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THE WHITE HOUSE

WASHINGTON

October 28, 1975

ADMINISTRATIVELY CONFIDENTIAL

MEMORANDUM FOR:

JACK MARSH

FROM:

JIM CONNOR 

SUBJECT:

NSA Open Hearings

Mike Duval has reported to us that the President reviewed your memorandum of October 27 on the above subject and made the following decisions:

1. If we cannot avoid an open hearing on NSA, permit an Administration witness to testify in a carefully controlled manner.

- Approved -

Additional witness should be: - none -

2. The following elements should be covered in the witness' statement:

Watch List Description - Approved

SHAMROCK Description - Disapproved

Please follow-up with appropriate action.

cc: Don Rumsfeld

THE WHITE HOUSE
WASHINGTON

Jim -

I questioned Mike on these decisions --- the numbering did not check out with the options --- he changed the numbering - eliminating three and combining 1 & 2 as 1 and using 2 for option 3 --- mixed up I would say --- plus a couple of places Marsh's names is mis-spelled.

Trudy

Jim -

Should we confirm
these decisions to Marsh?
Even though we do not have
GRFs on them?

Trudy

"Mike Dural had
reported to us
that"

THE WHITE HOUSE

WASHINGTON

October 27, 1975

MEMORANDUM FOR: JIM CONNOR
FROM: MIKE DUVAL
SUBJECT: NSA Open Hearings

A handwritten signature in dark ink, appearing to read "Mike Duval", is written over the name "MIKE DUVAL" in the memorandum header. A long, thin, curved line extends from the top right of the signature area towards the top right of the page.

Jack Marsh discussed the attached decision memorandum with the President in a meeting this afternoon at 3:40 p.m. in the Oval Office.

Attending, in addition to Marsh, were Rumsfeld, Buchen, Scowcroft and myself.

I have indicated the President's decision on pages 4 and 5 of the attached memorandum.

Attachment



THE PRESIDENT HAS SEEN....

THE WHITE HOUSE

WASHINGTON

October 27, 1975

MEMORANDUM FOR:

THE PRESIDENT

FROM:

JACK MARSHALL 

SUBJECT:

NSA Open Hearings

Background

Despite our numerous requests and prolonged negotiations with the Senate Select Committee, they have decided to go forward with what might be termed a "structured open hearing" on NSA this coming Wednesday, October 29. General Allen is the witness they would like to have.

As a result of a report by the Mathias and Huddleston Subcommittee, the full Committee agreed to have the open hearing, but under the following arrangements:

1. A statement by General Allen -- carefully prepared in advance to cover the subjects in question and adequate to meet the Committee's needs, but limited in its discussion of sensitive subjects.
2. There would be a principal topic ("Watch List") and an additional topic ("SHAMROCK") in the sensitive areas. The Committee at present insists on the "Watch List", but it only recommends that we agree to SHAMROCK.
3. The principal area -- Watch List. This is the alleged abuse matter involving the time period roughly 1967-1973 where NSA used its resources in reference to
 - (a) anti-war citizens and anti-war groups,
 - (b) terrorists organizations,
 - (c) Presidential protection,
 - (d) international drug traffic.

DECLASSIFIED

E.O. 12958 Sec. 3.6

MR 94-1603, #56, NSC Ltr. 4/16/96 and NSA Ltr. 9/15/95

By Ut, NARA, Date 6/6/96.

4. There is an alternate request for SHAMROCK. It is the cable intercept carried out with the cooperation of several well-known international communications carriers. Its first sustained activity occurred in World War II and also continued after the War through arrangements made by Secretary Forrestal and President Truman with the carriers. NSA terminated SHAMROCK in March of this year. By and large its role can be fulfilled by other collection methods. The principal reason for not disclosing SHAMROCK publicly has been for the purpose of protecting the cooperating companies. However, recent disclosures by the Abzug Committee and staff somewhat diminishes this reason. It should be noted that SHAMROCK operations are related to Watch List activities and it was one of the methods that undoubtedly contributed to Watch List inputs.

Notwithstanding well-meaning motives, the committee has raised serious questions of impropriety and illegality in the manner in which the NSA resources were used. Almost all of these efforts were terminated in 1973. However, there continued to be a Watch List of five Americans, including yourself, the Vice President and others for purposes of Secret Service protection. (This is now being terminated by NSA.)

It should be noted that the Senate Committee has all of the information mentioned above and in fact much more. For some weeks the Senate staffs have been negotiating with NSA on a series of questions and answers directed to much of NSA activity.

A majority of the Senate Committee want some form of an open hearing on NSA. By a vote of 6-3 the Committee rejected closed hearings. Senator Huddleston, who chaired the Subcommittee to investigate and recommend a hearing mode, has advised that he expects that sensitive matters will be confined in the open session to General Allen's prepared statement and that no questions in the open session will be directed to the sensitive areas, but if that should occur, or should a response require a classified answer, they would expect the General to respond that he could only answer the question in Executive Session.

Other Factors

As set out further, there are mixed views among your advisors including those in the intelligence community as how to proceed. In the last several

days other events have contributed to these differences of approach. These center largely around the activities of the Abzug Subcommittee which appears to be developing an investigation that will involve NSA in an area of the Senate Select Committee's concern much to the dismay of Members of the Senate and their staffs. We are advised that Abzug intends to hold additional hearings.

If, because of the Abzug demands, the Administration insists on a closed hearing in the Senate in order to be consistent, then we lose the advantage of a controlled and limited forum. The continued pressure by the Abzug Committee into NSA type matters may very well cause the Senate Select Committee to abandon their own restraint and pursue in open hearings the same questions. There is reason to be concerned about a situation developing where competition between the two committees for headlines will cause NSA to receive great damage from publicity.

The Senate has insisted on open hearings for the purpose of disclosing the abuses of the Watch List. The Senate Committee staff has argued that our insistence that this type of disclosure be confined to Executive Session runs counter to the strong position you have consistently taken that classification will not be used as a means to hide illegalities or improprieties.

Options Available

1. Do not make available Administration witnesses for public hearings on NSA activities.

Pro: We can take the position that all information concerning the NSA has been provided to the Committee under the appropriate safeguards, but there should be no public exposure of NSA because of the possibility that a public hearing, no matter how carefully structured, may get out of control or may trigger additional press and Congressional inquiries. This provides maximum protection for NSA. It establishes a clear precedent of no further public hearings on NSA with Administration witnesses and this will be helpful in dealing with the Abzug problem.

Con: The Senate Committee has sought to cooperate and is trying to work out responsible procedures. It will build greater confidence with the Members of Congress that we are fully cooperating with the appropriate committees, which will be helpful in future conflicts involving the intelligence investigation. Also, General Allen testified briefly in open session before the Pike Committee on the general NSA charter. The Senate may complain of unequal treatment if we object to any public testimony. Our refusal to cooperate by providing a witness for open hearings may be characterized as a White House "cover up." NSA has already indicated to the Committee staff that limited hearings can be appropriately structured.

The following options exist if you elect to have some form of open hearings.

2. Send up a Presidential appointee with General Allen.

Pro: This allows the Administration to get the most Congressional and public support out of its testimony by providing articulate and forceful witnesses who will not be afraid to take on individual Committee members or the press, if that becomes necessary. It avoids putting a military man on the firing line for what is essentially a political issue.

Con: Deviates from the Committee's decision on who the witnesses should be.

3. The following subjects should (or should not) be included in the statement:

- a. Watch List

Pro: Committee is insistent that this be included.

Con: If we do not include Watch List material, the Committee is likely to go ahead on its own.

- b. SHAMROCK -- See Tab B for a draft prepared by NSA which could, in their judgment, be included in the statement.

Pro: Leaks to the press about SHAMROCK activities and the threat of continued hearings by the Abzug Subcommittee, make it advisable for us to put these in context.

Con: Any public statement by Administration officials will simply raise more questions which cannot be answered.

Decisions

1. If we cannot avoid an open hearing on NSA, permit an Administration witness to testify in a carefully controlled manner.

Favor: Levi, Schlesinger, Colby, Lynn, Buchen, Marsh.

Oppose: NSC.

✓ *M. Duval*
Approve

 Disapprove

Additional witness should be: NONE

M. Duval

2. The following elements should be covered in the witness' statement:

Watch List Description

Favor: March, Buchen, Schlesinger, Lynn, Colby

Oppose: NSC

✓ Approve

M. Duval

 Disapprove

SHAMROCK Description

Favor: None of your advisers.

Oppose: March, Buchen, Schlesinger, Lynn, Colby.

 Approve

✓ Disapprove *M. Duval*

TAB A

THE ATTACHED CONTAINS
INFORMATION CLASSIFIED
CONFIDENTIAL.

I. STATEMENT OF LT GENERAL LEW ALLEN, JR., DIRECTOR NATIONAL
SECURITY AGENCY BEFORE THE SENATE SELECT COMMITTEE ON
INTELLIGENCE

MR. CHAIRMAN, MEMBERS OF THE COMMITTEE

I recognize the important responsibility this Committee has to investigate the intelligence operations of the United States Government and to determine the need for improvement by legislative or other means. For several months, involving many thousands of manhours, the National Security Agency has, I believe, cooperated with this Committee to provide a thorough information base, including data whose continued secrecy is most important to our nation.

We are now here to discuss in open session certain aspects of an important and hitherto secret operation of the U.S. Government. I recognize that the Committee is deeply concerned that we protect sensitive and fragile sources of information. I appreciate the care which this Committee and Staff have exercised to protect the sensitive data we have provided. I understand the Committee's conviction that certain past practices of the National Security Agency must be presented to the American public as part of the democratic process to examine legislative change. I also understand that the Committee intends to restrict this open discussion to these questionable activities and to avoid current foreign intelligence operations. It may not be possible to discuss all these activities completely without

some risk of damage to continuing foreign intelligence capabilities. Therefore, I may request some aspects of our discussion be conducted in executive session where there can be opportunity for a full and frank disclosure to the Committee of all information required. The Committee may then develop an appropriate public statement. We are therefore here, sir, at your request, prepared to cooperate in bringing these matters before the American public.

II. WHAT I PROPOSE TO COVER

In the interest of clarity and perspective, I shall first review the purpose of the National Security Agency and the authorities under which it operates. Next, I will describe the process by which requirements for information are levied on NSA by other government agencies. And, finally, I will give a more specific description of an operation conducted in 1967-1973 by NSA in response to external requirements, which I will refer to as "The Watch List Activity." The Committee identified the Watch List activity, early on, as one of questionable propriety, and the activity has been subject to an intensive review by this Committee and Staff in closed session.

III. NSA'S MISSION

Under the constitutional authority of the President, the Secretary of Defense has been delegated responsibility as Executive Agent, for the entire U.S. Government, both for providing security of our own communications and seeking intelligence from the communications of others. Both functions are executed for the Secretary of Defense by the Director, National Security Agency, through a complex national system which includes the National Security Agency at its nucleus.

It is appropriate for the Secretary of Defense to have these executive agent responsibilities, since the great majority of the effort to accomplish both of these missions is applied to the support of the military aspects of the national security.

The Communications Security mission is directed at enhancing the security of U.S. Government communications whenever needed to protect the communications from exploitation by foreign governments - a complex undertaking in today's advanced electronic world.

Under the President's constitutional authority to collect foreign intelligence, communications have been intercepted and intelligence derived by analyzing these communications, including decoding them since the revolutionary war. During the Civil War and World War I these communications were often telegrams sent by wire.

In modern times, with the advent of wireless communications, particular emphasis has been placed by the government on the specialized field of intercepting and analyzing communications transmitted by radio. Since the 1930's, elements of the military establishment have been assigned tasks to obtain intelligence from foreign radio transmissions. In the months preceding Pearl Harbor and throughout World War II magnificent accomplishments were made by groups in the Army, and the Navy to intercept and analyze Japanese and German coded radio messages. These successes were of great importance to us and to our allies. Following World War II, the separate military efforts were brought together and the National Security Agency was formed to focus the government's efforts and to maintain and to improve the source of intelligence of such vital importance to the national security, to our ability to wage war and to our informed participation in world affairs.

This mission of NSA is directed to foreign intelligence, obtained from foreign electrical communications and also from other foreign signals such as radars. Signals are intercepted by many techniques and processed, sorted and analyzed by procedures which reject inappropriate or unnecessary signals. The foreign intelligence derived from these signals is then reported to various agencies of the government in response to their approved requirements for foreign intelligence. The National Security Agency works very hard at this task, and is composed of dedicated, patriotic citizens, civilian and military, most of whom have

dedicated their professional careers to this important and rewarding job. They are justifiably proud of their service to their country and fully accept the fact that their continued remarkable efforts can be appreciated only by those few in government who know of their great importance to the U.S.

IV. NSA AUTHORITIES

Congress, in 1933, recognized the importance of Communications Intelligence activities and acted to protect the sensitive nature of the information derived from those activities by passing legislation that is now 18 U.S.C. 952. This statute prohibits the divulging of the contents of decoded foreign diplomatic messages, or information about them.

Later, in 1950, Congress enacted 18 U.S.C. 798, which prohibits the unauthorized disclosure or prejudicial use of classified information of the government concerning Communications Intelligence activities, cryptologic activities, or the results thereof. It indicates that the President is authorized (1) to designate agencies to engage in Communications Intelligence activities for the United States, (2) to classify cryptologic documents and information, and (3) to determine those persons who shall be given access to sensitive cryptologic documents and information. Further, this law defines the term "Communication Intelligence" to mean all procedures and methods used in the interception of communications and the obtaining of information from such communications by other than the intended recipients.

After an intensive review by a panel of distinguished citizens, President Truman in 1952 acted to reorganize and strengthened Communications Intelligence activities. He issued in October 1952 a Presidential memorandum outlining in detail how Communications Intelligence activities were to

be conducted, designated the Secretary of Defense to be his executive agent in these matters, directed the establishment of the National Security Agency, and outlined the missions and functions to be performed by the National Security Agency.

The Secretary of Defense, pursuant to the Congressional authority delegated him in Section 133(d) of Title 10 of the U.S. Code, acted to establish the National Security Agency. The section of the law cited provides that the Secretary may exercise any of these duties through persons or organizations of the Department of Defense. In 1962 a Special Subcommittee on Defense Agencies of the House Armed Services Committee concluded, after examining the circumstances leading to the creation of defense agencies, that the Secretary of Defense had the legal authority to establish the National Security Agency.

X The President's constitutional and statutory authorities to obtain foreign intelligence through Signals Intelligence are implemented through National Security Council and Director of Central Intelligence Directives which govern the conduct of Signals Intelligence activities by the Executive Branch of the government.

In 1959, the Congress enacted Public Law 86-36 which provides authority to enable the National Security Agency, as the principal agency of the government responsible for

Signals Intelligence activities, to function without the disclosure of information which would endanger the accomplishment of its functions.

In 1964 Public Law 88-290 was enacted by the Congress to establish a personnel security system and procedures governing persons employed by the National Security Agency or granted access to its sensitive cryptologic information. Public Law 88-290 also delegates authority to the Secretary of Defense to apply these personnel security procedures to employees and persons granted access to the National Security Agency's sensitive information. This law underscores the concern of the Congress regarding the extreme importance of our signals intelligence enterprise and mandates that the Secretary of Defense, and the Director, National Security Agency, take measures to achieve security for the Activities of the National Security Agency.

Title 18 U.S.C. 2551(3), enacted in 1968, states that nothing in this act or sections of Title 47 shall limit the constitutional authority of the President to obtain by whatever means, including the interception of oral or wire communications, foreign intelligence information deemed essential to the security of the United States. In this same statute the Congress also recognized the constitutional authority of the President to protect classified information of the United States against foreign intelligence (including

foreign communications intelligence) activities. Thus, the Congress acted in Title 18 U.S.C. Section 2511(3) to recognize that the President's constitutional powers to conduct signals intelligence and communications security activities were not limited by the statutes prohibiting electronic surveillance.

Finally, for the past 22 years, Congress has annually appropriated funds for the operation of the National Security Agency, following hearings before the Armed Services and Appropriations Committee of both Houses of Congress in which extensive briefings of the National Security Agency's signals intelligence mission have been conducted.

We appear before both the House and the Senate Defense appropriations Subcommittees to discuss and report on the U.S. signals intelligence and communications security programs, and to justify the budgetary requirements associated with these programs. We do this in formal executive session, in which we discuss our activities in whatever detail required by the Congress. In considering the Fiscal Year '76 total cryptologic budget now before Congress, I appeared before the Defense Subcommittee of the House Appropriations Committee on two separate occasions for approximately seven hours. In addition, I provided follow-up responses to over one hundred questions of the Sub-committee members and staff. We also appeared before Armed Services Subcommittees concerned with authorizing research, development, test and evaluation (RDT&E), construction and housing programs and also before the Appropriations Subcommittees on construction and housing

In addition to this testimony, Congressional oversight is accomplished in other ways. Staff members of these Subcommittees have periodically visited the Agency for detailed briefings on specific aspects of our operations. Members of the investigations staff of the House Appropriations Committee recently conducted an extensive investigation of this Agency. The results of this study, which lasted over a year, have been provided to that Committee in a detailed report.

Another feature of Congressional review is that since 1955, resident auditors of the General Accounting Office have been assigned at the Agency to perform on-site audits. Additional GAO auditors were cleared for access in 1973 and GAO, in addition to this audit, is initiating a classified review of our automatic data processing functions. NSA's cooperative efforts in this area were noted by a Senator in February of this year.

In addition, resident auditors of the Office of Secretary of Defense, Comptroller, conduct in depth management reviews of our organization.

A particular aspect of NSA authorities which is pertinent to today's discussion relates to the definition of foreign communications. Neither the Presidential Directive of 1952 nor the National Security Council Directive No. 6 defines the term foreign communications. The National Security Agency has always confined its activities to communications involving at least one foreign terminal. Therefore, no domestic communications *where both or located within U.S.*

are intercepted. This interpretation is consistent with the definition of foreign communications in the Communications Act of 1934. There is also a Directive of the Director of Central Intelligence dealing with security regulations which employs a definition which excludes communications between U.S. citizens or entities. While this Directive has not been construed as defining the NSA mission in the same sense as has the National Security Council Directive, in the past, this exclusion has usually been applied and is applied now. However, we will describe a particular activity in the past when that exclusion was not applied. NSA does not now and, with an exception to be described, had not conducted intercept operations for the purpose of obtaining the communications of U.S. citizens. However, much of the world's foreign governmental communications are carried on circuits which may also contain the communications of U.S. citizens to or from foreign locations. The interception of communications, however it may occur, is conducted in such a manner as to minimize the unwanted messages. Subsequent processing, sorting and selecting for analysis, is conducted in accordance with strict procedures to insure immediate and automatic, where possible, rejection of inappropriate messages. The analysis and reporting accomplished only for those messages which meet specified conditions and requirements for foreign intelligence. It is certainly believed now, and apparently has been believed in the past, that the communications intelligence activities of NSA are solely for the purpose of obtaining foreign intelligence in accordance with the President's constitutional authorities.

V. OVERALL REQUIREMENTS ON NSA

NSA produces Signals Intelligence in response to objectives, requirements, and priorities as expressed by the Director of Central Intelligence with the advice of the United States Intelligence Board. There is a separate Committee of the Board which develops the particular requirements against which the National Security Agency is expected to respond.

The principal mechanism used by the Board in formulating requirements for Signals Intelligence information has been one of listing areas of intelligence interest and specifying in some detail the Signals Intelligence needed by the various elements of government. This listing which was begun in 1966 and fully implemented in 1970, is intended to provide guidance to the Director of the National Security Agency (and to the Secretary of Defense) for programming and operating National Security Agency activities. It is intended as an expression of realistic and essential requirements for Signals Intelligence information. This process recognizes that a single listing, updated annually needs to be supplemented with additional detail and time sensitive factors and it establishes a procedure whereby the USIB agencies can express, directly to the National Security Agency, information needs which reasonably amplify requirements approved by USIB or higher authority. In addition, there are established procedures for non-Board members (the Secret Service and the BNDD at the time) to

task the National Security Agency for information. The National Security Agency does have operational discretion in responding to requirements but we do not generate our own requirements for foreign intelligence. The Director, NSA is directed to be responsive to the requirements formulated by the Director of Central Intelligence, however, I clearly must not respond to any requirements which I feel are not proper.

In 1975 the USIB Signals Intelligence requirements process was revised. Under the new system, all basic requirements for Signals Intelligence information on United States Government agencies will be reviewed and validated by the Signals Intelligence Committee of USIB before being levied on the National Security Agency. An exception is those requirements which are highly time-sensitive; they will continue to be passed simultaneously to us for action and to USIB for information. The new system will also attempt to prioritize Signals Intelligence requirements. The new requirements process is an improvement in that it creates a formal mechanism to record all requirements for Signals Intelligence information and to establish their relative priorities.

VI. THE WATCH LIST

Now to the subject which the Committee asked me to address in some detail - The so-called Watch List Activity of 1967-1973.

The use of lists of words, including individual names, subjects, locations, etc. has long been one of the methods used to sort out information of foreign intelligence value from that which is not of interest. This procedure is almost as old as the Agency itself. In the past such lists have been referred to occasionally as "Watch Lists", because the lists were used as an aid to watch for foreign activity of reportable intelligence interest. However, these lists generally did not contain names of U.S. citizens or organizations. The activity in question is one in which U.S. names were used systematically as a basis for selecting messages, including some between U.S. citizens when one of the communicants was at a foreign location.

The origin of such activity is somewhat unclear. During the early 60's, requesting Agencies had asked the National Security Agency to look for reflections in international communications of certain U.S. citizens travelling to Cuba. Beginning in 1967, requesting agencies provided lists of names of persons and organizations (some of whom were U.S. citizens) to the National Security Agency in an effort to obtain information which was available in foreign communications as a by-product of our normal foreign intelligence mission. The purpose of the lists varied, but all possessed a common thread in which the National Security Agency was requested to review information available

through our usual intercept sources. The initial purpose was to help determine the existence of foreign influence on specific activities of interest to agencies of the U.S. Government, with emphasis on Presidential protection and on civil disturbances occurring throughout the nation at this time. Later, because of other developments, such as widespread national concern over such criminal activity as drug trafficking and acts of terrorism, both domestic and international, the emphasis came to include these areas. Thus, during this period, requirements for Watch Lists developed in four basic areas: possible foreign support of influence of civil disturbances, Presidential protection, international drug trafficking, and acts of terrorism.

Looking back at the development of these requirements, we have found that the requirement for intelligence regarding foreign support of civil disturbances came originally from an Army message of 20 October 1967. That message informed the National Security Agency that Army ACSI had been designated executive agent by DoD for civil disturbance matters. The message requested that the National Security Agency provide all available information on foreign influence over, or control of civil disturbances in the U.S. The National Security Agency accepted the request as an urgent, time-sensitive matter. The Director, National Security Agency sent a cable the same day to the DCI and to each USIB member and notified them of the urgent request from the Army and stated that the National Security Agency would attempt to obtain COMINT regarding foreign contr

or influence over certain U.S. individuals and groups.

As we all know, during this period there was also heightened concern by the country and the Secret Service over Presidential protection because of President Kennedy's assassination. After the Warren Report, requirements lists containing names of U.S. citizens and organizations were provided to NSA by the Secret Service in support of their efforts to protect President and other senior officials. Such requirements were later incorporated into USIB documentation. At that time intelligence derived from foreign communications was regarded as a valuable tool in support of executive protection.

In the '60's, there was Presidential concern voiced over massive flow of drugs into our country from outside the United States. Early in President Nixon's administration, he instructed the CIA to pursue with vigor intelligence efforts to identify foreign sources of drugs and the foreign organizations and methods used to introduce illicit drugs into the U.S. The BNDD in 1971 requested the National Security Agency to provide communications intelligence relevant to these foreign aspects and BNDD provided "Watch Lists" with some U.S. names. International drug trafficking requirements were formally documented USIB requirements in August 1971.

About the same time as the concern over drugs, or shortly thereafter, there was a committee established by the President to combat international terrorism. This committee was supported by a working group from the USIB. Requirements to support the

effort with communications intelligence were also incorporated into USIB documentation.

Now let me put the "Watch List" in perspective regarding size and the numbers of names submitted by the various agencies

The Brownell Committee, whose report led to the creation NSA had stated that communications intelligence should be provided to the Federal Bureau of Investigation because of the essential role of the agency in the national security.

The FBI submitted "Watch Lists" covering their requirements on foreign ties and support to certain U.S. persons and groups. These lists contained names of "so-called" extremist persons and groups, individuals and groups active in civil disturbance and terrorists. The lists contained a maximum of about 1,000 U.S. persons and groups and about 1,700 foreign persons and groups.

The CIA submitted "Watch Lists" covering their requirements on international travel, foreign influence and foreign support of "so called" U.S. extremists and terrorists. Section 403(d) of Title 50, U.S. Code, provided that it was the duty of the Central Intelligence Agency to correlate and evaluate intelligence relating to the national security and to provide for the appropriate dissemination of such intelligence within the Government using where appropriate existing agencies and facilities. The lists contained about 30 U.S. individuals and about 700 foreign individuals and groups.

The DIA submitted a "Watch List" covering their requirements on possible foreign control of, or influence on, U.S. anti-war activity. The list contained names of individuals travelling to North Vietnam. There were about 20 U.S. individuals on this list.

The BNDD submitted a "Watch List" covering their requirements for intelligence on international narcotics trafficking. On September 18, 1972, President Nixon summarized the efforts of his administration against drug abuse. The President stated that he ordered the Central Intelligence Agency, early in his administration, to mobilize its full resources to fight the international drug trade. The key priority, the President noted, was to destroy the trafficking through law enforcement and intelligence efforts. The BNDD list contained names of suspected drug traffickers. There were about 450 U.S. individuals and over 3,000 foreign individuals.

The Secret Service submitted "Watch Lists" covering their requirements for intelligence relating to Presidential and Executive protection. Public Law 90-331 of June 6, 1968, made it mandatory for Federal Agencies to assist the Secret Service in the performance of its protective duties. The lists contain names of persons and groups who in the opinion of the Secret Service were potentially a threat to Secret Service protectees as well as the names of the protectees themselves. On these lists were about 180 U.S. individuals and groups and about 525 foreign individuals and groups.

Between 1967 and 1973 there was a cumulative total of a

450 U.S. names on the narcotics list, and about 1,200 U.S. names on all other lists combined. What that amounted to was that at the height of the watch list activity, there were about 800 U.S. names on the "Watch List" and about one third of this 800 were from the narcotics list.

We estimate that over this six year period (1967-1973) about 2,000 reports were issued by National Security Agency on international narcotics trafficking; and about 1,700 reports were issued covering the three areas of terrorism, executive protection and foreign influence over U.S. groups. This would average about two reports per day. These reports included some messages between U.S. citizens but over 90% had at least one foreign communicant and all messages had at least one foreign terminal. Using agencies did periodically review (and were asked by the National Security Agency to review) their "Watch Lists" to ensure inappropriate or unnecessary entries were promptly removed. Examples of the value of this effort include the notification to the FBI of a major foreign terrorist act planned in a large U.S. city which permitted action to prevent completion of the act and thus avoid large loss of life. An assassination attempt on a prominent U.S. figure abroad was identified and prevented. Some large drug shipments were identified before entering the U.S. and prevented from entering. It is true that some communications relating to foreign travel and foreign involvement of U.S. citizens which were reported at the time do not seem of much foreign intelligence significance too.

but they seem to have been believed important at the time. We have statements from these requesting agencies in which they have expressed appreciation for the value of the information which they had received from us. Nonetheless, in my own judgment, the controls which were placed on the handling of the intelligence were so restrictive that the value was significantly diminished and consequently, in my judgment, was probably not worth the effort.

Now let me address the question of the "Watch List" activity as the National Security Agency saw it at the time. This activity was reviewed by proper authority within the National Security Agency and by competent external authority. This included two former Attorneys General and a former Secretary of Defense. The requirements for information had also been approved by officials of the using agencies concerned and subsequently validated by the United States Intelligence Board. For example, the Secret Service and requirements were formally included in USIB guidance in 1970 and 1971, respectively. In the areas of narcotics trafficking, terrorism and requirements related to the protection of the lives of senior U.S. officials, the emphasis placed by the President for a strong, coordinated government effort was clearly understood. There also was no question that there was considerable Presidential concern and interest in determining the existence and extent of foreign support to groups fomenting civil disturbances in the United States.

The names for "Watch Lists" were submitted through channel in writing. Although some names were submitted orally, a written request always followed. The Director and Deputy Director of the National Security Agency approved certain categories of subject matter from customer agencies, and were aware that U.S. individuals and organizations were being included on "Watch Lists". While they did not review and approve each individual name, there were continuing management reviews at levels below the Directorate. National Security Agency personnel sometimes made analytic amplifications on customer "Watch List" submission in order to fulfill certain requirements. For example, when information was received that a name on the "Watch List" used an alias, the alias was inserted; or when an address was uncovered of a "Watch List" name, the address was included. This practice by analysts was done to enhance the selection process, not to expand the lists.

The information produced by the "Watch List" activity was with one exception, entirely a by-product of our foreign intelligence mission. All collection was conducted against international communications with at least one terminal in a foreign country, and for purposes unrelated to the "Watch List" activity. That is, the communications were obtained, for example, by monitoring communications to and from Hanoi. All communication had a foreign terminal and the foreign terminal or communicant (with the one exception) was the initial object of the communication.

collection. The "Watch List" activity itself specifically consisted of scanning international communications already intercepted for other purposes to derive information which met "Watch List" requirements. This scanning was accomplished by using the entries provided to NSA as selection criteria. Once selected, the messages were analyzed to determine if the information therein met those requesting agencies requirements associated with the "Watch Lists". If the message met the requirement, the information therein was reported to the requesting agency in writing.

Now let me discuss for a moment the manner in which intelligence derived from the "Watch Lists" was handled. For the period 1969, international messages between U.S. citizens and organizations selected on the basis of "Watch List" entries and containing foreign intelligence, were issued for background use only and hand-delivered to certain requesting agencies. If the U.S. citizen or organization was only one correspondent of the international communication, it was published as a normal product report but in a special series to limit distribution on a strict need to know basis.

Starting in 1969, any message that fell into the category of Presidential/executive protection and foreign influence over U.S. citizens and groups were treated in an even more restricted fashion. They were provided for background use only and hand-delivered to requesting agencies. When the requirements to supply intelligence regarding international drug trafficking in 1970 and international terrorism in 1971 were received, intelligence on

subjects was handled in a similar manner. This procedure continued until I terminated the activity in 1973.

The one instance in which foreign messages were intercepted for specific "Watch List" purposes was the collection of some telephone calls passed over internal communications facilities between the United States and South America. The collection was conducted at the specific request of the BNDD to produce intelligence information on the methods and locations of foreign narcotics trafficking. In addition to our own intercept, CIA was asked by NSA to assist in this collection. NSA provided to CIA names of individuals from the international narcotics trafficking watch list. This collection by CIA lasted for approximately six months from late 1972 to early 1973 when CIA stopped because of concern that the activity exceeded CIA statutory restrictions.

When this activity began, the National Security Agency, and others viewed the effort as an appropriate part of the foreign intelligence mission. The emphasis of the President that a concerted national effort was required to combat these grave problems was clearly expressed. The activity was known to higher authorities. However, there was always concern expressed that the activity exceeded normal practice and that the potential for misuse was high. The activity was kept quite secret and restrictive controls were placed on the use of the intelligence. The agencies receiving the information were clearly instructed that the information could not be used for prosecutive or evidentiary purposes and to our knowledge it was not used for

such purposes.

It is worth noting that some government agencies receiving the information had dual functions: for instance BNDD was concerned with domestic drug law enforcement activities and also had one other part of its organization concerned with the curtailing of international narcotics trafficking. It would be to the latter area of responsibility that the National Security Agency delivered its intelligence. However, since the intelligence was being reported to some agencies which did have law enforcement responsibilities, there was growing concern that the intelligence could be used for purposes other than foreign intelligence. To minimize this risk, the material was delivered only to designated offices in those agencies and the material was marked and protected in a special way to limit the number of people involved and to segregate it from intelligence material of broader interest.

Before information ever was released to a requesting agency it was reviewed by at least three levels of supervision above the analyst and a supervisory staff group.

VII. WATCH LIST ACTIVITIES AND TERMINATION THEREOF

During this period we've been talking about (1967-1972), there was no law or case law which appeared to preclude such activities undertaken by the National Security Agency in response to requirements levied by other elements of the Executive Branch through the normal intelligence requirements mechanism. The critical judgment made then seems to have been that the purpose was foreign intelligence. Although this intelligence contributed to domestic intelligence concerns and to grave concerns about criminal activity, NSA believed that it had enforced restrictive procedures that only the foreign intelligence aspects of the problem were the subject of the communications intelligence activity.

In 1973, however, concern about the National Security Agency's role in these activities was increased, first, by concern that it might not be possible to distinguish definitely between the purpose for the intelligence gathering which NSA understood was served by these requirements, and the missions and functions of the departments or agencies receiving the information, and second, that requirements from such agencies were growing. And finally, new broad discovery procedures in court cases were coming into use which might lead to disclosure of sensitive intelligence sources and methods. Clearly the tenor of the times was changing with regard to the concerns which had originally prompted the "Watch List" activities.

The first action taken was the decision to terminate the

activity in support of BNDD in the summer of 1973. This decision was made because of concern that it might not be possible to make a clear separation between the requests for information submitted by BNDD as it pertained to legitimate foreign intelligence requirements and the law enforcement responsibility of BNDD. CIA had determined in 1973 that it could not support these requests of BNDD because of statutory restrictions on CIA. The National Security Agency is not subject to the same sort of restrictions as CIA, but a review of the matter led to a decision that certain aspects of our support should be discontinued, in particular the Watch List activity was stopped. NSA did not retain any of the BNDD watch lists or product. It was destroyed in the fall of 1973 since there was no purpose or requirement to retain it.

With regard to "Watch List" submitted by FBI, CIA and Secret Service, these matters were discussed with the National Security Agency Counsel and Counsel for the Department of Defense, and we stopped the distribution of information in the summer of 1973. In September 1973, I sent a letter to each agency head requesting him to recertify the requirement with respect to the appropriateness of the request including a review of that agency's legal authorities.

A short time later, Attorney General Richardson questioned the propriety of Watch List requests from the FBI and the Secret Service. Following a review of the matter, the Attorney General requested that the National Security Agency not respond

to these types of specific requests from these agencies but NSA could continue to provide information clearly derived as a by-product of foreign intelligence activities.

The overall result of these actions was that we stopped accepting "Watch Lists" containing names of U.S. citizens and no information is produced or disseminated to other agencies using these methods. Thus, the "Watch List" activity which involved U.S. citizens ceased operationally in the summer of 1973, and was terminated officially in the fall of 1973. As to the future, the Attorney General's direction is that we may not accept any requirement based on the names of U.S. citizens unless he has personally approved such a requirement. Additionally, directives now in effect in various agencies also preclude the resumption of such activity.

TAB B

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SENSITIVE

If SHAMROCK disclosure is necessary it might be put in at this point.

Details of our sources of communication are necessarily important to be kept secret from foreign governments since they will certainly take advantage of such knowledge. However, it is unfortunately true that one source has been revealed recently. That is, for many years beginning prior to Pearl Harbor, under certain conditions certain U.S. companies which provide overseas communications permitted the government to have access to selected communications for the purpose of foreign intelligence. These arrangements were very important to the nation and the patriotic citizens who cooperated with their government did so without recompense or favor. These arrangements have now been terminated. The exposure of this activity has impaired this nation's ability to derive foreign intelligence of great value and may well have resulted in injury to cooperating Americans whose only motive was patriotism.

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E.O. 12958 Sec. 3.6

MR 00-21, #6; NSA-etc 8/23/01

By dal NARA, Date 10/19/01

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