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September 21, 1976

SUBJECT:

ELECTRONIC SURVEILLANCE

SITUATION: The Senate yesterday decided not to act this year on the administration proposal to require a warrant for electronic surveillance in foreign intelligence gathering within the United States.

QUESTION: What is the President's reaction?
Will he still try to get the bill through Congress?

GUIDANCE: Congress is scheduled to adjourn at the end of next week and there is no chance of favorable action in this session.

The President is disappointed and regrets that Congress did not act on this important bill.

JBS

ELECTRONIC SURVEILLANCE

QUESTION: It has been reported that Senator Kennedy has identified a loophole in the electronic surveillance bill proposed by the President. The bill includes a provision that:

Nothing contained in this (legislation) shall limit the constitutional power of the President to order electronic surveillance for the reasons stated in section 2511(3) of Title 18, United States Code, if the facts and circumstances giving rise to such order are beyond the scope of this (legislation).

*To reserve
overseas
authority.*

Will this provision allow national security wiretaps to continue without court approval?

ANSWER: There is no loophole in the proposed legislation.

The legislation covers all electronic surveillance of domestic communications in the United States. Any such electronic surveillance would be within the scope of the legislation; a court order would be required to approve such electronic surveillance.

Electronic surveillance overseas is not covered by the legislation.

~~The President's proposal is based on existing electronic surveillance law (in Section 2511(3) of Title 18) which expressly recognizes the President's constitutional authority in certain national security electronic surveillance. The "disclaimer" provision in the proposed bill is taken from this existing statute.~~

DeWalt

- Q. According to news reports, the Pike Committee will publish a report containing information which you believe should not be made public. What do you plan to do, if anything, to block publication of this report?
- A. At my direction, Executive Branch agencies provided the Congress, particularly the House and Senate Select Intelligence Committees, with an unprecedented amount of highly classified and sensitive foreign intelligence information. This was given to the Committees so that they could conduct their investigations and take other appropriate legislative action.

In order to ensure that this information did not fall into the hands of enemies and potential enemies of the United States, I gave it to the Congress under an injunction of secrecy. In the case of the House Select Committee, we worked out a specific agreement concerning the publication of such intelligence information.

Disclosure of some of this information by unilateral action of a committee of Congress and, in some cases, by unauthorized leaks to the Press, ~~has~~ caused serious damage to our national interest. This has been harmful both to our military strength and our ability to achieve foreign policy objectives.

Perhaps the most lasting damage will be the difficulties it means in the future as the Executive and Legislative Branches try to work together in the field of foreign intelligence. The Congress has established a clear record that it cannot keep a secret.

Follow-up question:

Do you plan to meet with the Congressional leaders or take any other action to try to stop publication?

A.

1/26/76
M. D.

GUIDANCE FOR RON NESSEN CONCERNING ADMINISTRATION
COOPERATION WITH THE CHURCH INTELLIGENCE COMMITTEE

Question

In light of the negotiations going on between Administration officials and the Church Committee, will the President delay making his own changes in the Intelligence Community?

Answer

No. The President has responsibilities and powers under Article II of the Constitution in the foreign intelligence area, and he will take action pursuant to these powers, notwithstanding the status of legislation. He has authorized his aides to work with the Committee to define the issues and perhaps develop mutually acceptable legislation. The primary focus is on the issue of the relationship between the two branches, particularly the access of Congress to highly classified foreign intelligence information.

Question

Who has been attending these meetings?

Answer

There have been two meetings attended ~~and~~ by senior White House officials and members of the Senate Committee and several of their staff. (Chairman Church and Vice Chairman Tower have not attended.)

Question

Why has the House Committee refused to participate?

Answer

At the President's instructions, the Pike Committee was contacted and asked to join these discussions. They have declined to do so. [Any further comment obviously will have to come from the Committee.]

Question

Are the meetings with the Church Committee continuing?

Answer

Yes.

Question

What kind of progress is being made?

Answer

Thus far, there has been just a preliminary discussion of the key issues surrounding how classified information can be given to Congress without the danger of disclosure. The discussions are frank and serious, but no decisions or final conclusions have been reached.

Question

What about the timing -- when will they be completed and joint legislation developed?

Answer

There is no timetable. In fact, there may not be any final product. Although we are seeking common ground, there is benefit derived simply by understanding each other's points of view. In any event, the President will go forward with his decision-making, regardless of the outcome of these discussions with the Committee.

1/12/76
M.D.

PIKE COMMITTEE

Q: The Pike Committee issued seven subpoenas last Thursday seeking information for its investigation. All seven were returnable at 10 a.m. today. Has the White House complied with the request?

A: Yes, we have substantially complied with the committee's request, despite ~~the~~ the fact that we were given only two working days to locate the information sought, review it and submit it to the committee.

BACKGROUND FOR USE AS NEEDED:

* Five of the subpoenas went to the National Security Council and asked for material on covert activities, SALT compliance, NSC subcommittee minutes, & intelligence reports

- * One subpoena ^{went} to the CIA seeking info re its relationships with IRS.
- * One subpoena went to the State Department seeking info on State's recommendations to the President and NSC on covert activities.

The State Department subpoena has not been responded to because the information was not located until yesterday and is now ~~in~~ under review. However, William Hyland of the State Department has been in touch with the staff director of the committee (Searle Field) to advise him on the progress that State has made in responding to this request.

(FYI ONLY: DO NOT SAY PUBLICLY: There may well be some information that we will decline to give the committee on grounds of executive privilege, including the material from State. If you stick with the line that we are in substantial compliance and that we are continuing to be responsive and cooperative, that should hold us for the day.)

INTELLIGENCE - PIKE SUBPOENA

Q: A State Department official said that Secretary Kissinger has not acted as Assistant to the President for National Security Affairs since the President's announcement of November 3. Does this mean Congress should hold General Scowcroft in contempt for not giving the Pike Committee National Security Council documents?

A: It is unfortunate that we need to address this issue at this Economic Summit.

As you know, the Pike Committee voted to hold Kissinger in contempt for failure to provide essentially two sets of documents: first, Department of State documents ^{for} former Presidents ^{and the NSC come & former Pres.} and second, National Security Council documents.

In the case of the Department of State documents the President had a clear ~~obligation~~ ^{right} under the Constitution to ~~invoke~~ ^{invoke} Executive Privilege in order to protect the confidentiality of this advice given to former Presidents. ^{Done so on Advice of AG. Former Pres. have done so, in similar circumstance.} As far as the National Security Council documents are concerned, there is a serious question as to whether or not Secretary Kissinger is the proper person to be held accountable for failure to comply with it. The subpoena was given to a White House lawyer who accepted it on behalf of the Staff Secretary of the National Security Council.

^{with presence in}
~~No Guarantees. Did not tell whether wanted~~
Short notice, ~~subpoena served~~ subpoena served 7 Nov, due date Nov. 11. (2 working days); Presented as formal, trying to comply; No opportunity to present case to full com. staff of staff; No consultation. Continued to try to comply after due date and contempt. Also, in substantiated compliance, and continued to ~~and~~ will continue to work to satisfy the com.

It is our view that the Pike Committee never should have considered the contempt resolution in the first place.

Q: Are you saying Scowcroft should be substituted for Kissinger in the contempt resolution?

A: There should be no contempt resolution. The National Security Council is in substantial compliance and is still working to satisfy the Committee's further needs as to the SALT and 40 Committee subpoenas.

There is absolutely no reason to hold anyone in contempt.

Q: As to the documents which are being denied because of Executive Privilege, should the President be substituted for Kissinger in the contempt resolution?

A: The President has a clear Constitutional right to protect the confidentiality of such advice for the use by former Presidents.

The Pike Committee members who voted in favor of the contempt resolution should reconsider and drop this totally unwarranted action.

As to the legal question of who the subpoena should be directed to, I'll leave that up to the lawyers.

11/15/75
M.D.

Q: What about the Assistant to the President for National Security Affairs job? When did Kissinger give up this post?

A: [NOTE: This question can only be answered by the President. The following suggested answer is based on input from Phil Buchen, based on a conversation he had with Kissinger.]

~~Secretary Kissinger advised the President that he would cease acting as Assistant to the President for National Security Affairs on Monday evening, November 3, following the President's announcement.~~

It was a transitional period. There is a legal question which we are deciding out. ~~to make it possible to~~ so right now it's not possible to

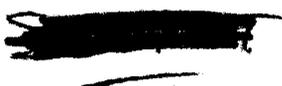
Q: When did General Scowcroft take over? *stale who, ~~the~~ ~~conting what's ~~to~~ should be really decided~~*

A: General Scowcroft continues to act as Deputy Assistant to the President while the formal paperwork is being completed which is necessary for him to take over the Assistant's job.

Q: What is the precise/legal status of Scowcroft?

A: I'll have to refer that question to Phil Buchen, who is Counsel to the President because I will not attempt to define the precise legal status of Brent Scowcroft.

However, in the President's view, Brent continues as Deputy Assistant to the President and, as the President announced, he will formally take over as Assistant as soon as the technical details can be worked out..



Q: This all seems very confusing. Why wasn't all this worked out before the announcement was made?

A: To the extent that it is confusing, it is because of the totally unnecessary resolution of contempt,

The President continues to receive all the national security advice he needs and the National Security Council is functioning as normal with Brent ~~at the~~ as Deputy Assistant to the President.

Q- Brent retire from active duty yet?
A-

10/15/75
M.D.

to achieve international cooperation in solving international problems of an economic, social, cultural or humanitarian character;

—to promote respect for human rights; and
—to harmonize the actions of nations.

Despite difficulties, I believe there has been progress toward achieving these purposes. The United States is seeking to promote cooperation among UN members and to discourage confrontation. In our increasingly interdependent world there is no practical alternative to coop-

eration, and if the United Nations continues on a course of confrontation this can only result in the serious weakening of that body. The United States, for its part, will stand firm in support of the principles embodied in the United Nations Charter.

GERALD R. FORD

The White House,
November 3, 1975.

NOTE: The 478 page report is entitled "U.S. Participation in the UN, Report by the President to the Congress for the Year 1974."

THE PRESIDENT'S NEWS CONFERENCE OF NOVEMBER 3, 1975

THE PRESIDENT. Good evening. Will you please sit down.

PERSONNEL CHANGES IN THE ADMINISTRATION

I have several announcements to make tonight.

First, with respect to foreign policy and national security affairs: You will recall that when I became President a year ago last August, I indicated that I believed it was essential to guarantee stability and continuity in the conduct of U.S. foreign policy. I made a conscious decision at that time not to change personnel in the important national security area. I have, however, made a number of significant changes in the Cabinet in the domestic area.

We have now successfully reassured our allies that the United States will stand firm in the face of any threat to our national interest and convinced potential adversaries that America will aggressively seek out ways to reduce the threat of war.

Therefore, I am tonight announcing several personnel changes which I believe will strengthen the Administration in the important area of national security affairs.

SECRETARY OF DEFENSE

I intend to nominate Donald Rumsfeld as my new Secretary of Defense. Don has served with distinction as a Congressman from Illinois, Director of the Office of Economic Opportunity, Director of the Cost of Living Council, and as Ambassador to NATO. For the past year he has been my senior White House Assistant and a member of my Cabinet. He has the experience and skill needed to help our country maintain a defense capability second to none.

The Nation owes Secretary Schlesinger a deep debt of gratitude for his able service to his country as Chairman of the Atomic Energy Commission, Director of the CIA, and as Secretary of Defense.

ASSISTANT TO THE PRESIDENT FOR NATIONAL SECURITY AFFAIRS

Henry Kissinger has been serving with great distinction and success as Secretary of State and as my Assistant for National Security Affairs. Secretary Kissinger will relinquish his post as Assistant to the President to devote his full time to his important responsibilities as Secretary of State.

Brent Scowcroft, who has been serving ably for 3 years as Deputy Assistant at the White House, will move up to Assistant to the President for National Security Affairs.

DIRECTOR OF CENTRAL INTELLIGENCE

For the past year George Bush has been U.S. Representative to the People's Republic of China. He has served with great skill as a Congressman and as Ambassador to the United Nations. It is my intention to nominate Ambassador Bush to be Director of the Central Intelligence Agency.

The CIA is one of our Nation's most important institutions. In recent months it has been the focus of some controversy. During this difficult period, Bill Colby, as Director of the CIA, has done an outstanding job of working with the Congress to look into and to correct any abuses that may have occurred in the past, while maintaining an effective foreign intelligence capability.

ASSISTANT TO THE PRESIDENT

Mr. Richard Cheney, who has been serving effectively as Deputy Assistant, will replace Don Rumsfeld as Assistant to the President, and will take over his responsibilities for coordinating the White House Staff.

SECRETARY OF COMMERCE

In a separate area, I have one additional personnel announcement to make.

Some weeks ago, Secretary of Commerce Rogers Morton indicated to me that after the first of the year he would like to reduce the pace of his activities and resign his current position to return to the private sector.

Rog Morton has served with great distinction in the Congress, and in two Cabinet posts for the last 5 years. He has earned the respect of Americans everywhere. He has been a long and close personal friend. I am deeply grateful for his valuable service, and I will be calling on his assistance in the future.

Elliot Richardson will be nominated to become Secretary of Commerce. An able former Secretary of Defense, Secretary of HEW, and Attorney General, Mr. Richardson is presently serving as our Ambassador to Great Britain. I know he will do an important job in his new assignment.

I hope that the Senate will move rapidly to confirm my nominees for those positions which require confirmation.

Now, to the questions. Mr. Growald [Richard H. Growald, United Press International].

QUESTION: Mr. President, does that mean, sir, that he did decide to step aside in order to give you a greater degree of maneuverability? The letter does not explain why he stepped aside.

THE PRESIDENT: I think that he will have to answer that. I think the letter in effect answers your question but if you want to pursue it further, you should do it with him.

QUESTION: Mr. President, we were told this morning after your meeting with Mr. Rockefeller that you were in an exceptionally good mood. (Laughter)

THE PRESIDENT: I have been in a good mood all day.

QUESTION: I suggest perhaps a feeling of relief.

I wonder if you could tell us in your own words what your feelings are now and were then?

THE PRESIDENT: I believe that the decisions that I have made and the announcements that I have made officially give to me the people and the team and organizational structure to continue to carry out an affirmative, successful foreign policy on a global basis and to keep our national security forces second to none. I, therefore, feel very pleased with the acceptance on the part of individuals for these new responsibilities. They are important, not for me, but primarily for the country.

QUESTION: Mr. President, you recently have had two resignations.

QUESTION: Don't make a speech, Walter. (Laughter)

QUESTION: You recently have had two resignations from your campaign committee and some of your aides have said you are having problems in your primary organization, especially in New Hampshire and perhaps Florida. I was wondering, is your campaign in trouble?

THE PRESIDENT: I don't think it is. I was in Florida yesterday and talked to Lou Frey. He is very encouraged. We have some very encouraging news about the organization in New Hampshire. I am very happy about it.

QUESTION: Could you tell me, please, the basis for your optimism going into the election year? Why are you confident that you will not only be your Party's nominee beating Reagan and why you will beat the Democrats?

QUESTION: ... should have asked a better

Sunday, Nov. 16, 1975

THE WASHINGTON POST

*Kissinger
Role Held
Impaired*

By John M. Goshko

Washington Post Staff Writer

Q. What do you plan to do about the leak of the House Intelligence Committee report to the Village Voice? Do you plan to prosecute Dan Schorr? Isn't Schorr right when he says that he has an obligation to make this report public? Aren't you just using national security as an excuse to suppress a report that is embarrassing to you, Henry Kissinger, the CIA, and other government agencies?

A. My staff is looking into any violation of criminal law. But on the broader question, I think there was a line crossed between responsible journalism, which has an obligation to inform the public of the operations of the government, and sensation mongering. National security hangs by tenuous threads. One of the most tenuous is intelligence gathering, which by its very nature is done quietly and frequently at high risk. The danger of leaks such as these is that they do not tell the full story, and thus they distort the information reaching the public; and (2) they destroy the sense of confidence in the confidentiality of our intelligence gathering that is needed to recruit, keep and effectively use intelligence sources.

There is no way one can assess the damage done by such leaks. It is always a "But what if..." proposition.

But I am reminded of the line from Shakespeare's George Hervert's Jacula Prudentum: "For want of a nail the shoe is lost, for want of a shoe the horse is lost, for want of a horse the rider is lost" Every facet of intelligence is important, and I hope that in the future people who reveal its secrets will realize the importance of each one of them.

(Show)

- 1 - Review the matter.
- 2 - Background on agreement.
- 3 - Albat.

INTELLIGENCE INVESTIGATION (FBI)

Q. According to a recent press report, the White House staff believes that the current investigations have not even scratched the surface concerning improper activities of the FBI. Is this true? Also, do you have confidence in the job the Attorney General and Director Kelley are doing in terms of controlling the FBI?

A. ~~At my direction, the FBI is cooperating~~ with the Committees of the House and Senate, ^{which} ~~are~~ are investigating the intelligence community. I have full confidence in the job that Attorney General Levi and Director Kelley are doing concerning the FBI. They are doing the difficult job of ensuring that the Committees get the materials they need and, at the same time, maintaining the capability of the FBI to do the critical jobs required of it. ~~to protect the national security of the United States.~~

directed
I have, the FBI, and
other agencies to cooperate

Q. Why did you turn over to the Committee material which made President Kennedy look bad and you are now withholding material which deals with President Nixon?

A. *Two bundles: (1) covered by court order.*
~~We are not treating the material in a different fashion. We have~~
(2) Other files
~~approached the Kennedy material exactly the same as the Nixon~~
Collis and HAK and Helms testimony + other (10)
~~material.~~ *We have turned over to Council*
every paper we can find in these files
which relate to Schneider affair.

Q. Why should the Committee, or the public, believe you when you say the material is not relevant, but will not let the Committee see it to determine for itself?

A. We are speaking of a hypothetical case. But the issue of relevancy is present in all subpoenas. Whenever we are asked to search the files, we must make the decision as to relevancy.

all other material on other Chile matters Sept 40 am. Minutely which do not have to do with assassination investigation the subject at the moment.

Q. How can you say the material that you are not turning over is not relevant when it deals with Chile?

A. While it does deal with Chile, it has nothing to do with the death of Gen. Schneider *which is the subject of the*
~~it has to do with the so-called "abuse" investigation of the Church Committee.~~
(COMMITTEE INVESTIGATION)
I am advised by the Legal Counsel's office.

Q. Is the White House taking a different position on the Nixon papers than it did on the Kennedy papers?

A. No, all the material turned over to the Committee regarding assassination plots in Cuba was relevant to the Committee's investigation. This was determined by the Counsel's Office. The material that was withheld today was not relevant to the Committee investigation into the death of General Schneider.

Q. Does the White House contend that it will determine what is relevant, even if the District Court says it is OK to go into the Nixon documents?

A. The White House has always reviewed the material requested by the Church Committee to determine if it was relevant. We are operating under the same policy today as we were two months ago. We have had no problems before and expect none now with the Church Committee.

You should understand that when, and if, the District Court says it is OK to search the files, we might find that there is nothing in the files that is relevant to the Committee subpoena.

Q. Is there any appeal from the Counsel's opinion that the material is not relevant?

A. This has not been a problem in the past and we don't expect it to be in the future. The President directed that his staff cooperate as much as possible with the Committee and we have done so. The relationship has been, on the whole, a good one. It will continue to be in the future.

Q. Senator Church asked you to reconsider your decision. Will you do so?

A. Yes, we are in the process of doing that now.

Q. When will the Committee hear from the White House?

A. Senator Church asked for a report back by next Thursday, and we expect to comply with that.

Q. Why did you turn over to the Committee material which made President Kennedy look bad and you are now withholding material which deals with President Nixon?

A. We are not treating the material in a different fashion. We have approached the Kennedy material exactly the same as the Nixon material.

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Death of Schneider was not
an assassination plot. Never-
theless, we have given them
all the material we have to
convince them of that
Material + Helms, Callahan, HAK +
CIA operatives.

Covert actions are a separate
area. We are just now
getting requests on covert
actions under various Presidents.
We are treating requests
for material on covert operations
under all Presidents the
same. We are withholding
~~the~~ records of direct
conversations ~~with~~ all Pres
and their ^{senior} advisory on covert
operations ^{in formulating advice to Pres.} We have given
them lots of material on
covert operations.

This
applies
to all
Pres.

We will look at 40 Com
minutes again to make sure
do not apply ^{relate to} ~~the~~ death
of Schneider.

4/30/75

INTELLIGENCE ACTIVITIES

Q: In your speech on April 10, 1975 you emphasized the importance of our intelligence services for the maintenance of our national security. You also said that it is entirely proper for this system to be subject to Congressional review. To what extent do you think Congress can be informed of our intelligence activities without jeopardizing our national security?

A: As I said in my address to the Congress, I am prepared to meet with the leadership of the Congress to work out mutually satisfactory procedures in keeping the Congress adequately informed. But I believe it is essential that these procedures safeguard essential secrets. I will insist on this.

Draft: Duval 10/9
1 p.m.

INTELLIGENCE INVESTIGATIONS

Concur: Mark
Bennett

Q. Recent press reports speculate that you are about to replace CIA Director Colby with a new oversight group. What are your plans for reorganization of the intelligence community?

A. There may be some confusion here concerning what is currently under review within the Administration. I do not have any plans to replace Director Colby and, in fact, think he is doing an excellent job in this difficult period. He is ensuring that the intelligence community cooperates ^{fully} ~~completely~~ with the investigating committees in Congress and, at the same time, his agency and other organizations within the intelligence community ~~are~~ are continuing to perform their functions which are critical for the national security.

As I announced earlier, I will be taking administrative action to implement portions of the recommendations contained in the Rockefeller Commission Report. ~~However, I do not have any plans to recommend legislation concerning the organization of the intelligence community at this time.~~

SCHULTZ TO HEAD ~~THE~~ INTELLIGENCE?

Follow up Question: Were the press reports that you were considering nominating George Schultz to head up the intelligence community inaccurate?

A. As I said, I have no plans to replace Director Colby, either as CIA Director, or as Director of Central Intelligence. George Schultz has not been contacted concerning these positions.

~~(Insert CIAAD comment)~~

As you know George Shultz is currently a member of the President's Foreign Intelligence Advisory Board.

B

QUESTIONS CONCERNING INTELLIGENCE AGENCIES

1. Is the National Security Agency intercepting domestic telephone calls of United States citizens?
- 1A If so, what does the President plan to do about it?
2. Is the President aware of such activity by the NSA in the past?
3. Can you confirm that the principal targets of the NSA intercepts were members of the anti-war community?
4. Will the President be addressing these invasions of personal privacy when he finally issues his executive orders to correct problems uncovered by the Rockefeller Commission?
5. Isn't electronic surveillance of any American citizen illegal unless you have a warrant or unless you can show that the person has a "significant connection" with a foreign government?
6. Did the White House abandon its support for Jerry Wilson to be head of the Drug Enforcement Administration because of surveillance activities by the Metropolitan Police Department