, and he is going to use that, he signs a secrecy agreement against its non-disclosure. That is the main purpose. It is not intended for the purpose of concealing improper activity and, indeed, if it is, that is the type of thing that you want brought into the IOB.

Q It seems to me the net effect of what you are doing, specifically with regard to reducing what you call the proliferation of Congressional oversight committees, is to indeed reduce the Congressional oversight centralizing it, if you will, but nonetheless reducing Congressional oversight and putting more and more power into the hands of the Executive. If you would consider the example of the previous Administration, wouldn't you consider that a little risky?

MR. MARSH: The purpose on reducing the number of oversight committees in Congress is simply for the purpose of safeguarding the information that moves up to the Hill. The situation that we find ourselves in now frequently is that information has to be given to make 6 or 8 different committees and by the extension of risks of that disclosure you are contributing to the public disclosure of that information.

It is envisioned that the oversight committees of the Congress that are established, whatever they may be, whether it is a suggestion along the lines of the Administration or whether it is the proposals of the Congress, to furnish those committees with the information that they need to perform their oversight function.

MORE

There is no real problem with the disclosure of the information to the Congress but we feel from the standpoint of safeguarding the information that it is to their benefit as well as ours and the Nation's to reduce the number of committees that receive it.

Q I want to ask the Attorney General about the proposed legislation. Mr. Attorney General, last April Mr. Colby, who was then Director of Central Intelligence, made some proposals for legislation. Reading this draft I see that it is rather tougher and more restrictive on information than Mr. Colby's proposals. For example, it omits a scienter requirement, a requirement Mr. Colby had included, that the disclosure be knowing and it restricts the right to an in camera proceeding to discover whether the matter was lawfully classified and it removes the clause allowing the parties to be represented in the in camera proceeding.

Can you tell me why you would want something more restricted than the Central Intelligence Agency Director proposed?

ATTORNEY GENERAL LEVI: I think this legislation is extremely carefully protected. On the issues you raise, for example, the classification has to be certified to as appropriate before the case can be brought. If there is an improper classification, that can be itself a bar so that I do not find this a harsh statute.

As to a scienter requirement and as to whether it applies to an accidental disclosure, I don't think it applies to a disclosure which is entirely accidental.

Q I want to clarify the security business. Your law is directed, as you said earlier, to the disclosure of sources and methods which is a term of art, the specific sources and the specific methods, and that relates to intelligence sources.

ATTORNEY GENERAL LEVI: Yes.

Q In this Executive Order on page 26, when you are talking about restriction you talk about physical surveillance which can be directed against employees, former employees, protecting foreign intelligence or counter-intelligence sources or methods or national security information. Now that is a much broader category so does this permit investigation of the disclosure of national security information under an Executive Order as against the law?

ATTORNEY GENERAL LEVI: No. It is quite different. The passage you just read means observing people as far as I can --

MORE

Q Is what you are saying the Government now can carry on observing as to an investigation under this order?

ATTORNEY GENERAL LEVI: Yes, but the order itself limits the forms of investigation. It is quite different from the statute.

Q But if it is not illegal under the law to disclose national security information, how do you lawfully surveil?

ATTORNEY GENERAL LEVI: I have to know what is meant by "national security information."

Q It is not in the Executive Order.

ATTORNEY GENERAL LEVI: But the Executive Order would say, for example, that you can use electronic surveillance only under certain conditions. If you are going to have mail openings for some such purpose, it would only be under statute and so on and so forth.

Q The final one is, Mr. Bush has been charged in the program with getting signed agreements to broaden that to cover people who have access to classified intelligence information. That is on page 36, which seems to be another category.

Are there going to be any definitions of this? The problem is, you are going to define what intelligence is as against just normal classification programs that are coming up?

MR. DUVAL: The answer is yes.

Q Mr. Marsh, under this new streamline plan where the President would have greater control and where the Congress would have a smaller number of committees on oversight, where secrets would be punishable if they were released, where classified information could not be released from the Congress without the President's authority, could the Administration have continued to provide covert aid to Angola?

MR. MARSH: Quite frankly, I can't respond to a specific type of question like that but I can say this: that it is envisioned that the oversight that the Congress would have would certainly be as good as the oversight that they currently have and, indeed, we would seek to improve it.

MORE

It should be remembered that there has been a Congressional oversight in a number of committees over a period of years. The Congress only last year has discussed the improvement of that or they seek to make changes in it themselves. They are going to make changes. We would like to see them make those changes in a way that is effective for them and effective for us.

The basic guideline is that we don't want the intelligence community to engage in activities that are beyond the reach of the Congressional authorization, and we don't want to do the things that are not consistent with our own form of Government, and I think that will be a basic consideration in trying to cooperatively establish a method of oversight that suits them and us and that the American people are satisfied with.

Q Mr. Marsh, on that same point, on page 7 of the fact sheet you refer to "there should be no requirement for prior notification of specific activities." Can you tell me where I can find a more elaborate explanation of that in the documents?

MR. MARSH: In the bigger document?

Where does that appear? What page?

He has asked for more elaboration on the --

Q Or even the same language.

MR. DUVAL: The message to Congress, page 3.

MR. MARSH: Mike says it is on page 3 of the message to Congress.

Q You have suggested but you never actually said that the Intelligence Oversight Board has the power to declassify. Does it, in fact?

MR. MARSH: No. That Board is directed more to improprieties and illegal types of activities.

Q I am curious, then, sir, since the restrictions on Government officials are clearly more severe than they have ever been in the past, who does have the power to declassify and has that group been enlarged?

MR. MARSH: The declassification procedures were established by an Executive Order, I believe in 1971 or 1972. The Director of Central Intelligence, I believe, under this Executive Order is directed to implement the operation of those declassification procedures and to expedite them, if I am not mistaken.

MORE

Q Has that group been enlarged?

GENERAL SCOWCROFT: Yes. As a matter of fact, there is an NSC review going on right now of the classification procedures that were put into effect in 1972.

Q Could I follow up on Tom Jarriell's question? If everyone who has access to classified information has the problem of a penalty for releasing it, how would the public ever know what the CIA was doing and if there was any abuse and not any abuse?

GENERAL SCOWCROFT: On the Angola question specifically there would be nothing to prevent a Member of the oversight committee or a Member of Congress from moving to bar the expenditure of funds for Angola which is in fact what happened.

Q Wouldn't they be revealing a covert operation by doing so?

GENERAL SCOWCROFT: Not necessarily. They would not have to be with respect to anything ongoing as the present law was.

Q Could I just ask this one question?

From time to time officials have had off-the-record briefings for the press, for responsible press. How will this affect off-the-record background briefings in the future?

MR. DUVAL: I think one important point is that the President considered carefully whether to ask for legislation covering all intelligence secrets, legislation such as is embodied in S. 1. He rejected that course. He went to the much more narrow sources and methods and that should solve that problem.

Q Mr. Bush, could I just ask you one more question? It goes back to what I asked earlier.

Without making it personal, under this system, what does a DCI do when a President says, "I want to know what is going on in the headquarters of the other party," or "I want to help a friendly head of a foreign government by organizing some covert operation that the State Department and the Pentagon and others don't like"? What does a future DCI do in order to do something about a President that does not seem to him to be wise, judicious, legal or moral?

MORE

MR. BUSH: Well, I cannot answer for other DCIs but I answered that question, I think, to the satisfaction of the Senate and that is simply that clearly the first one is absolutely out and the second one without authorization of this committee that has been set up would be out as well. So I think you are referring to this double track thing that has happened under different Administrations in the past. I think that the machinery that has been set up here eliminates any danger of that. Hopefully, sir, I have the integrity that I would not be approached on a double track.

Q I am not asking about you. I am asking what is the institutional protection?

MR. BUSH: The institutional protection is the formalization of the procedures of the old 40 Committee, for one thing, and I think that is a very important step. It is not gathering more power to the President. It seems to me it is formalizing a necessary check, you might say, before the operation gets to him. And it won't be done without meetings of a higher level -- Special Operations Committee, whatever it is called.

The operations will not be approved. So I do think there are more safeguards for the American people in this respect while keeping the right for the President to approve operations.

Q Mr. Bush, with all due respect --

MR. DUVAL: If I might, Mr. Schorr, could I just expand for one second because it goes to a question that I think Mr. Brokaw had also.

What the President did by putting into an Executive Order what the agencies must do and importantly, specifically, what they must not do, it has the effect of being binding. It is public. It can't be changed unless it is changed publicly. It establishes an iron clad process whereby if you take the example you use, that would be a domestic violation of the Restrictions Order. If such a command went out, then under the procedures that President Ford has put into Executive Order, anybody in the CIA would have a command under Executive Order to report that to the Intelligence Oversight Board made up of independent citizens.

If, for example, a future Director of the Central Intelligence Agency ordered his employees not to report it, the simple fact of giving that order under the express command of the Restrictions Order, the employee would have to go to the Intelligence Oversight Board.

MORE

So what you have done and what the President has done is he has set up the commandments of what they must not do in writing and in an Executive Order that cannot be changed unless it is changed publicly. Then he has established a mechanism for getting any deviation from that to the Intelligence Oversight Board for its handling. If it is against the law, that Board must report it to the Attorney General.

Q Mr. Levi, could I ask one question to clarify something?

Q Mr. Duval, could you specify just what the procedures are by which the agency would inform the oversight committees of a covert action; that is, the timing and also the procedures by which that would be done?

MR. DUVAL: Well, again I know it has taken Jack and myself and all of us a long time to get to understand and work out that Executive Order -- it is extremely complex. The reporting to the Intelligence Oversight Board of abuses is specified specifically, the procedures in the Executive Order.

Q These are on covert actions?

MR. DUVAL: On covert action. It is not the Intelligence Oversight Board.

MR. BUSH: Congressional oversight committees of Congress.

MR. DUVAL: Well, we start where we are, start with the state of the law today.

Under the state of the law today you have section 662 of the Foreign Assistance Act, the so-called Hughes-O'Brien amendment that sets out the reporting requirements. What the President says in his message and what he said to the leadership last night was centralize the committee structure to perform so that you can bring together the oversight at one place -- it will be better oversight. We can provide it more information, full information. And once you have done that then modify section 662 so that the notification of any covert operations would be given to that group.

Q It now says "in a timely fashion" which admittedly is ambiguous. Would that continue as the governing?

MORE

MR. DUVAL: The President again has set forth certain principles. One of the principles that the Executive Branch acting under Article 2 has to exercise is its functions. The Congress is oversight. If Congress is involved in specific operations and the decision-making for specific operations, then who does the oversight? So what he envisions is to find the ground rules for the action, full notification to Congress after the action and they conduct the oversight.

Q Is there any place in these documents where he spells that out? I mean, it seems like it is a fairly critical point.

MR. DUVAL: Dick, he made a very strong point -- and I think Jack ought to get up here and rescue me on this -- and that is that when you are defining the specific relationship, that point where the Executive functions and the Congressional functions come together, that needs discussion with the Congress and he has laid out principles and guidelines but, as he told the leadership last night, he wants to work with them in defining the specifics.

Q Could I ask one question of the Attorney General? I am still not clear on the legal effect of this oath that all Executive Branch employees who have access to classified information will sign.

Suppose a functionary in the State Department having signed that oath then reveals classified information, what is the effect of the oath? I mean, can he be sued? Can he be prosecuted?

ATTORNEY GENERAL LEVI: Yes, a civil suit.

Q A civil suit brought by whom?

ATTORNEY GENERAL LEVI: Well, it can be brought by the Government.

Q But only a civil suit, not a criminal suit?

ATTORNEY GENERAL LEVI: It does in itself provide for the criminal remedy.

Q But is a criminal remedy possible?

ATTORNEY GENERAL LEVI: Well, not on the basis of that agreement alone.

Q Are there any limits to the amount of the civil liability?

MORE

The point is that although the claim has been made that this is not an official secrets act, yet every Executive Branch employee in the entire Government is required to sign an oath stating that he will not reveal classified information and, furthermore, action can lie as a result of his failure to comply.

ATTORNEY GENERAL LEVI: It would be one of the few ways that the Government under present law might proceed to enjoin the disclosure by that person of information. I must say that the combination of that and the intelligence methods and sources legislation which is proposed here, which by the way was arrived at through an agreement between Mr. Colby and myself and really was not a question of one running after the other to see who would be tougher, it seemed to us to be the minimum steps if you are going to have whatsoever any effective legislation against any and all disclosures.

The fact of the matter is that the present law, except for the signing of the agreement in the Marchetti case, is practically in that shape now. If one considers that the best policy and program for this country, then obviously one should have no legislation whatsoever. If one assumes that some secrecy should be enforceable by law, some minimum amount, our judgment was that this was that minimum amount and certainly is, I think, much less than one would find in any other country.

If one refers to the official Secrets Act, it really would be fantastically different and it is fantastically different than S. 1. So we thought this was a minimum amount.

Q Have any standards been applied to determine when classified information is revealed by someone in an unauthorized way when a civil suit would be brought? What are the standards for which secrets will be let out?

ATTORNEY GENERAL LEVI: It is exactly the same today as when these agreements are there. The most useful thing about the agreement would be that if one knew that a revelation was in process, one could get an injunction against it.

Q How do I insure the independence of an Inspector Generalship when it is lodged within each of the agencies? This is perhaps for Mr. Duval or Mr. Marsh. Why did you go that route rather than an independent Inspector General for intelligence where you would not have these internal agency loyalties?

MORE

MR. MARSH: Well, it was felt that having the IOB and giving them a very broad responsibility and requiring the agency heads and their general counsels and inspector generals to report to them and they could make recommendations, too, that that will be far, far more effective to achieve oversight than having a Government-wide Inspector General.

Q Mr. Marsh, am I right in thinking that the only substantive limit on the kind of covert operation could be carried out, either proposed in the President's message to Congress to be embodied in legislation or included in the Executive Order as a prohibition on assassinations? That is the only type of covert operation that is specifically excluded.

MR. MARSH: I think some of the collection systems-- electronic surveillance systems -- are covert types of surveillances, they are excluded.

Q I was thinking of some of the foreign ones we have learned about lately such as President Nixon's order to the CIA or Mr. Helms' to carry out or encourage a military coup in Chile, various things of that kind. They would not be excluded under this proposal, or the payment of bribes or subventions to foreign politicians? All of those would not be covered?

MR. MARSH: I think that the standards that you would have in the Restrictions Order and the Congressional oversight and the Inspector General's operation and the IOB or the Oversight Board's examination of the activities would quickly flush out and bring out any type of abuse like that that would occur.

Q Why is it an abuse? I don't find any language in either the Executive Order or the legislation that leads me to think it is regarded as an abuse. Could you point me to any language that would lead a board of this kind you describe to regard it as an abuse? I say I can only find the reference to the assassinations.

MR. MARSH: Actually the Order is directed to the foreign intelligence agencies in the manner in which they conduct their operations and a provision for the overview of how they conduct it and the standards that they will be tested by will be the standards of their own Inspector Generals or the Attorney General and of the Intelligence Oversight Board and those items that they find that are abuses, that we should not be engaged in, they will report those to the Attorney General. I think that is the best oversight you can have because I don't think you can anticipate some of the things that may occur in this or any other type of operation.

MORE

Q How would that be an abuse?

MR. NESSEN: Why don't we have two more questions?

Q Mr. Bush, I would like to ask this since Mr. Colby has --

MR. NESSEN: Dick had a question half out of his mouth, Les, and then Walt and then Ford and that will be it.

Q Thank you, Ron. I mean, I was standing and I had a question half out of my mouth, too.

MR. NESSEN: Dick.

Q I am just not clear from your answer, Mr. Marsh. Would that be an abuse?

MR. MARSH: Would what be?

Q The situation described in Chile, for example? Under the President's Order, would that be an abuse?

MR. MARSH: I can't say that I can answer that. I would say this, that the standards that would be applied in the covert operations will have to meet the standards that are acceptable to the Intelligence Oversight Board and there will be a question in my mind whether that would meet the standards.

Q Who sets those standards? The Board?

MR. MARSH: The Board themselves will set standards and these are men --

Q Do they have any experience in covert operations? I mean, for example, don't some of these members have some past experience with regard to covert operations?

MR. MARSH: Yes, they do.

Q Mr. Cherne was the first to be overseeing on the President's Foreign Policy Advisory Board, wasn't he? It didn't seem to work very well.

These are not exactly fresh new faces. Ambassador Murphy has been around this town for a little while.

MR. MARSH: That is right, and Mr. Ailes was the Secretary of the Army.

MORE

Q General Scowcroft, may I ask one question, please, relative to national security leaks? I was wondering, sir, if, in your experience at the White House, you could give us an example of one or more leaks that have damaged the national security and, if so, how and why?

GENERAL SCOWCROFT: Well, just offhand I don't think of one specifically that I can tell you a), b), and c) has damaged national security. I think, though, you have to say that there has been at the very minimum a cumulative effect on the efficiency and effectiveness of our intelligence collection and our cooperation with other intelligence organizations in the free world. Their cooperation with us has, in some cases, been limited by the fact that they do have some doubts about our ability to safeguard the information that they have been willing to share with us. That is one specific example.

MR. NESSEN: One last question.

Q Could I ask a question of either Mr. Marsh or Mr. Duval.

Sometimes we have short memories. The last time we had a major scandal about spying inside of the United States was by the military and out of that came internal reforms which are not unlike these. They were not Presidentially ordered but they were ordered by the Secretary of Defense, called DIRK, in 1971 or 1970.

To what extent do these change DIRK -- some of them seem stronger and some of them seem weaker. What have you rescinded about the Defense Department's own regulations restricting spying on Americans by the military? Have you done a study on that?

MR. DUVAL: The Secretary of Defense has an obligation under this Executive Order to insure that the Defense Department regulations are consistent with the prohibitions and the commands in that Executive Order. The President faced up to this. He grabbed it straight on and put it down in the Executive Order. So having it out there, that is the point.

Now clearly the Secretary of Defense, as it states in the order, must have internal regulations that implement and are consistent with the President's restrictions.

Q So is it your view that this does not rescind any part of DIRK?

MR. DUVAL: That order in your hand supersedes anything else in the Defense Department.

MORE

THE PRESS: Thank you.

MR. NESSEN: Let Jack Marsh say one word here in general terms about the President's views of covert operations when they are conducted according to all these restrictions and regulations when they have been reviewed and approved by the appropriate bodies set up here. I think some of you perhaps are leaving without that point quite clear in your mind.

MR. MARSH: There are no restrictions on the conduct of covert operations except those restrictions, of course, that might be applied by the Congress or decisions that are made internally in the Executive Branch of Government as to whether it was a wise thing to do or not to do. Other than the Congressional oversight there are no restrictions in this Executive Order that has been issued here that relate to covert operations.

THE PRESS: Thank you.

END (AT 12:25 P.M. EST)